

THE INVENTION OF RIGHTS AND THE RACIALIZATION OF HERITAGE: THE 1988 CONSTITUTION AND THE DECONSTRUCTION OF THE NATION'S MONOCULTURAL MONOLITH | LA INVENCIÓN DE LOS DERECHOS Y LA RACIALIZACIÓN DE LOS PATRIMONIOS: LA CONSTITUCIÓN DE 1988 Y LA DECONSTRUCCIÓN DEL MONOLITO MONOCULTURAL DE LA NACIÓN | A INVENÇÃO DOS DIREITOS E A RACIALIZAÇÃO DOS PATRIMÔNIOS: A CONSTITUIÇÃO DE 1988 E A DESCONSTRUÇÃO DO MONOLITO MONOCULTURAL DA NAÇÃO

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ABSTRACT | The article discusses how "heritage inventions" take place, as possibilities of rights, and, through this, the racialization when making these choices. With the nomination characteristic of the Law in mind, we defy its role in cultural systems that interact with patrimonialization, which usually make a distinction of the cultural heritage and practices of the hegemonic groups. In this context, the use of the law, through its nomination power, contained in the legal protection of heritage, has been one of the means used to racialize the issue and, consequently, the nation's identity and representation. In conclusion, we demonstrate that the Federal Constitution of 1988 broke with the hegemonic tradition when it allowed indigenous, Afro-Brazilians and other groups to participate in the national civilization process, by opening cracks in the monolith of the monocultural representation of the Nation in the Luso-Brazilian tradition. The methodology used was a critical review of literature.

KEYWORDS | Heritage. Invention. Racism. Constitution. Representation.

RESUMEN | *El artículo tiene como objetivo discutir cómo se dan las invenciones de los patrimonios como hipótesis de derechos y demostrar cómo, a través de eso, se promueve la racialización de la distinción de esas elecciones. Se cuestiona aquí su función en sistemas culturales que interactúan con la patrimonialización, la cual suele dar distinción a las prácticas y bienes culturales de los grupos hegemónicos. En ese contexto, el uso del Derecho, a través de su poder de nombramiento contenido en las prácticas patrimoniales, ha sido uno de los artificios utilizados para racializar el patrimonio y, consecuentemente, la imagen y la representación de la Nación.*

Como conclusión, se demuestra que la Constitución Federal de 1988 rompió con la lógica hegemónica cuando permitió que ejemplares de las culturas indígenas, afrobrasileñas y de otros grupos participantes del proceso civilizatorio patriarcal abrieran fisuras en el monolito de la representación monocultural de la Nación de tradición luso-brasileña. La metodología utilizada fue la revisión crítica de literatura.

PALABRAS CLAVE | *Patrimonio. Invención. Racismo. Constitución. Representación.*

RESUMO | *O artigo objetiva discutir como se dão as invenções dos patrimônios como hipóteses de direitos e demonstrar como, através disso, promove-se a racialização da distinção dessas escolhas. Questiona-se aqui a sua função em sistemas culturais que interagem com a patrimonialização, a qual costuma dar distinção às práticas e bens culturais dos grupos hegemônicos. Nesse contexto, o uso do Direito, através do seu poder de nomeação contido nas práticas patrimoniais, tem sido um dos artificios utilizados para se racializar o patrimônio e, conseqüentemente, a imagem e a representação da Nação. Como conclusão, demonstra-se que a Constituição Federal de 1988 rompeu com a lógica hegemônica quando permitiu que exemplares das culturas indígenas, afro-brasileiras e de outros grupos participantes do processo civilizatório pátrio abrissem fissuras no monolito da representação monocultural da Nação de tradição luso-brasileira. A metodologia utilizada foi a revisão crítica de literatura.*

PALAVRAS-CHAVE | *Patrimônio. Invenção. Racismo. Constituição. Representação.*

1. INTRODUCTION

Starting from the encounter among Law, Culture and power relations, in an anti-racist constitutional context, but subsequent to a recent slavery past, how to prevent Law from being used as an instrument to support cultural choices arising from power relations, achieved by Law? Administrative, and which protect only the patrimonial interests of certain historically privileged groups?

This questioning is necessary given the assumption that the use of Law, through its power of naming and distinction (BOURDIEU, 2010, 2013) contained in cultural and heritage practices, has been one of the artifices used to racialize heritage Brazilian culture and, consequently, the image and representation of the Nation. Brazil, with an official Luso-Brazilian tradition, has a predominantly white cultural heritage and a few examples of recognition of indigenous and Afro-Brazilian cultural heritage.

