

PHYSICAL EDUCATION AND THE APPLICATION OF LAW N 10.639/03: ANALYSIS OF THE LEGALITY OF THE TEACHING OF AFRO-BRAZILIAN AND AFRICAN CULTURE IN A PUBLIC SCHOOL IN RS

EDUCAÇÃO FÍSICA E A APLICAÇÃO DA LEI Nº 10.639/03: ANÁLISE DA LEGALIDADE DO ENSINO DA CULTURA AFRO-BRASILEIRA E AFRICANA EM UMA ESCOLA MUNICIPAL DO RS

LA EDUCACIÓN FÍSICA Y LA APLICACIÓN DE LA LEY N 10.639/03: ANÁLISIS DE LA LEGALIDAD DE LA ENSEÑANZA DE LA CULTURA AFRO-BRASILEÑA Y AFRICANA EN UNA ESCUELA PÚBLICA EN RS

Joice Vigil Lopes Pires*, Maristela da Silva Souza**

Keywords

Culture.
African Brazilians.
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Abstract: This study examines the legality of teaching African-Brazilian culture, from the relationships between the uniqueness of the application of Law no. 10.639/03, in the context of PE teachers' pedagogical work, which in turn is linked to general relations in educational policies. To face this challenge, we debate the context of public schools in Bagé, Brazil, using bibliographical content analysis and focus groups. We found that the law is an educational policy that legitimizes class society as it proposes inclusion in a society whose structure is inequitable and exclusionary.

Palavras-chave

Cultura.
Afro-brasileiros.
Educação.
Legislação.
Políticas públicas.

Resumo: Este estudo analisa a legalidade do ensino da cultura afro-brasileira, a partir das relações entre a singularidade da aplicação da Lei nº 10.639/03, inserida no particular do trabalho pedagógico do professor de Educação Física, que vem se alocar com as relações gerais das políticas educacionais. Para tal desafio, problematizamos o contexto das escolas municipais de Bagé-RS, utilizando a técnica de análise de conteúdo bibliográfico e grupo focal. Constatamos que a referida lei representa uma política educacional que legitima uma sociedade de classe, uma vez que propõe inclusão em uma sociedade cuja estrutura é desigual e excludente.

Palabras clave

Cultura.
Afrobrasileños.
Educación.
Legislación.
Políticas públicas.

Resumen: Este estudio examina la legalidad de la enseñanza de la cultura afrobrasileña a partir de las relaciones entre la singularidad de la aplicación de la Ley nº 10.639/03, inserta en el particular del trabajo pedagógico del maestro de Educación Física, que se ha sumado a las relaciones generales de las políticas educativas. Para este desafío, se problematizó el contexto de las escuelas públicas en Bagé (RS), utilizando la técnica de análisis de contenido biográfico y la de grupo focal. Constatamos que la mencionada ley representa una política educativa que legitima la sociedad de clases, ya que propone la inclusión en una sociedad cuya estructura es desigual y excluyente.

* Federal University of Pelotas. Pelotas, RS, Brazil.
E-mail: joicevigilpires@hotmail.com

** Federal University of Santa Maria (UFSM). Santa Maria, RS, Brazil.
E-mail: souzamaris@bol.com.br

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1. INTRODUCTION¹

This research is justified by the problems created due to the enactment of Law 10.639/03, which mandates the teaching of African-Brazilian and African culture in Brazilian schools. We discussed the issue with regard to Physical Education teachers' pedagogical work and the challenges they face to apply that law. It is necessary to understand the uniqueness of the Law with regard to the teaching of African-Brazilian culture in the specific organization of Physical Education teachers' pedagogical work and in the general context of educational policies. It is within this relationship between the individual, particular and general levels that we seek to demonstrate, beyond what is apparent, the determinants and the contradictions that arise in the process of teaching African-Brazilian culture in Physical Education classes.

That need is justified by the fact that Physical Education, throughout its history, has been linked to values such as competition and selection (SOUZA, 2009), and also contributes to create a population that is racially and socially identified with whites by promoting a healthy, strong and organically harmonious body (CASTELLANI FILHO, 1988). In the words of the author himself: "But in so doing, as opposed to the lax, limp and sickened body of the colonial individual, it ended up contributing for that body – elected as representative of a class and a race – to encourage racism and social prejudices associated with them" (CASTELLANI FILHO, 1988, p. 33).

