

**From Colour-Blindness to Recognition?
Political Paths to New Identity Practices in Brazil and France**

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For decades, both France and Brazil officially denied the existence of race and, by extension, racism. France, with its republican and universalist normative framework, insisted on a political project of assimilative integration and non-differentiation among citizens in the public sphere. Race and ethnicity, in this regard, were not merely suspect but politically and normatively illegitimate categories. Despite the significant role of colonialization and immigration in modern French social history, the theme of ethnic and racial relations would remain taboo in both political discourse and social science research until the late-1990s. Brazil, on the other hand, constructed itself as a nation representing the idea of a “racial democracy.” In a progressive fashion since the abolition of slavery, racial mixing and harmonious racial relations became a central pillar of Brazilian democracy. They were held to be so amply developed as to provide no room for racial discrimination. Despite these official paradigms of colour-blindness, both France and Brazil have taken significant steps in recent years towards recognizing ethnic difference and combating structures of racist discrimination. This paper examines the emergence of the theme of race and ethnicity in public discourse and public policies in France and Brazil, looking at similarities and differences in the political pathways of transformation across the two countries.

Part I. Introduction and Scope of Comparison

We acknowledge that Brazil and France may seem like unlikely countries for comparison in a study of racial discourse and anti-discrimination policy. The differences between these two countries are certainly great, and this raises concerns about the appropriate scope of comparison. As Donald Horowitz (2006: 16) cautions in his seminal work on ethnically divided societies, “the problem of comparability in cross-national studies of ethnic conflict is likely to be substantial.... The class of cases needs careful delimitation, for the simple reason that comparison requires comparability.” Methodologically, there is a marked preference in the field of comparative politics for so-called “most similar systems” comparisons, examining countries that are broadly similar in historical and geo-political context, but that diverge on the phenomenon of interest. The approach grants scientifically inclined researchers a degree of control over a set of broad contextual factors which do not differ remarkably across selected countries, thus allowing them to focus on a narrower set of suspected causes for divergent outcomes. So widespread is this approach that we know of few studies that examine the themes of interest to us – racial discourse and anti-discrimination policy – in both a developed and developing context.

Nevertheless, as researchers working individually on our own cases, we were drawn by the striking similarity of two countries that seemed to be working their way out of deeply embedded and, to our eyes, apparently dysfunctional discursive and policy paradigms regarding race and racial discrimination. As we have probed our cases, we have come to see the scope of comparison issue raised by Horowitz in a different light.

Rather than delimiting the scope of comparison, we believe that an important method for rethinking existing racial paradigms, concepts and concurrent public policies is to engage in an exercise of global comparative study. Moreover, a highly dialectic comparison between countries with substantively different experiences – and recollections – of colonialism, democracy, national and racial identity, can be a highly productive process. “Unthinking” to use Immanuel Wallerstein’s (2001) term, cannot be done in splendid (western) isolation.

But we are getting ahead of ourselves. Let us lay out the main elements of the argument we will develop in these pages. We begin by sketching the historical origins of official “colour-blind” approaches to race and ethnicity, and the recent emergence of new anti-racism discourses and policy approaches, in each country. In both France and Brazil, these changes have been complex, and our sketches address only the main steps and themes in what are still unfinished processes of paradigm and policy shift. Based on these empirical cases, the paper will develop three main arguments.

First, it is clear that transnational developments and international institutions have been a crucial catalyst in the changes observed in both countries. As discussed below, the two 2000 European Union (EU) directives on race and employment equality played a key role in the development of new anti-discrimination policy initiatives in France. In Brazil, it is unquestionably the third World Conference Against Racism (WCAR) held in Durban in 2001, and preparation processes for that conference, that set the stage for the emergence of new racial discourses and policies.

Our second argument provides an important caveat to the first. While international dialogues and legal norms provide a crucial catalyst, actual policy developments in each country are distinctively shaped by political openings and strategies in the domestic context. One of the main themes to emerge within this argument concerns the distinctive character of state-civil society relations across our two cases. More than other factors, it appears to be France’s strong statist orientation, compared to the more significant engagement of Brazilian civil society in activities of social control of the state, that account for important differences in the paths of discursive and policy transformation observed in each country. We draw on broader literature on state-civil society relations as a useful theoretical lens for understanding these distinctive patterns of discursive and policy shift in the domestic context.

Our third argument concerns the interesting role that gender has played in both countries, in shaping ideas about race and ethnicity. We argue that ethnic- and gender-based identities are closely connected in both countries, albeit in complex and distinctive ways. Moreover, connections between ideas about gender and ethnicity in each country have produced distinctive opportunities for civil society organizations. In France, the overwhelming insistence on minority women’s loyalty to the liberalizing and egalitarian mission of the secular, republican state has tended to undermine their capacity to play a crucial protagonist role in the struggle to deconstruct old norms, and to assert new racial and gender identities. In contrast, Afro-Brazilian women have capitalized upon their intersectional identity to become key civil society actors. Joining with both feminist and Afro-Brazilian movements, they have played a prominent role in the struggle against sexism and racial discrimination, on both the national and international stages.

In our conclusion, we bring the various strands of our observations together, and present a preliminary agenda for future research in this area.

Part II. Ambiguous Shifts in Racial Discourse and Race Policies in France

The Historical Origins of Race-Blindness in France

French discourse on equality and non-discrimination and its resistance to the idea of race come from a variety of sources. First and most profoundly, it is rooted in the ideas of the Enlightenment and in republican conceptions of citizenship and sovereignty. These ideas are asserted in the foundational texts of the French republic. The first article of the Declaration of the Rights of Man and Citizen in 1789 defined equality as the absence of arbitrary social distinctions: “Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good.” The Declaration further explained, in article 6: “All citizens, being equal in the eyes of the law, are equally eligible to all dignities and to all public positions and occupations, according to their abilities, and without distinction except that of their virtues and talents.” While the principles of equality, individual merit, and non-discrimination are hallmarks of all liberal democracies, the French Declaration also enshrined a republican conception of sovereignty and citizenship, forged through the experience of the revolution and echoed in Rousseau’s theory in *The Social Contract* (1762). Against a past in which France consisted of a patchwork of many jurisdictions and territories, of local dialects and customs, and over which the Catholic Church wielded enormous power, the Declaration stated in article 3: “The principle of all sovereignty resides essentially in the nation. No body or individual may exercise any authority which does not proceed directly from the nation.” The idea of France as a nation, one and indivisible, has endured. Article 2 of the 1958 Constitution, presently in force, begins “France is an indivisible, secular, democratic, and social republic.” To say that the republic is indivisible is to prohibit any differentiation among citizens that constitute its people. Thus the 1958 constitution, in article 1, explicitly bans racial and other group distinctions, assuring equality before the law of all citizens “without distinction of origin, race, or religion.”

Yet the republican ideal of the French Revolution is not the whole story. The 1958 constitution’s prohibition of racial distinctions is, in large part, a reaction to the Holocaust and to the racial distinctions practiced by the Vichy regime (Bird 2000, Bleich 2003). The memory of Vichy has made racial distinctions far more odious than other forms of social distinctions in the French imagination. The effect of Vichy was to discredit the very idea of race – either as a biological, or social category. Race became, effectively, a taboo word in post-war France, in political and in scholarly discourse. Even the 1958 constitutional guarantee of equality of all citizens “without distinction of origin, race, or religion” became a source of scholarly and legal contestation, as it was argued that the very inclusion of the word “race” within article 1 would promote the idea that race existed as a social category, and thereby contribute to an essentialization of identities (Bonnafous *et al.*, 1992). Republican ideology, combined with the Vichy experience, contributed to a strict race-blindness that would persist through the post-war era and the remainder of the 20th century.