Therefore, the function of Law in cultural systems that interact with patrimonialization is questioned, since this usually distinguishes the practices and cultural goods of hegemonic groups, overlapping, through a racialized bias, the cultural practices of cultural groups. historically subordinated people, such as indigenous peoples, quilombola communities, blacks, LGBTQI+'s, among others.

In the 20th century, for example, a vertiginous obsession with a cultural heritage framework in the world raised discussions based on a rhetoric that justified the loss of goods and individual identities, in defense of institutionalized traditions, not being different in Brazil, where heritage discussion has advanced a lot, thanks to the interest it arouses in areas such as Anthropology, Architecture, History, Sociology etc.¹, with the emergence of many postgraduate courses and lines of research specifically focused on the theme.

1 When dealing with art. 216 of the Federal Constitution, Francisco Luciano Lima Rodrigues (2008), argues that there would not be a concept of cultural heritage, despite the exposure he makes of aspects that should compose its definition, such as cultural identity and memory, among others and, in this way, the conceptualization of cultural heritage would not be an exclusive and autonomous task of the legislation, but, on the contrary, it is an activity that would use concepts from Anthropology and Sociology. In fact, Law, by itself, is quite limited to understand the polyphony of heritage, a field that usually dialogues with various branches of Social Sciences and even other areas

This is a relevant and current subject also for Constitutional Law, despite being neglected academically by the area, and which is present in the very symbolic representation of the State and, perhaps for this reason, is not the object of more criticism. by jurists, who limit themselves to repeating the normative statements, without making further analyzes of the contents of such norms or their implications in the scope of Administrative Law or Public Policies. On the contrary, in the other branches of the Social Sciences, as stated before, there is a deep interest and a complex field of studies involving the construction of the cultural heritage of a people. Therefore, it is necessary for Law to be open to discussing the norms that govern this construction, since this field is also permeated by the search for meanings and justifications for the legal institutes that govern cultural heritage.

We can say that it is precisely the traditionality of the national legal formation that, not infrequently, causes many important and necessary discussions to have a significant delay within the Law and, with that, an undeniable social im-pact. This article, therefore, does not cease to be a provocation when claiming new studies in the field of cultural rights that question the unilateral status quo taken as the basis for the application of such rights.

In order to bring about this discussion and justify its need, the article was organized into two sections: a) in the first, dealing with the relationship between Constitutional Law and the representation of the Nation, in order to place the importance of the theme in studies constitutional; b) while, in the second, it deals with the invention of heritage as cultural rights, and the racialization of the distinction promoted in this process, exemplified mainly from the case of the tipping of sites with historical reminiscences of the ancients quilombos (art. 216, § 5, of the FC).

In conclusion, it seeks to demonstrate that the Federal Constitution of 1988 broke with the hegemonic logic when it allowed that examples of indigenous, Afro-Brazilian cultures and other groups participating in the national civilizing process were part of the national myth, thus opening fissures in the monolith of the monocultural representation of the Nation, of recognizably Luso-

Brazilian tradition. The methodology used was the critical review of the literature.

2. CONSTITUTIONAL LAW AND THE REPRESENTATION OF THE NATION

In the official historical determination of what is meant by national culture, the Brazilian legal discourse is based on the idea of protecting certain legacies, which coincides, to a large extent, with the protection of legal institutions, such as property. In this line of reasoning, one cannot lose sight of the fact that the notion of patrimony is often confused with that of property, more precisely with a property that is inherited, as opposed to that which is acquired (GONÇALVES, 2005, p. 18).

In societies like the European ones, influenced by Roman law, the notion of heritage united with property is basic to understand the issue (GONZÁLEZ ALCANTUD, 2012, p. 30). Evidently, not only the concept of property underwent transformations, but the cultural legal discipline itself. Etymologically, patrimony is a word of Latin origin, comes from *patrimonium*, and means “everything that belonged to the parents”², *pater* ou *pater familias* (father of the family), hence the notion of what goes back to our parents, origins and roots (FUNARI; PELEGRINI, 2006; RODRIGUES, 2008).

The origins of the institutes give a lot of information on how current societies deal with them, especially when there is, at the constitutional level, legal discipline that deals with the protection of the Nation's cultural heritage. The 1988 Constitution establishes in art. 216, caption, that

[...] Brazilian cultural heritage constitutes goods of a material and immaterial nature, taken individually or together, bearing reference to the identity, action, memory of the different groups that form Brazilian society. (BRAZIL, 1988, Art. 216). (Translated).