Therefore, that area of knowledge has contributed and continues to contribute strongly to exclusion. In this sense, Physical Education has a "debt" to subjects in contributing to the process of human emancipation in all social spheres, and especially in the school context.

We start from the context of public schools in Bagé, RS, where we examine Physical Education teachers' pedagogical work in teaching African-Brazilian and African cultures according to Law 10.639/03.

To achieve our goals, we start with a brief history of Brazilian legislation that is the foundation of Law 10.639/03; then we look at educational policies in the social and political sphere, and listen the teachers studied.

Our methodological techniques and procedures were bibliographic content analysis and focus group. To Bardin² (1977 cited by TRIVIÑOS 1992: p. 160), content analysis is:

A set of communication analysis techniques aimed at obtaining indicators – whether they are quantitative or not – to allow the inference of knowledge concerning the conditions of production/reception (inferred variables) of messages, through systematic and objective procedures to describe message content.

Focus group work,³ in turn, according to Gatti (2005, p. 11) allows us to understand processes of reality construction by certain social groups, in this case, Physical Education teachers. "Understanding everyday practices, actions and reactions as well as facts and events, behaviors and attitudes [...] prevalent in dealing with a particular issue by people who share some common traits relevant to the targeted problem".

¹ Article based on the Master's Thesis: PIRES, Joice Vigil Lopes. **A Educação Física e as mudanças no mundo do trabalho: um olhar através da aplicação do ensino da história e cultura afro-brasileira e africana nas escolas municipais de Bagé.** 2013. 103 f. Federal University of Pelotas, Pelotas, 2013.

² BARDIN, Laurence. **L'analyse de contenu.** Paris, Presses Universitaires de France, 1977. p. 3.

³ To conduct the focus group, we informally contacted the Bagé Department of Education through its Physical Education coordinator, and then the general pedagogical coordination. We explained our research objectives and the need for focus groups. The research was readily accepted, and we also set the date and place for the meeting. An invitation for the meeting was also emailed to municipal schools' Physical Education teachers.

We invited 23 Physical Education teachers from municipal schools, 17 of whom accepted the invitation. The Municipal Secretary of Education and a collaborator who served as rapporteur of the group's speeches were also present.

Group dynamic, which lasted about three hours, presented the video *Move Maker*⁴, when teachers were able to identify with some images of the varied daily life of Physical Education classes. The video ended with a question: "And you, teacher, what else have you identified with?"

Then the first speeches began, and they were organized in two axes. Axis I addressed the planning of Physical Education curriculum component with questions about lesson planning, predominant contents, as well as the very reasons to choose them. Axis II addressed Law 10.639/03 and Physical Education, questioning the way the subject under study arrives to teachers. We requested teachers' view on how African-Brazilian and African culture can be approached as well as what those actions depend on, and finally, which factors facilitate or hinder the process.

After these procedures, the next step involved the analysis and treatment of data, which, according to Frigotto (2001b, p. 88), "[...] is the researcher's effort to establish connections, mediations and contradictions of the facts constituting the research problem".

2 LEGISLATION AND TEACHING OF AFRICAN-BRAZILIAN CULTURE: A BRIEF HISTORY

In order to know some key aspects of that Law for education and, more specifically, to analyze its provisions about Physical Education, we conducted a brief historical analysis based on data since the 1988 Constitution, according to the Law of Guidelines and Bases (LGB), seeking a timeline to Law 10.639/2003 and its goals. We also mentioned the contributions to the topic presented in the Proposal of the National Plan for Implementation of the National Curriculum Guidelines in Ethnic and Race Relations Education, and regarding the Teaching of African-Brazilian and African History.

We understand that the law becomes a mediator between education and society, since it performs the task of "entering" the educational system and guiding direct actions based on the demand of social organization.

From the 1988 Federal Constitution chapter dedicated to education, we get the idea that the equal education goals for Brazil as a whole would be clear. Article 205 of the Constitution places education as a universal right and the duty of the State and the family, to be promoted and encouraged with the cooperation of society toward the person's full development, preparation for the exercise of citizenship, and qualification for work.