The Post-War Policy Paradigm on Race and Racial Discrimination

Despite the refusal of race as a legitimate concept, France did pass legislation against racism and racist discrimination. The main instrument was the Pleven law, passed in 1972, which followed from France's ratification (in 1971) of the International Convention on the Elimination of Racial Discrimination (ICERD). However, the Pleven Law had a predecessor – the Marchandeaudecree – which would form the normative foundation of the modern French legal arsenal on racism and racist discrimination. Introduced on April 21, 1939, on the eve of France's surrender to Nazi Germany, the Marchandeaudecree was a meager defense against the rise of anti-Semitism, and it was repealed by the Vichy regime in August 1940. It was reinstated following the war, and remained the only legislative tool against racism from 1945 to 1972. There were three important characteristics of this early law that would heavily influence later legislation. First, the law concerned acts of racist *speech* rather than of racist discrimination, on the grounds that the proliferation of racist and anti-Semitic propaganda was the primary threat that demanded moral condemnation. Second, skirting the issue of ethnic group identity or membership, it framed incitement towards racism as a problem of general public order, rather than as a threat to members of ethnic minority groups *per se*. Third, while the law permitted individuals to press civil charges if they were personally named in a racist invective, the state prosecutor became involved and criminal remedies available only where public order was at imminent risk. The law was therefore ineffectual in the most common instances of racist speech – those which imputed groups rather than named individuals.

The 1972 Pleven law was seen to remedy the apparent shortcomings of the Marchandeaudecree. The main advance was to allow anti-racist civil associations to participate as civil parties in, and even to launch criminal anti-discrimination proceedings against racist speech. The civil associations embraced this role, while the state prosecutor maintained the more traditional role of initiating legal proceedings only where it believed that racist invectives threatened public order.

However, the Pleven law remained ambiguous with regards to the implications of racist speech for the *category* of ethnic minorities. This ambiguity must be understood within the context of enormous demographic and social transformation between 1945 to 1972 – largely the consequence of de-colonization, rapid industrialization, and the massive migration of workers from former colonies to the French metropole. In some respects, the passage of the law advanced a new notion of group identity in France. By extending legal protection against racist speech to persons targeted on the basis of their “origin or their membership or non-membership in an ethnic, national, racial or religious group,” the Pleven law became the first non-colonialist piece of legislation to explicitly acknowledge ethnic group membership. Furthermore, parliamentary debates at the time of the bill's unanimous passage into law made it clear that legislators understood that stricter anti-racist measures were necessary to protect the growing number of foreign workers from racial discrimination. Yet this somewhat more open disposition towards protecting immigrant and ethnic minorities from racism would soon narrow, as France formally closed its doors to new migrants, as the anti-immigrant Front National rose to prominence, and as public tolerance of immigrants (and subsequently Muslims) became increasingly frail. Almost from its point of inception, the application of the Pleven law in

lower and upper courts became increasingly incoherent on the question of whether the law prohibited speech that might incite hostility toward immigrants (Bird 2000). Indeed, the appeal level *Cour de Cassation* in 1976 and again in 1978 explicitly excluded foreign workers and immigrants from protection on the grounds that they do not constitute a race.¹

The Pleven law was supplemented in 1982 by anti-discrimination provisions in employment and labour law, and by the Gayssot law of 1990 prohibiting the denial or contestation of the Holocaust. These two developments underline the main features of France's post-war policy paradigm in race and anti-discrimination described above: concern is focused mainly on racist speech framed as a threat to the collective order and security of the nation; acts of racial discrimination against individuals, notably in employment, were seen as a peripheral or secondary means to combating racism, compared to the main issue of moral/state condemnation of racist propaganda; and the law is shaped more by the historical memory of the Holocaust than by the contemporary realities of de-colonialization and immigration.

As alluded to above, French race policy includes a number of provisions against racist discrimination in employment. There are both penal code provisions, established under the terms of the 1972 Pleven law, and civil remedies, introduced via 1982 revisions to the Labour code. Neither have had very significant practical effects: convictions are rare under both legal options, and the anti-racist speech approach remains the principal legal means for combating racism in France. There are a number of complex reasons for the ineffectiveness of the anti-discrimination employment law (Suk 2007, 323-324). They relate jointly to: i) the difficulty of proving criminal intent in acts of racial discrimination – a standard of proof much easier to attain in matters of racist speech; ii) the absence of ethnic statistics (see below) that would provide for evidence of indirect discrimination; and iii) the undiminished preference among anti-racist civil associations for participating as civil parties to criminal anti-discrimination proceedings, where the primary goal is public, state condemnation of a racism as an expressive act, rather than private compensation for a personal tort. Consequently, while racial disparities in employment have consistently grown through the 1990s,² the legal toolkit against racial discrimination remains weak and ineffectual.

To summarize, there are two main problems with the legal toolkit that has been in place from 1945 through until the early 2000s. The first is the preference, among both state and civil society actors, to frame racism as an expressive act requiring moral/state condemnation and punishment. The second is the burden of proving criminal intent (in other words, showing direct evidence such as racist comments by the alleged discriminator), in order to find an actor guilty of racial discrimination. The legal

¹ *Marachal v. MRAP*, Cour de Cassation, April 12, 1976; *Boiseau v. MRAP*, Cour de Cassation, November 29, 1978. This precedent was reversed in 1994, when the *Cour de Cassation* specified that the incitement against immigrants is prohibited on the grounds of their non-membership in the French nation. Ironically, this later decision re-opened the possibility of legal protection of immigrants against racist speech, while simultaneously excluding them from membership in the French national community. *Le Gallou v. MRAP*, Cour de Cassation, January 18, 1994.

² Unemployment among young men of North African origin in 1990 was estimated at about 40 percent, versus 10 percent in the comparable non-minority population. By the late 1990s, the estimated unemployment level for minority youth had climbed to 50 percent.

requirement for direct proof of racial discrimination has allowed more subtle yet systematic forms of racism to persist. Moreover, as the industrial economy faltered, as immigrant minorities became increasingly ‘visible’ on a daily basis in terms of their social segregation and economic marginalization, as political parties tweaked and trimmed their discourses and policies to woo and thereby legitimize ethnically prejudiced voters, the gap between the juridical regime on racism and the street-level practice of racism grew ever-wider.

2000 on: Erosion of the Paradigm?

Beyond all other factors, the crucial catalyst for revision of French law on race and racial discrimination is the European Union. In 2000, two new EU directives were adopted that introduced the notion of ‘indirect discrimination’ into European law.³ These were transposed into French law through two new dispositions: the Law of 16 November 2001 on combating discrimination (Law 2001-1066), and the Law of 17 January 2002 on social modernization (Law 2002-73). Alongside these legal changes, the French government introduced in 2004 a new policy tool – the HALDE (High Authority to Fight against Discrimination and for Equality) – as a means to comply with EU directives. The HALDE has extended powers of an almost juridical form: it can require the disclosure of data from an employer suspected of discrimination; it issues recommendations which, while not legally binding, do have significant moral and persuasive authority. Beyond this formal policy framework, one of the most significant changes in the French anti-discrimination landscape has been the growing implementation of “diversity” action plans and training programs at the level of private firms (Lépinard and Simon 2008). These are purely voluntary initiatives, adopted mainly through the human resources departments of larger companies. And they tend to be framed largely in neo-liberal terms, emphasizing the business and economic advantages of a diversified workforce. Nevertheless they have gone significantly further in embracing the principle of ethnic diversity and in advancing non-discriminatory recruitment practices than government or traditional anti-racist NGOs (Lépinard and Simon 2008, 19-24).