We rely on Jinkings' interpretation in his presentation of the work of Mészáros (2008, p. 11), which warns us to the fact that mere access to school is necessary, but not sufficient to draw millions of people whose existence is only mentioned in statistical tables from the shadows of social forgetfulness. The author states that "the process of exclusion does not occur in access to school, but through the very institution and its formal education in each educational process". And this exclusion is what we approach in this study. It regards everyone's right to education aiming at individuals' culture and the long-sought human emancipation.

⁴ Through Internet images collected by the author, *Move Maker* describes everyday life in Physical Education classes. Each image presents the varied knowledge of the area, athletics, sports, dance, recreation, fighting, as well as citizenship. It ends by asking teachers which of the images they most identified with.

In the LGB/96 (BRAZIL, 1996), in turn, Article 3 laid down the principles underlying teaching, such as equal conditions for access to and permanence in school: freedom to learn, teach, research and publicize culture, thought, art and knowledge; pluralism of ideas and pedagogical concepts; and, among others, appreciation of school education professionals.

By relating the LGB with the work of Physical Education teachers, we find the discipline in General Provisions. As a curricular component, Physical Education is set as compulsory in primary and secondary education. Such determination is in the 3rd paragraph of Article 26 and only suggests that the work of teachers is integrated into the school's pedagogical proposal. The other remarks are related to the component being or not optional, listing the situations in which it is so.

Still on the LGB and its general provisions, after Article 4th, regarding the teaching of Brazilian History, there is a provision for the importance of the contributions of different cultures and ethnic groups to the formation of the Brazilian people. And it is under the LGB that Law 10.639/2003 emerges in January 2003, establishing the National Curriculum Guidelines for the Education of Ethnic-Racial Relations and the Teaching of African-Brazilian and African History and Culture, which would be systematized in 2004.

Thus, the LDB is now added, among others, of Article 26-A:

Art. 26-A. In primary and secondary schools, whether public or private, teaching of African-Brazilian History and Culture becomes mandatory.

§ 1 The syllabus referred to in the Caput of this article will include the study of history of Africa and Africans, the struggle of blacks in Brazil, Brazilian black culture and blacks in the formation of Brazilian society, reestablishing the contribution of black people in social, economic and policy areas relevant to Brazilian history. (BRASIL, 2003, n/p)

Five years after Law 10.639 was enacted, the Ministry of Education and Culture introduced the 2008 National Plan for Implementation of the National Curriculum Guidelines in Ethnic and Race Relations Education for the Teaching of African-Brazilian and African History. The plan stresses that the law also seeks to comply with 1988 Constitution provisions for mandatory universal policies committed to guaranteeing everyone's right to quality education.

So, we will look into the plan regarding what municipalities should do to implement ethnic and racial studies, using public schools in Bagé as the context for this study.

Suggested actions include: a) supporting schools for implementation of Law 10.639/2003 through collaborative actions with the Forum of Education for Ethnic and Racial Diversity; b) Promoting systematic and regular training of educational system staff, collaboratively mobilizing actors such as Education Forums, higher Education Institutions, the African-Brazilian Studies Center (NEAB),⁵ Department of Continuing Education, Literacy and Diversity and Inclusion (Secadi),⁶ civil society, the black movement, and other actors with knowledge on the subject. Other actions would be producing and regionally distributing teaching material that value and meet (artistic, cultural and religious) local/regional specificities of the population and the environment, aimed at teaching and learning Ethnic and Race Relations, and articulating support to the National Union of Municipal Education Managers (UNDIME)⁷ and the National Union of Municipal Education Councils (UNCME)⁸ for participatory construction of municipal education

5 Center for African-Brazilian Studies, created under Law 10.639/03.

6 Available at: <<http://portal.mec.gov.br/>>. Accessed on January 12, 2012.

7 Available at: <undime.org.br>. Accessed on January 12, 2012.

8 Available at: www.uncme.com.br/. Accessed on January 12, 2012.

plans that address the implementation of the National Curriculum Guidelines for the Education of Ethnic-Racial Relations and the Teaching of African-Brazilian and African History and Culture.

In the organization of Physical Education teachers' pedagogical work, we will see when the actions suggested in the National Plan are effectively applied, considering the reality of the Municipal Plan of the City of Bagé, also from 2008.

Bagé's Municipal Education Plan includes 12 thematic committees in charge of assessing the city's educational situation and, after broad discussions with community participation, writing education guidelines, objectives and targets for the municipality in the next ten years.

In this document, we examine the status of guidelines, goals, or targets that bear directly on racial and ethnic studies in elementary schools. On this issue, the guidelines include only the following text:

An updated curriculum will emphasize interdisciplinarity as a way to meet new educational demands and needs, and content orientation will have to take into account the proximity of the themes to everyday life. In addition to the disciplines that are part of the traditional curriculum, this plan proposes the inclusion of special programs, cross-cutting issues such as ethics, the environment, human rights, cultural diversity, sex education, work and consumption, philosophy and sociology (BAGÉ, 2008, p. 17).

The item "goals and targets", divided in 20 sub-items, does not mention compliance with Law 10.639/2003 or any mention of African-Brazilian and African culture during the plan's ten years.

Given this legal scenario, we wonder about the actual development of that law. According to Comparato (2012), there is a difference between what is in the law and what actually happens in practice. There would be two legal frameworks: the official organization and the actual organization. Therefore, we ask: "In what framework is Law 10.639/03? Located?" Next, without intending to conclude, we clarify this issue.

3 EDUCATIONAL POLICIES AND THE LEGALITY OF TEACHING AFRICAN-BRAZILIAN AND AFRICAN CULTURE

For a better understanding of the legality of teaching African-Brazilian culture, we must place educational policies in a more general context to cover their social and political aspects. Authors such as Lima (2005) and Freitas (1995; 2010) identify, in the last 20 years, the main functions that educational policies take on in dependent countries, particularly in Brazil.

Lima's (2005) research demonstrates how the capital's system is organized at national level through production restructuring, reorganization of the role of national States and the spread of the bourgeois project of sociability, which is then implemented according to views of multilateral organizations including the World Bank (WB), the International Monetary Fund (IMF) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).⁹

For the author, while in the first half of the 1990s the policies developed by those organizations were based on the Washington consensus,¹⁰ after that, organic intellectuals of the bourgeoisie drew up new strategies legitimating the bourgeois project of education and

⁹ United Nations Educational, Scientific and Cultural Organization.

¹⁰ Washington Consensus: articulated in November 1989 by economists of Washington-based financial institutions such as the IMF, the World Bank and US Treasury Department, based on a text by economist John Williamson, from the International Institute for Economy, which became the official policy of the International Monetary Fund in 1990, when it began to be prescribed to promote macroeconomic adjustment in developing countries that were undergoing difficulties (LIMA, 2005).

sociability, identified as radical neoliberalism. In the face of economic stagnation and increase in economic and social inequalities, those intellectuals see the need for a post-Washington consensus and the construction of a “State closer to the people”. Lima (2005, p. 9) states: “It is in this political horizon that the expansion of political participation by civil society begins to be evaluated as vital to State reform, of which poverty alleviation and social cohesion are key elements”.

Lima (2005) mentions the 1995-2002 period as that with deep clashes between antagonistic projects of sociability through education and which resulted in the bourgeois hegemony expressed in the LGB, the National Education Plan (NEP) as well as decrees, provisional measures and bills. This expression of sociability has been reinforced since 2003, when educational policy reforms are deepened with regard to inclusion and the establishment of policies to combat illiteracy, from basic to secondary and to higher education.

Freitas (2010) presents important aspects to understand why inclusion has dominated the debate in recent decades. For the author, the current inclusion “of poverty in school” combines with “subordination”. He justifies this statement by questioning whether or not the aims of education are the same for both sides of the border: the included and the excluded. The answer also comes from the finding that the hegemony of educational policies lies with those who are already included and want to speak on behalf of the excluded. Thus, to the capitalist school, it is enough to include people in the formal sense, by opening places in which the student is limited to an enrollment number, based on a discourse that school must be democratic and the content must be critical, innovative and include differences.

In that context full of contradictions, we consider that the legality of teaching African-Brazilian and African culture faces numerous challenges that are political, theoretical, organizational and pedagogical.

Especially in the face of such challenges, we agree with Leher and Mota (2012) that the problems are still restricted to certain particular movements, not establishing a clear situation of class struggle in the field of education. We also underscore that Ghosh (2008) draws attention to the real need for educational curricula that address human rights. Such rights, if taken into account only in relation to movements connected to children, women, blacks and the elderly, rather than being related to a change in society, end up reproducing the dominant ideology since struggles will fragment and the vision of the whole will be lost.