Overall, there are three important implications of this policy shift. First, in principle at least, the French legal framework now incorporates the notion of indirect discrimination (in the Labour code, though still not in the Penal code). Second, the HALDE, which has become the keystone in the anti-discrimination institutional landscape, represents something of a break from the prevailing approach in which state action has been viewed as the privileged mode of reparation and redistribution in the face of racial injustice.⁴ Third, the expansion of diversity practices at the level of private firms suggests that the legal principles established at the EU level are having an effect in France, though the pathway towards implementation has not been primarily through the state or through traditional anti-racist NGOs.

³ On the emergence and adoption of this new EU paradigm in anti-discrimination policy, in the context of strongly divergent member-state policy approaches to race and racial discrimination, see Geddes and Guiraudon (2004).

⁴ Yet, as Lépinard and Simon (2008, 10) perceptively point out, “this choice also carries with it a lack of interest for other means of public action such as ethnic monitoring to promote positive action measures.”

The European race directives thus established an important *opening* for paradigm shift in France. In fact, this opening has not yet been consolidated into a complete revision of French normative and legal principles, or into full-scale social change. The main reason – and the final strand of our explanation as to why France continues to occlude racism and lag in addressing racial discrimination – lies in the prohibition of collection of ethnic statistics. Rejected as scientific and legal concepts, race and ethnicity were never codified in France as categories in official statistics. There is now a major public debate in France over whether the census and other public and scholarly surveys of socio-demographic characteristics of the population should be revised to take into account forms of ethnic self-identification. But, at the time of writing at least, the non-existence of ethno-racial classifications and statistical data continues to deprive legal, state and civil society actors of the tools required to identify, assess, and ultimately combat racial discrimination and racist exclusion (Simon 2008). The lack of ethnic statistics is “[t]he main stumbling block for putting this legal principle [indirect discrimination as defined in Article 2 of the European Directive] to use...” (Simon 2008, 24).

Beyond the practical problem of implementing the emerging legal principle of indirect discrimination, the ethnic statistics issue crystallizes several broader themes that we seek to highlight in this paper. First, it points to the persistent and pre-eminent role of the French state in the construction of knowledge about race, and the considerable difficulty for civil society actors to disrupt these norms. In this regard, one of the more notable details of the ethnic statistics debate is that the traditional anti-racist civil organizations in France (SOS-Racisme, MRAP) as well as the state-initiated HALDE have vocally opposed the use of ethnic statistics, in the name of their deep dedication to republican principles. Even the few organizations to break with this pattern – notably the newer CRAN (Representative Council of Blacks’ Associations), which identifies on the basis of colour and has called for positive action and ethnic statistics – still couches its position in decidedly republican rhetoric.⁵ Second, the ethnic statistics issue points to the persistent autonomy of the French state in the global-state nexus. While EU dialogues and the emergence of new European legal norms have certainly provided a crucial catalyst for discursive and policy change around race and racial discrimination in France, policy developments on the ground continue to be distinctively shaped by the domestic context. Third, the unusual passion and ferocity that has characterized the public and scholarly debate over ethnic statistics points to a much deeper controversy over the nature and extent of the colonial legacy in France. Indeed, the debates over ethnic statistics

⁵ In an interview with Bird (7 March 2008), the head of the CRAN, Patrick Lozès, maintained a very cautious and carefully circumscribed position regarding diversity issues. He insisted with considerable emphasis that “nous sommes dans la chaire républicain” and are “contre le communautarisme.” Lozès’ strategy is to build cautiously on growing public acceptance of the need for and legitimacy of carefully constructed ethnic statistics. At the same time, the CRAN manifests the resistance typical among French civil society actors against pushing too far beyond established public norms. The CRAN’s main platform – again consistent with public sentiment – is the need to diversify parties and elected representatives as a way of ensuring that the political class is more receptive and democratically responsive to the French population. One of the distinctive advantages enjoyed by the CRAN in pursuing its initiatives is that it can identify itself ethnically (*i.e.*, as “black”), without danger of rupturing the powerful normative consensus on secularism and the alleged threat posed by religious (namely Muslim) identities to republican conceptions of citizenship and sovereignty.

cannot be separated from broader controversies surrounding the difficult shift in the French politics of memory and knowledge about race – from a society decidedly focused on Vichy and anti-Semitism, to one increasingly focused on colonialism.⁶ In some degree, the state’s continued resistance to the collection of ethnic statistics and the resulting incapacity to effectively address racial discrimination, can be read as “an evasion” of France’s colonial past and “of what lies buried in the structures of our formally egalitarian but highly hierarchized societies” (Simon 2008, 18).

The controversies surrounding ideas about race, ethnic statistics and so-called ‘positive discrimination’⁷ in France have not ended. In 2008, President Nicolas Sarkozy, himself a proponent of ethnic statistics and positive discrimination, assembled a committee for reflection on the Constitutional preamble, with a view to amending the French constitution in order to “assure the respect of diversity” and to “render possible a true politics of integration.” The committee, headed by Simone Veil, issued its report in December 2008. It recommended that no changes to the constitution were necessary, and that the preamble, as it stands, could allow for “ambitious measures of positive action of potential benefit to, notably, populations of foreign origin” Following the report, Sarkozy delivered a high profile speech in which he insisted on the need to collect “diversity data,” though neither the data nor any public policy based upon such data should be based on ethnic or religious criteria.⁸ Whether such measures will ever come to fruition remains to be seen.⁹

Sarkozy’s rationale for promoting – albeit ambiguously – ethnic statistics and policies targeting ethnic minorities cannot be separated from his simultaneously repressive posture towards immigration, nationality, integration and religious identity

⁶ This includes public debates in France over the projected national museum of immigration history (Green 2007), and over the historical representation of French colonialism in the national school curriculum (infra note 22).

⁷ In the French context, “positive discrimination” denotes measures that may be taken to promote individuals who are members of a socio-economically underprivileged group. These individuals are not identified or selected for special treatment on the basis of ethnic group membership. Éric Keslassy (2004) argues that France has long engaged in practices of positive discrimination, for example by providing tax incentives to industries that decide to locate in designated urban areas that are economically disadvantaged (known as *zones franches urbaines*), by providing additional funding to schools in similarly designated educational zones (known as *zones d’éducation prioritaires*), or indeed by legislating parity for men and women in elected office (see below). While still controversial, the French have tended to distinguish positive discrimination from the racially-focused programs of affirmative action that were historically adopted in the United States, and thus to see them as somewhat more acceptable.

⁸ “... la France doit se doter d’outils statistiques permettant de mesurer sa diversité, pour identifier précisément ses retards et mesurer ses progrès. Ces instruments doivent reposer sur des méthodes objectives et incontestables. Ils ne doivent pas traduire une lecture ethnique de notre société. Je souhaite qu’un travail soit conduit avec la communauté scientifique pour avancer, dans le dialogue, sur ce sujet sensible. Si la question des statistiques pour mesurer les inégalités et les discriminations liées à l’origine est ouverte, la question d’une action publique volontariste fondée sur des critères ethniques ou religieux doit être close.” Nicolas Sarkozy, from his speech at the Ecole Polytechnique Palaiseau, 17 December 2008.

⁹ In one of the odder developments since the commission delivered its report, French Immigration Minister Eric Besson has proposed a census of French politicians and civil servants that would employ the absurd technique already in use by the country’s High Council on Integration: a computer program that identifies an individual as a member of an ethnic minority by comparing his or her first and last names with a list of the most prevalent French names at the end of the 19th century.

(specifically Islam). It merits consideration what these apparently contradictory discursive and policy directions, taken together, might mean. From a cynical perspective, Sarkozy's dual discourse is characteristic of the political opportunism at which he has proven so adept (Simon 2009). Through the rhetoric of ethnic statistics and positive discrimination, Sarkozy distinguishes himself from political challengers on both right and left. His dual discourse allows him to position his party securely on the right (on the politics of immigration and nationality), while simultaneously capturing a new policy space (on equality and discrimination) traditionally dominated by the left (Simon 2009, 436). From a more charitable perspective, Sarkozy's rhetoric might be read as a constructive response to the current crisis of the French state. In this regard, the dual discourse represents a cautious re-orientation of normative discourse on ethnicity (more in tune with the undeniable social reality of ethnic diversity and identity), alongside a firm commitment to regulate the flow of ideas, capital and people across state borders. In the context of increasing pressures on the state from above and below, this is a strategy of shoring up eroding public confidence in government and re-affirming the authority of the state and its capacity to build consensus and secure compliance with its decisions.

Whatever interpretation we might take, one constant theme remains the considerable capacity of the French state and the political-intellectual elite to shape (and reshape) the norms and identities of its citizens. While global pressures and civil society actors do increasingly matter, the elaboration of new norms and the public understanding of ethnicity and racial discrimination depend ultimately upon and radiate outward from the French state. The state-centred nature of public discourse and policies on race and ethnicity in France will become more apparent in contrast to the pathways of political change we observe in Brazil.

Gender, Race and Islam: The Strict Limits of a Politics of Multiculturalism in France

We cannot close this chapter of the French story, without a brief account of the recent emergence of a new *gendered* discourse, and its relation to ideas of race, ethnicity and religion. This gendered discourse has crystallized around political debates involving *parité*, the Islamic headscarf, and gender relations and violence in French immigrant communities. Our argument is that these developments have given rise to a gendered re-conceptualization of democracy, at the same time as they introduce a new point of closure for ethnicity and multiculturalism.

The starting point in our account is the issue of *parité*. In June 2000, France passed a gender parity law requiring an equal number of male and female candidates for most elections. This followed a constitutional amendment (in 1999), necessary to ensure that the recognition of sexual difference did not run afoul of republican conceptions of citizenship embedded in the foundational laws of the French state. By recognizing gender as a legitimate basis for differentiating among citizens in order to promote equality, parity might have broken with traditional difference-blind republican ideology and opened a path for the recognition of ethnicity. In fact, it more firmly closed this possibility. It did so by adopting a distinctive "discourse of the couple" (Scott 2005). This discourse, advanced most effectively by the feminist philosopher Sylviane Agacinski (1998), situated parity within a revised human universal defined as man and woman. Parity, according to Agacinski, reflects the natural complementarity of heterosexual man and

woman. This (allegedly) natural and universal difference makes sex a more fundamental distinction than any other. From this position, the advocates of parity were able to overcome the denial (under the abstract universal) of sexual difference and to problematize the exclusion of women from the public sphere, without having to reject the whole republican and universalist normative framework. Specifically, this discursive strategy made parity politically acceptable: it served to legitimize parity by setting it firmly inside traditional French norms regarding gender, sex and family, while simultaneously setting it outside of the sphere of ethnic identity and multiculturalism.¹⁰ It assured legislators (and feminists as well) that there was no danger of parity leading down a slippery slope towards a politics of identity that would both disrupt republican principles and deprive women of their essential, distinctive difference. Despite this rhetoric, parity has not completely foreclosed the possibility of ethnic recognition and has perhaps opened some pragmatic opportunities. Visible minorities have looked to the parity principle as a catalyst for greater openness and diversity in political office. Nicolas Sarkozy has strategically promoted minorities (and specifically female minorities) to high profile government positions, and has described parity as a springboard for an increasingly diverse political class.¹¹ Nevertheless, French feminists (paritistes as well as classic republican feminists) continue to express reservations about the expansion of identity politics and its corrosive effects on women's rights (see below). They note with concern, for example, the tendency of opportunistic party leaders to dilute women's political advances by replacing female candidates with newer "diversity candidates."

Nowhere are these concerns of French feminists regarding ethnicity more apparent than in the headscarf controversies. The central issue in the headscarf debates concerns the representation of women. By banning the headscarf, French legislators insisted they were removing *the* sign of women's inequality from the classroom and, in so doing, declaring the equality of women as a first principle of the republic. Of course women's equality is a first principle of democracy within many states that do not ban the headscarf. What makes the headscarf ban especially consistent with women's equality in the French context is the elaboration (and institutionalization via the parity law) of *sexual difference* as the basis of political equality between men and women. As Scott explains (2007, 170),

"As if to prove that women cannot be abstracted from their sex..., there is a great emphasis on the visibility and openness of seductive play between women and men, and especially on the public display (and sexual desirability

¹⁰ In a widely-read article published in *Le Monde* prior to the constitutional debates on parity, Agacinski criticized the "American approach" to women's rights which, she argued, "erased the essential difference" of the sexes by "drowning women in a generalized set of particularisms in which we find minorities of all sorts (ethnic, religious, cultural, etc.), so that in the end, the two sexes are considered as pure social constructions" (Agacinski 1999). The reference to the "American approach" is a familiar trope in the French context, intended to establish the superiority of the French republican model over the race-conscious policies that are blamed for social division, discord and inequality in the US.

¹¹ Invited by the Observatoire de la Parité to state his position on women's access to elected office, Sarkozy as presidential candidate responded "I am convinced of the need to promote a representation of the Nation in all its diversity, which implies facilitating the political engagement of women, but also of socio-professional categories that are not sufficiently represented, and of so-called visible minorities." Sarkozy's response to the "Questionnaire aux candidat-e-s à l'élection présidentielle" (April 12, 2007), available at http://www.observatoire-parite.gouv.fr/travaux/audition_06/sarkozy.pdf (accessed March 12, 2008).

for men) of women's bodies. The demonstrable proof of women's difference has to be out there for all to see...."

The headscarf, from this perspective, is a threat to women's equality precisely because it negates women's sexuality and sexual difference. This sense of threat is further magnified in the French context, due to historic and contemporary anxieties about Islam, as well as the broader republican principle of secularism. It is true across Europe (and, to a lesser extent, North America), that "the rights of women have come to play an important role in the current retreat from multiculturalism" (Phillips and Saharso 2008, 292). However, it is the particular understanding of gender equality in France – its emphasis on women's sexuality, sexual difference, and public sexual relations between men and women – that produces the ideational context in which the headscarf becomes constructed as *the* most significant threat to women's equality.

The particular gendered discourses around *parité* and the headscarf in France have worked to produce an idea of exceptional and unsurpassed gender equality among French men and women, while simultaneously de-legitimizing ethnic – and specifically religious – identities. It is difficult, in this context, to engage in a dialogue that acknowledges the possible intersectionality of ethnic- and gender-based discrimination. It is hard to conceive of Muslim women who might choose to wear the headscarf as a legitimate, gendered act of cultural resistance to shared experiences of racial and socio-economic marginalization within the French post-colonial setting. There are certainly some people who express such views.¹² However, the overwhelming insistence on minority women's loyalty to the liberalizing and egalitarian mission of the secular, republican state has tended to undermine their capacity to play a crucial protagonist role in the struggle to deconstruct old norms, and to assert new racial and gender identities.