Specifically, Gomes (2011) points out that black identity is a personal and social construction and is prepared in different ways at individual and social levels. We agree with the author when he says that, in Brazil, this task becomes even more complex, since this construction is done on the relationship between class, gender and race in the context of the ambiguity of Brazil’s racism and growing social inequality.

4 THE CONTEXT OF BAGÉ’S MUNICIPAL SCHOOLS: PHYSICAL EDUCATION TEACHERS SPEAK

We would like to point out that we do not intend to judge teachers who participated in our research, but give them a say in the process of discussing the issues that interests them, since teachers are the subject of the said bill.

On Axis I of the discussion, at the focus group, we approached issues related to Planning the Curricular Component of Physical Education. Questions addressed the way planning is done in everyday life as well as the contents prevailing in that stage of the work.

It depends a lot on physical space, climate, and also competitions. I plan bimonthly, by quarter, it depends on the school, but several factors change the initial plan (Teacher VII). It is usually bimonthly. I think that during each week there is an adjustment. During each week you include topics that emerge (Teacher VI).

We resort to Freitas (1995) when he analyzes the categories related to the school's general goals/evaluation, what he calls social function; and the general content/form of the school's pedagogical work, in which the author highlights the artificiality of school life separated from material production, the fragmentation of dealing with knowledge and school management in its authoritarian and alienating form. These categories modulate more specific ones within the classroom, such as objectives/teaching evaluation and teaching content/method (FREITAS, 1995, p. 95).

Freitas (2010) specifically uses the categories to which we referred to question the real goals of education, which are hidden in the discourse of a so-called inclusive school.

This way of seeing leads us to the question of what the aims of education are. Are they the same for both sides: the included and the excluded? Who sets those goals? Which educational and instructional contents are implied by such goals? Which evaluation concept and practice are established? (FREITAS, 2010, p. 90)

We agree with Freitas (2010) in that, over the past twenty years, school has been dealing well with all those adjectives so as to preserve its excluding and subordinating social functions. This becomes clear when we observe teachers' positive view on school competitions, as well as planning that include goals and evaluations targeted to them and sport itself. "In competitions they watch (mimic) the teacher's attitude as an example. We never go to events to fight; we go to compete, to have fun" (Teacher II).

Speeches in the focus group clearly show that teachers' preference for sports when planning Physical Education classes is full of good intentions. Some speeches show the relationship between sport and education, e. g. "Sport is very important. It saves. It rescues many children" (Teacher I).

That is done on behalf of students, since, according to teachers, there is a perfect acceptance by those who, through media seductive campaigns, realize the pleasures and gains that sports can provide to practitioners along with quality of life (a term that is often used nowadays), calling on students to take on this competitive and attractive practice. "As much as we want to include other contents, students will ask for sports. We use sport to achieve other goals, such as respect and discipline" (Teacher III).

Therefore, we ask ourselves: "Is Physical Education enough to include content related to the African-Brazilian culture without changing its appropriation logic?" According to Souza (2009), teaching sports at school using the principles of high performance sport makes it impossible for all participants in a class to access its practice, since this view follows the model of competition, selection and productivity – supported by the discriminatory culture of contemporary scientific society.

As regards the feasibility of teaching processes, even those teachers who advocate sport as an important content in Physical Education classes challenge the poor physical space

and precarious material. This has to be said, since teachers will develop their teaching practices at work. However, when those teachers do not find objective conditions to develop their actions, work becomes precarious and limited.

When asked about contents prevailing in their planning, teachers exposed their daily difficulties related to physical structure.

The school structure is very restrictive (Teacher IV);

There's no place to store material. Sometimes it's under one's arm (Teacher II);

I have my material that I've bought with my money; I take it home and back (Teacher III);

I keep my material in the car trunk, otherwise it disappears (Teacher IX).

On Axis II, where we question how the law under study reaches them, we were surprised by a moment of silence. Teachers were quiet, expressing ignorance of the law, and only two of them spoke.

I think it arrives at schools working with projects. (Teacher IV);

We often work with culture and we don't know, our daily life is full of other customs (Teacher II);

We both took a course about diversity; it was totally dedicated to history, much of black culture, so we got to know the law (Teacher IV).