This becomes clear in the case of the minority women's movement, Ni Putes Ni Soumises. This group, which arose to public prominence in 2003 and 2004, positioned itself as representing "women's voices from the ghetto." Its main purpose has been to focus public attention on an allegedly expansive culture of gender violence in the disadvantaged immigrant suburbs of France. According to the movement's leader, Fadela Amara, this culture is a product of two inter-related forces: racism and social exclusion of immigrants and their descendants; and the rise of Islam and hyper-masculinity among disaffected young men.¹³ For Amara and the movement supporters, the women from these neighbourhoods are positioned at the intersection of racial and sexual discrimination: "For us the struggle against racism and exclusion and the battle for our [sexual] freedom and emancipation, are one and the same struggle. We alone can free ourselves from this double oppression."¹⁴ It is striking however, that the discourse of Ni

¹² See, for example, the range of views among the young Muslim women interviewed by Françoise Gaspard and Farhad Khosrokhavar (1995).

¹³ Amara writes (2006, 68): "The absence of outside recognition fosters their sense of being excluded and rejected. If they are the sons of immigrants, a feeling of great injustice fuels their sense of not belonging to the nation. And if they belong to the third generation, they register it even more keenly. Such absence of outside recognition has generated incredible rage. In reaction, unable to come to grips with their exclusion, these young men exercise their mastery in the only space they know. Rather than turn against French society and the symbols of the republic, they oppress their sisters and all girls within the limited space of the projects."

¹⁴ From the National Appeal of Ni Putes Ni Soumises (March 2002). Republished in Amara (2006, 163-4).

Putes Ni Soumises, its specific list of demands for policy action, and the public and political response to the movement, crystallize above all in the field of gender relations. Throughout her text, Amara focuses on the principle of secularism as the main strategy to combat women's oppression in the disadvantaged suburbs, with but a short "epilogue" devoted to problem of structural racism confronting immigrant-origin neighbourhoods. She denies the possibility of any form of Islamic feminism. And she emphasizes *public sexuality* as the mark of the emancipated Muslim woman.¹⁵ Unsurprisingly, the movement was instrumentalized by the dominant culture, including most French feminists (Guénif-Souilamas 2006). They celebrated the founders of Ni Putes Ni Soumises for their courage in standing up to sexual oppression, and found in the movement greater moral justification in banning the headscarf. They eagerly focused their attention on the sexism presumed inherent and rife in Muslim immigrant communities, while hypocritically ignoring domestic violence and broader gender inequalities within their own culture (Balibar 2007). In short, the gender and racial norms of French culture were reinforced rather than troubled by this civil society movement.

Part III. Overcoming Contradictions of Colonialism and the Myth of Racial Democracy: The Evolution of Racial Discourse and Policy in Brazil

Slavery and the Post-Abolition Discourse of "Whitening"

In order to fully grasp the significant shifts in racial discourse and policy in the Brazilian context, we must first trace the historical perspectives on race which have framed social relations and political directives in this country. Early ideas of race in Brazil can be traced back to the colonization of the country by Portuguese settlers in 1500 and subsequent establishment of the transatlantic slave trade. By the early 1800s, roughly 4.5 million Africans had been forcibly transported to Brazil to work as slaves in agricultural production (Curto and Lovejoy 2004, Telles 2004). Ordinances of the Portuguese dominion provided the legal framework for societal relations during this period. Rules were specifically geared towards the subordination of African slaves, classifying them as the same as animals and objects (Title LXVII) and forbidding their organization (Title LXX) (Silva Jr. 2001, 15). Articles 173-179 of the monarchist Brazilian Constitution of 1824 guaranteed the civil liberties and property rights of all Brazilian citizens, but since slaves were characterized as a form of property, they were excluded from these guarantees (Davis 1999).

¹⁵ In a typical passage, Amara (2006, 73-75) describes the types of young Muslim women who wear the headscarf. There are: 1) those who do so out of simple religious conviction; 2) those who wear it to protect themselves from male aggression; and 3) those university educated women who wear the headscarf emblematically as a symbol of a "fight for a social project." Amara calls the latter "soldiers of green fascism" and complains "It bothers me to hear them talk about freedom of expression because behind this symbol is a project for a different society than our own: a fascist-like society that has nothing to do with democracy." Finally, she describes the "majority" who "offer daily resistance" to oppression. These girls "try to resist by being themselves, by continuing to wear revealing clothing, by dressing in fashion, by using makeup, sometimes outrageously. They want to live in a modern society, to exist as individuals, and to command personal respect on equal footing with young men."

Yet the constitutional ordinances alone do not provide a full picture of the sources of racial ideas in colonial Brazil. Underlying this legal framework was a rigid system of racial classification embedded within slave-based economic and social relations. African, indigenous and mixed race men and women were commonly ranked along a colour continuum; their economic value, social positioning and sexual appeal was dependent on their skin tone, hair texture and other physical identity markers.¹⁶ Women were often subject to sexual abuse and violence, including rape and forced prostitution. Miscegenation or race mixing between white colonizers and non-white Brazilian women, although discouraged by Catholic Church and Portuguese dominion, was widespread. These interracial unions and their offspring would later be held up in nationalist projects and propaganda campaigns as the earliest representations of Brazil's innate colour-blind mentality.¹⁷

Slavery was abolished in Brazil in 1888, yet the racial hierarchy persisted (Skidmore 1974, 39). The Constitution of 1891 was vague in its dealings with race and racism, granting equal protection of all Brazilian citizens under law (Title III, Chapter II) but offering no stipulations to protect the recently freed black population from discriminatory acts. White political elites had sought to integrate the abolitionist ideals that were gaining currency throughout the United States. However, if the principles of equality and individualism were never fully realized, the blame was placed largely on the limited education of the general population and the emergence of an "authoritarian capitalist model of development" (Davis 1999, 9).

The absence of a clear legal framework on racial equality set the stage for the rise in Brazilian intellectual circles of pseudoscientific eugenics theories. With the dissolution of slavery, the country's white elite needed an ideological tool to maintain and validate their superiority. A biological system of racial classification ensured and validated the subordination of the black population. Brazilian scientists, however, distinguished their endorsement of eugenics from the strands found in fascist European countries. The gradual whitening of the population through the selective mixing of races, not the controlled reproduction or sterilization of inferior races, was the technique promoted "to optimize the population's genetic stock" (Nascimento 2007, 26).

Whiteness and the dilution of the black race was directly associated with economic and political modernization, and would form the basis of Brazilian public policy throughout the post-abolition period. It represented "the desired virtues of health, culture, science and modernity" and a clear break from backward and "black" past (Davila 2003, 6). A whiter Brazil would provide the necessary foundation for the imported ideology of liberalism (Skidmore 1974, Fry 2000). Brazil's immigration policy was explicit in its prioritization of whiteness, actively recruiting labourers from Europe and restricting the entry of peoples of African descent (Skidmore 1974; Telles 2004).¹⁸

¹⁶ See Abreu (2005) for a vivid description of the designated roles and expectations of Brazilian women in the colonial period.

¹⁷ President Getulio Vargas created a propaganda ministry to disseminate distorted images of gender relations in the colonial period in educational materials during his terms of leadership from 1930 to 1945 and 1951 to 1954.

¹⁸ A decree dated June 28, 1890 issued by the Provisional government stipulated that Brazil was open "to free entry by persons healthy and able to work" and not facing any criminal prosecution in their country of origin. The following clause was also included: "except natives of Asia or Africa, who can be admitted

Education policy also served to reinforce the whitening ideal. Educators and policymakers were “endowed with a commitment to forge a more European Brazil, and bound by a sense of modernity equated with whiteness, these educators built schools in which most every action and practice established racialized norms and meted out or withheld rewards based on them” (Davila 2003, 12). A convoluted sense of individualism, coupled with the desire of Brazilian elites to assimilate slaves and effectively blackness, resulted in a vigorous campaign to modernize Brazil through processes of whitening. This prescription for development would be prioritized and practiced until the 1930s.

The Ideology of Racial Democracy

Although whitening ideology and practice remained paramount, by the early 1930s the state sought to establish a more progressive stance on race and move away from eugenic orientations. Title III of the 1934 Constitution went further on civil rights and equality than any before it, stipulating: “There will be no privileges, nor distinctions because of birth, sex, race, personal professions or professions of parents, social class, wealth, religious beliefs or political ideas.” However, the inclusion of race within this clause did not signify the emergence of racial equality in Brazil. Its purpose was to create a sense of national unity and pride, once of the major initiatives of authoritarian leader Getúlio Vargas.

An idea advanced within Brazilian intellectual circles would greatly assist the Vargas administration achieving this goal. This was the concept of racial democracy, and it would come to shape the understanding and representation of race in Brazil for the next five decades. Constructed by Brazilian sociologist, Gilberto Freyre, this ideology suggested that extensive racial mixing in Brazil’s colonial past provided a crucial foundation for a modern democracy free from the ills of racism. Freyre argued that the miscegenation among Portuguese, African and indigenous peoples did not weaken the Brazilian nation, but gave it a distinct resilience and authenticity. As a result, Brazil produced a “meta” or “cosmic race” in which color could not be distinguished, thereby removing the basis for racial discrimination and creating a colour blind society. Freyre’s thesis, detailed in the publication *Casa Grande e Senzala* (Masters and Slaves), provided an inclusive and harmonious depiction of the Brazilian masses and thus became the much-needed foundation to construct a modern unified nation.

This reading of race relations in the colonial period proved an invaluable tool in Vargas’ nationalist project. It justified repressive action against perceived threats to racial harmony and unity. Any individual or association that promoted factionalism, ethnic distinctiveness or the separation of Brazilian races was suppressed by the Vargas regime. This resulted in 1937 in the dissolution of Brazil’s first black movement, the Frente

only by the authorization of the National Congress and in accordance with stipulated conditions” (Skidmore 1974, 137). This decree would be included as a clause in the 1891 Brazilian Constitution, effectively obstructing the settlement and immigration of African peoples. This clause stands in direct opposition to the Constitution’s provision of complete equality of all before the law regardless of race or privilege.

Negra Brasileira (FNB).¹⁹ This repressive approach to ethnic identity outlasted the Vargas administration. Subsequent governments through the 1950s and 60s continued to view research or public commentaries on racial discrimination as a form of subversion, and imposed forced exile or “retirement” on recalcitrant intellectuals (Fontaine 1985, 2).

The Return to Democracy and New Policy Directions

It was not until the collapse of the military regime in 1985, that the problem of racial discrimination began to gain currency. With the removal of authoritarian restraints, scholarship on race reemerged, and so did black civil society actors. In drafting the 1988 Constitution, the new leadership announced the country’s commitment to anti-racist and democratic ideals. This constitution, described as “the most precise document vis-à-vis racial and ethnic discrimination that Brazil has ever had” (Davis 1999, 8), includes clauses criminalizing racism and protecting indigenous and Afro-Brazilian rights.²⁰

Importantly, black civil society groups were involved in the formulation of these constitutional provisions. For the first time, these groups were able to express their concerns directly to government and were invited to participate in policy negotiations. The sole black member of National Congress, Afro-Brazilian movement leader and scholar Abidas do Nascimento, was central to the communication and legitimization of the black movement’s message. Nascimento presented numerous suggestions for constitutional revision to Congress many of which were subsequently adopted (Davis 1999, 12). As we will later detail, the process of constitutional reform in 1988 served as a crucial first step in the development of a dynamic relationship between the state and civil society actors on the matter of racial ideas and policy in Brazil. Democratization reopened channels of dialogue previously closed to Afro-Brazilians, and energized both their engagement with the state and their struggles for equality and civil rights on the ground.

Since the late 1980s, the Brazilian government has introduced several new policy initiatives concerning race and the elimination of racial inequality (Bairros 2008, Paixão 2008). In 1988, President José Sarney founded the Fundação Cultural Palmares. Linked to the Culture Ministry, this was the first governmental institution exclusively dedicated to the Brazilian Black Populations issue. In 1995, then president, Fernando Cardoso, approved the creation of the Inter-Ministerial Working Group (Grupo de Trabalho Interministerial – GTI). The group included staff members of several Ministries who met to discuss the affirmative action policies that could be undertaken by government. In 2003, the current President Lula da Silva, in the first year of his mandate, promoted the creation of SEPPIR (Special Secretariat for the Promotion of Racial Equality). This body has ministerial status, and is charged with assisting the administration in the formulation, planning and coordination of policies relating to the protection of the rights of racial and ethnic groups subject to discrimination. Brazil has also re-implemented a race/colour

¹⁹ Davis (1999) notes that throughout his leadership, Vargas received significant support from the black population and the endorsement of the FNB. His nationalist rhetoric focused on his duty “as the father of the poor,” identifying poverty and the class structure, not race, as dividing Brazilian masses from the elite.

²⁰ Article 5 (item xlii) qualifies the practice of racism as a crime subject to punishment by law. Article 215 ensures the protection of expressions of indigenous and Afro-Brazilian popular culture, as well as those belonging to other ethnically distinctive groups.

question in the national census. And it has initiated a new institutional framework for combating racial discrimination in employment. The Workplace Public Prosecution Service was initiated in 2000, and then replaced in 2002 by the National Coordination of Promotion of Equality and Elimination of Discrimination. This body (similar to the French HALDE) can require the disclosure of data regarding the racial and gender composition of a company's workforce, and assess it relative to the population data. In cases of discrimination, it first seeks to reach agreements with the companies. If these treaties do not result in concrete changes, the state Prosecution Service can then seek civil damages.

Another area of significant policy change has been education. The Brazilian law 10.639, approved in January 2003, was the first bill signed into law by President Luiz Ignacio *Lula da Silva*. The law requires the teaching of themes related to race, the history of Africa and of afro-Brazilians, including their contributions to the struggles of the Brazilian Black Movement, thereby modifying the main directives of the national education system. Still in education, a far more contentious policy prescription has been the creation of racial quotas in Brazilian public universities. A national legislative proposal to reserve a percentage of spaces in public universities for Black and Indigenous students according to their proportion of the population in each Brazilian state received strong opposition from many sectors of Brazilian society, including the university professor's trade unions, most of white middle class and the media. It was not passed. Nevertheless, some public universities (who exercise a degree of governing autonomy) have introduced quotas. As well, the Legislative Assembly of the State of Rio de Janeiro established a quota law in November 2001, requiring the state universities to set aside 40 percent of spaces for self-declared Afro-descendant students (Tavolaro 2008, 145-146). The quota measure remain controversial, in both the white and Afro-Brazilian populations. Opponents argue that they force Brazilians to place themselves into subjective categories and thereby incite racial division (Rascuen 2010).