In addition to these speeches, it becomes essential to quote the Physical Education Coordinator of Bagé's Municipal Department of Education. When she realized that people were almost unanimously unaware of the existence of Law 10.639/2003, she argued that, in 2004, schools' management staff were alerted that the Law had been enacted and they should include African-Brazilian and African culture in their political-pedagogical projects.

From this situation, we understand that the responsibility to remedy the historical debt to Brazilian black people is being transferred to schools. That is because school documents, which should be collectively known, are passed on to teachers without prior knowledge on the subject.

This fact leads us again to another point in our research, when we knew the resolution that established the National Curriculum Guidelines for the Education of Racial and Ethnic Relations and the Teaching of African-Brazilian and African History. Its goal is to promote "[...] recognition and appreciation of identity, history and culture of African-Brazilians, as well as to guarantee recognition and equal appreciation of the Brazilian nation's African roots, along with indigenous, European, Asian ones" (BRAZIL, 2004).

Frigotto (2011a) states that the problem with affirmative action efforts is that they were not a radical stance – which is far beyond simply making a developmentalist administration that does not challenge dominant social relations.

We question the extent to which the said inclusion takes place, since some teachers are not even aware of the existence of Law 10.639/03, even though it was enacted ten years ago. Furthermore, public administration is neglectful and does not build the conditions for the development of that policy, restricting it to a mere report.

Especially regarding legislation, we return to Demo (1997) on the scope of educational laws in Brazil, which sometimes remain only in the sphere of a moral commitment by their agents, in this case, teachers.

During the survey, teachers were also asked about their way to approach African-Brazilian and African culture in schools.

Capoeira is one way. It is a project outside school. It depends on the community's interest. I don't work with it because students have not demanded it (Teacher VII); [We do it] during Black Awareness week, but it depends on who is in the movement (Teacher II).

Based on Freitas (1995), we stress the importance of distinguishing educational theory and pedagogical theory.

Educational theory formulates an educational concept supported by a historical project and discusses the relationship between education and society in its development; what kind of man we want to form, the purposes of education, among others. A pedagogical theory, by contrast, deals with "educational work", formulating guiding principles (FREITAS, 1995, p. 93).

Teachers' view about including capoeira as a content item or working with projects in school only during Black Awareness week shows much more than lack of knowledge about the law; it also shows lack of theoretical support, i. e., the pedagogical theory that Freitas (1995) refers to guide educational activities.

Therefore, we believe that educational policy should be part of school's pedagogical work organization so that teachers are able to discuss and understand its meanings in the process of the very pedagogical work, but also in the construction of social and cultural relations.

5 FINAL REMARKS

Based on the theoretical research and empirical data analyzed, it was possible to consider that enforcement of the aforementioned law is one more commitment passed on to teachers. This is a commitment with black Brazilians, regarding a debt that is social and class-based.

Thus, we do not neglect the role of the black social movement, which is of utmost importance to implementing affirmative action policies in education, but the matter of concern is that public policies, behind a discourse about concern with historically discriminated groups, actually seek to mitigate them by intentionally generating their disorganization.

Through the speeches of the focus group, we found that teachers are unaware of African-Brazilian and African culture. This could be seen from two different angles: on the one hand, teachers who had no knowledge of the existence of the law; on the other hand, those who consider capoeira as the only reference to work with African-Brazilian culture, thus ignoring social, historical and cultural issues involved in the topic.

The hegemonic influence of sport as knowledge represents the continuation of a project that serves an exclusive society. Therefore, we understand that there is no point in including content in a content-method relationship without considering the other dialectical pair needed in the teaching process: objectives-evaluation (FREITAS, 1995). Changing content and method necessarily requires changing our objectives and views. Despite all the inclusive discourse under Law 10.639/03, if we keep the objectives of the capitalist school, we will be including in exclusion, or Kunzer (2002) said, it is a dialectical process of "inclusive exclusion and exclusive inclusion".

However, since we envisage another model of society, we believe, as Mészáros (2008), that there are possibilities for change, particularly with regard to education. That is education where enforcement of laws such as our object of study effectively help reflection on racial discrimination, really aimed at changing a prejudiced mentality that overcome inequalities not only of race, ethnicity, culture, but also of social class.

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