Changing the Playing Field: The Civil Society-State-Transnational Constellation

What was the catalyst in advancing these new policies on race? (Vania Lopes 2006, 4). Our account focuses on a constellation of three factors: social movement actors; transnational events; and state level opportunities. By all accounts (Paixão 2008, Saboia), the 2001 Durban Conference Against Racism represented a very important impulse to the adoption of additional policies of racial equality promotion. Nevertheless, it is important that the Durban Conference coincided with the strengthening of the Brazilian black movement (including Afro-Brazilian women's NGOs), and with the softening of the state. We address each of these elements in turn, beginning with the civil society sector.

By the mid 1990s, Brazil's black movement had become a highly professionalized entity, encompassing a growing number of distinctive and only loosely organized groups. New organizations included Educafro (dedicated to increasing the access of blacks to postsecondary education) and Geledes (focusing on countering forms of discrimination against black women). One of the pivotal achievements of the movement was the highly successful "March Against Racism for Zumbi of Palmares," on November 20, 1995. Black movement leaders organized a massive march to commemorate the 300th year

anniversary of the death of Palmares, the leader of the country's most well-known runaway slave communities. They brought international interlocutors from civil rights and anti-racist movements to assist in bringing attention to the Brazilian context (Reichmann 1999) and took the opportunity to advance their concerns to National Congress, arranging to meet with President Cardoso and discuss the implementation of concrete legislation to combat racial inequalities. The action was well timed, as the movement anticipated Cardoso's commitment to racial equality and his openness to civil society.²¹

Two distinct positions concerning affirmative action framed this dialogue. The first focused on the emergence of racialized public policy measures to counteract racism in current processes. The second focused on reparation and the compensation of the Afro-Brazilian community.

More than any previous administration, Cardoso's leadership marks a turning point in the Brazilian government's official stance on race relations (Htun 2004). He was the first presidential figure to publicly acknowledge the existence of racial discrimination against blacks in Brazil, an admission he would repeat in a speech addressed to international delegates at the 1996 conference on Multiculturalism and Racism (hosted by Brazil's Ministry of Justice):

"Discrimination in our society [Brazil] has long been consolidated and its constantly reproduced...The situation must be brought out in to the open so that we can condemn it, and not with word but also through mechanisms and processes that will lead to a transformation of our society into one where truly democratic relations among different races, classes, and social groups can abound" (Souza 1997, 14-16; quoted in dos Santos 2006).

It is noteworthy that this early address was to an international audience. Brazil was facing significant international pressure to demonstrate a well-established rule of law and to reconcile its record of racial inequality with its self-promoted image of racial harmony. utopia. The 2001 Durban WCAR would intensify these pressures, and become a watershed event for Brazilian social movement to dialogue at the international level, and to bring the emerging international discourse on race equality to bear on the Brazilian state.

The Durban Conference added increased pressure, "effectively triggering processes and generating effects in Brazil even before it began" (Saboia and Porto 2003, 140). Heated debates about the conference's topics sparked notable shifts in public opinions on race across the country. The pronounced invisibility of Afro-Brazilians in formal politics, universities and television programming became the focus of news stories, intellectual debates and activist platforms (Htun 2004, dos Santos 2006). Coupled with these shifts were widespread comparisons of Brazil to historically segregated

²¹ Cardoso had already gained a reputation for his commitment towards social justice and race issues as a prominent member of the leftist Sao Paulo School in the 1950s and 1960s. Interestingly, during his earlier career, Cardoso characterized the Brazilian political sphere as highly permeable (porous) and fragmented and therefore easily manipulated by elite and private interests (Montero 2000, 111). He argued that bureaucrats, seeking future employment opportunities, created alliances with the private sector. The result was the creation of public policy reflective of private and elite interests. In his attempt to eliminate what he called "bureaucratic rings", Cardoso sought to create a dialogue with Brazilian society and increase their involvement while still ensuring their autonomy from the state.

societies, including South Africa and the United States, in the international media. Already facing pressure from U.S. administration to curb political corruption and implement a well-established rule of law, Brazil saw its reputation as a regional power and role model for newly democratic societies in jeopardy (Telles 2004). In effect, Durban was the state's chance to satisfy domestic and international concerns by demonstrating its commitment to confronting the problem of racism on the home front.

The preparation process stimulated significant inter-governmental and civil society debate. A committee of "state officials, academics, and representatives of Afro-Brazilian social movements" was assembled to prepare the country's official report (Htun 2004, 81). These discussions were facilitated by various workshops and seminars on race and racism throughout the country. The country's first National Conference against Racism and Intolerance was held two months prior to Durban and attended by roughly 1,700 people (Htun 2005, 81). One Afro-Brazilian activist explained: "Our task at Durban was to demonstrate the roots of Brazilian-style racism" (Reis 2007, 2). Tavolaro (2008, 146) describes the crystallization of the new anti-racist discourse during this process: one that was "no longer based on the celebration of mixture, but rather informed by the need to recognize 'race' and 'racial difference and diversity' to correct racial inequality." Saboia and Porto (2006, 140) identify a number of recommendations emerging from the Conference, that had been advanced by the Brazilian delegation. The most pivotal was the recognition of the rights of people of African descent to their own culture and identity.

The implementation of extensive racial affirmative action policies in the wake of the conference was viewed as a major victory for the Brazilian government and a reflection of their serious commitment to the incorporation of Durban's victim-oriented measures and recommendations (Martins *et al.*, 2004). We should not, of course, overstate the real achievements for racial equality on the ground. Despite the discursive and policy change that occurs in this period, and as a result of this particular confluence of factors, both Cardoso and his successor Lula have been criticized for falling short of their stated goals. Moreover, the measures implemented have had meager effect on the barriers faced by the black poor and, what is clearly the country's most economically vulnerable segment, Afro-Brazilian women. Nevertheless, and perhaps most critical for the development of democracy and racial equality in Brazil, we see the emergence over this period of a set of well-organized anti-racist civil society groups, with a capacity to exercise significant social control over the state.

The Intersection of Gender and Race, and the Political Capacity of the Afro-Brazilian Women's Movement

One of the more interesting elements of the democratization process (described above) has been the emergence of a particularly effective Afro-Brazilian women's movement. The Durban preparation process was especially significant for the mobilization of Afro-Brazilian women, whose interests had hitherto been submerged within both the mainstream feminist movement, and the black movement. The preparation process resulted in the emergence of the Coalition of Black Brazilian women (Articulaçao das Mulheres Negras Brasileiras) which offered an arena for dialogue and strategy on the progression of black women in Brazilian society (Reis 2007). In terms of

their actual participation at the conference, Sonia Alvarez (2003, 7) notes that “Afro-Brazilian feminists’ engagement with their African-descendant counterparts in the US also led them to appropriate and very effectively deploy the concept of “intersectionality” at home.”

The goal of the Afro-Brazilian women’s movement has been to reveal the multiple source of oppression that had been relatively ignored in public policy initiatives. One particular focus of this movement has been in reproductive health care, and area to which they have applied a focussed “race and gendered- centered perspective” (Caldwell 2010, 118). They have pointed to racism, sexism and classism as macro determinants of poor health and limited access to health care, and have influenced the Brazilian government to consider new intersectional approaches to improving black women’s health outcomes. In principle, at least, the government has begun to adopt a discourse of intersectionality. For example, in its 2008 to 2011 Multi-Year Plan, the Lula administration has outlined the following principle:

“The democratic environment shall be permeated by the development of relationships based on equity, without gender, race and ethnic prejudices, with equal opportunities in all aspects of the social life. In the pyramid of inequality, black women are on the top followed by black men and white women. Therefore, the perspective of promoting gender and racial equality must be present at the elaboration, execution and monitoring of all government policies, incorporated as a generating principle of democracy, development and peace.”

There have been some advances in the health field, including the National Policy of Black Population Health, the establishment of the Technical Committee of Black Population Health in the Ministry of Health, and the restructuring of the Program of Full Assistance to Women’s Health. However, as Caldwell (2010) notes, one of the main frustrations for advocates of intersectional health care reform has been the minimal follow through of the Brazilian government. Brazilians often refer to this delay as “policies not leaving paper” (Caldwell 2010). Indeed, there appears to be a significant lag between policy development and implementation – a problem that may be due in part to the challenges of securing political support for policies with a narrower clientele.

Again, we must not exaggerate the policy achievements for Afro-Brazilian women. Rather, what we wish to emphasize is the role that black women have played in producing a gendered, anti-racist re-conceptualization of democracy. Notably, these women have strategically capitalized on the momentum of the Brazilian feminist movement, and the black movement, and by the openings provided by transnational forums. There has been a process of *gendered* democratization, characterized by gender-mainstreaming and the implementation and effective monitoring of public policies for women (Simoes and Matos 2008). And there have been significant discursive and policy developments (described above) addressing *racial* inequality. Afro-Brazilian women activists have recognized the utility of strategic partnerships with the feminist and black movements. Moreover, they have gained key intellectual, organizational and political resources through their transnational engagements. Durban in particular strengthened this capacity, by providing a focus for and broadly legitimizing emerging intersectional identities and mobilization strategies.

In some respect like their French counterparts, minority women’s movements in Brazil have found themselves centred at the contradiction between combating racist

discrimination, and affirming the rights of women against oppressive treatment within their own communities. It is insightful in this respect to compare the discourses and movement objectives of Geledés, the main Afro-Brazilian women's movement, and Ni Putes Ni Soumises. Geledés certainly occupies a different discursive and issue space than the main black civil society organizations in Brazil. It has been less concerned with racial quotas, for example, and more focused on establishing a basis for anti-racism that most Brazilians are willing to endorse. To some extent, gender equality serves as that basis. Seth Racusen (2010, 92) explains: "Maximizing the political legitimacy of affirmative action entails strategic considerations, such as maximizing potential supporters, minimizing potential opposition, and ensuring that affirmative action be viewed as fair by others." Nevertheless, the problem of racial discrimination is central to the organization's operations, which it divides into three main areas: health, human rights and communication. In the human rights area, the group's main initiative is a program called "SOS Racism," which brings racial discrimination cases to court and offers free legal support to victims. Geledés has partnered in this initiative with a number of black movements throughout Brazil and the Southern Cone countries of South America.

There is no doubt that minority women's identities, and their translation into social movement and policy, are contingent on the particular constellation of political interests in a given context (Tavaloro 2008). Nevertheless, there are several factors appear to grant a relative advantage to minority Brazilian women over their French counterparts, in terms of disrupting dominant norms and power structures. One has been the engagement of the former in crucial anti-colonialist transnational discourses with the African diaspora – a dialogue from which French minority women have been relatively absent. Another factor may be the demographic weight of Afro-Brazilian women, which grants it greater political leverage vis-à-vis mainstream feminists and state interlocutors. A final factor is surely the absence of the particularly constraining constellation of ideas around secular republicanism, gender and religious, that has so undermined the capacity of French minority women to play a crucial protagonist role in the struggle to deconstruct post-colonial norms, and to assert new racial and gender identities.

Part IV. Towards a Conclusion: Persistent Paradigms? Disruptive Discourses? Distinctive Pathways to Policy Change in France and Brazil

In this final section, we summarize some of the broad findings that emerge from the foregoing case studies, and suggest promising paths for future research.

In the case of France, we have shown that while there has been a shift towards a new discourse on "diversity," it remains informal and non-institutionalized. The state itself has not fundamentally revised its discourse and remains resistant to change in some policy domains (notably, the collection of ethnic statistics). Rather, it is the private sector and a few non-traditional anti-racist NGOs (CRAN, les Indigènes de la République) who have taken the most significant initiatives toward transformative discourses and practices. There are certainly important improvements in the anti-discrimination policy landscape in France. But other legal developments (the 2004 headscarf law, the 2005 law on the historic contribution of repatriated settlers of French Algeria²²) suggest that colonial

²² The French law (of 23 Feb 2005) concerned the recognition of the historic contribution of the repatriated settlers of French Algeria (the so-called "harkis"). The law establishes financial compensation to harkis and

perspectives remain deeply entrenched. The result of these divergent initiatives is a fuzzy, incoherent discursive and quasi-policy framework. While the EU has been the catalyst for change, there are nevertheless profound limitations on the impact of transnational norms at the state level. We note that traditional anti-racist associations have tended to take their normative cues from the state, rather than from the EU. Furthermore, there is little evidence that other crucial transnational dialogues concerning colonial practices and legacies are having any impact on France.²³

Nor has the discursive legacy of racial democracy been completely discarded in Brazil, as signaled by the character and intensity of objections to racial quotas. Nevertheless, we argue that Brazil has experienced a more significant rupture from colonial paradigms on race, than has France. Indeed, one of the starkest contrasts suggested by our cross-national comparison – and one that should be explored further – is between the French and Brazilian approaches to colonialism and diversity in the school curriculum. With the collapse of authoritarian rule, the Brazilian state became more porous and accessible to an emergent civil society. Discursive change and policy reform in Brazil came rapidly on the heels of democratization. Yet there are two important caveats to this depiction of progress and reform in the context of democratization. First, the changes described in Brazil were less the result of a principled commitment to “democratic values” and more of the product of the skilled opportunism of political leaders – beginning with Cardoso and extending through Lula – who worked creatively with civil society actors. Second, the country’s relative economic under-development and the crushing poverty of the black population have made it extraordinary difficult to transform the new anti-racist and egalitarian discourse into real social reform.

In accounting for the different pathways to reform in the two countries, we have focused on state-civil society relations and, in particular, on the capacity for autonomy among minority women’s civil associations. Our general argument is that we can gain a greater understanding of normative and policy shift by examining the complex interaction among transnational discourses and emerging principles, non-state actors (including a range of both traditional and non-traditional NGOs), and states (themselves comprised of a complex and not always coherent set of norms, institutions and strategic actors). Our further idea is that – at least for the domain of race relations – a fuller window to processes of discursive and policy change depends both on broad global comparisons (encompassing western and non-western states), and on engaging the recursive connections between gender and racial discourses and identities.

their heirs, and also prohibits defamation against persons on the grounds of their being harki. Furthermore, the law required (in article iv) that high schools “teach the positive role of the French presence in the overseas territories, particularly in North Africa.” This article created a vociferous reaction from French historians, and was repealed by presidential decree in early 2006. See Moura (2008).

²³ At the 2001 Durban WCAR, European states effectively resisted pressures to take significant steps to recognize the impact of colonial practices on African diasporas and other minority peoples. France led the walk-out of western delegates to the post-Durban 2009 conference, on the grounds that the conference had become a platform for overtly anti-Semitic speech by Iranian president Mahmoud Ahmadinejad.

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