² Alexis de Tocqueville (1998, p. 182), when dealing with the case of the United States, said that: “there is a love for the homeland that has its main source in that thoughtless, disinterested and indefinable feeling that links the heart of man to the places where the man was born. This instinctive love is confused with the taste for ancient customs, with respect for the elderly and the memory of the past; those who experience and appreciate their country with the love that one has for one's father's home.”

And what does the Law, especially the Constitutional, intend with such protection? It seems evident that the intention is to protect the interests of all Brazilian citizens in the face of certain relations of knowledge and power, which must be identified, so that the structure of the State it is not used to block the rights of minorities or subaltern groups, as happened in the past with indigenous peoples and the black population, as a result of coloniality.

Such device also inaugurates a new conception of Nation, no longer dealing with something ready or that comprises a single version, a single portrait, but, on the contrary, as something to be, constitutionally, discovered. From 1988 onwards, the oblivion to which subjects constitutionally silenced until then were subjected to gave way to the rediscovery of the “others” of the Nation³. The culture of indigenous peoples, Afro-Brazilians, and other popular cultures became part of a Nation project that always wanted to rediscover itself, but whose reencounter was interrupted by the constitutional silences of its political history

A simple reading of the provisions of previous Constitutions demonstrates that the concern with the country's cultural diversity, as discussed above, was not an issue on the Brazilian constitutional agenda, since the theme of culture was generally treated as a matter related to the profession, artistic freedom, and quite elitist bias. At most, they dealt with some state subsidies to the national historic heritage:

Frame 1 - Theme of the cultural issue in the Brazilian Constitutions

CONSTITUTION	DISPOSITIVOS DEVICES
1824 TITLE 8 General Provisions, and Guarantees of Civil and Political Rights of Brazilian Citizens.	Art. 179. [...] XXIV. No type of work, culture, industry or commerce can be prohibited, as long as it is not opposed to public customs, security and the health of citizens. [...] XXXIII. Schools, and Universities, where the elements of Science, Fine Arts, and Arts will be taught.
1891 SEÇÃO II CHAPTER IV Congress Attributions [...] TITLE IV Of Brazilian Citizens	Art. 35. [...]It is also incumbent upon Congress, but not privately: [...] 2º) encourage the development of letters, arts and sciences in the country, as well as immigration, agriculture, industry and commerce, without privileges that impede the action of local governments; Art. 72. [...] § 24. The free exercise of any moral, intellectual and industrial profession is guaranteed. [...]

3 Regarding the process of denial of the Nation to its “others”, see Segato (2007).

SECTION II Bill of Rights	§ 26. Authors of literary and artistic works are guaranteed the exclusive right to reproduce them by the press or by any other mechanical process. The heirs of the authors will enjoy this right for as long as the law determines. EC CE n nº 3/26.
1934 TITLE V Family, Education and Culture	Art. 1.48. It is up to the Union, the States and the Municipalities to favor and encourage the development of science, arts, letters and culture in general, to protect objects of historical interest and the artistic heritage of the Country, as well as to provide assistance to intellectual workers.
1937 EDUCATION AND CULTURE	Art. 128. Art, science and education are open to individual initiative and that of public and private associations or collective persons. It is the duty of the State to contribute, directly and indirectly, to the stimulation and development of both, favoring or founding artistic, scientific and teaching institutions. [...] Art. 134. Historic, artistic and natural monuments, as well as landscapes or places particularly endowed by nature, enjoy the protection and special care of the Nation, States and Municipalities. Attacks committed against them shall be equivalent to those committed against national property.
1946 TITLE VI Family, Education and Culture	Art. 173. The sciences, letters and arts are free. Art. 174. O amparo à cultura é dever do Estado. [...] Supporting culture is the duty of the State. [...] Art. 175. As obras, monumentos e documentos de valor histórico e artístico, bem como os monumentos naturais, as paisagens e os locais dotados de particular beleza ficam sob a proteção do Poder Público. . Works, monuments and documents of historical and artistic value, as well as natural monuments, landscapes and places endowed with particular beauty are under the protection of the Public Power.
1967 TITLE IV Family, Education and Culture	Art. 171. The sciences, letters and arts are free. [...] Art. 172. Supporting culture is the duty of the State. Sole paragraph - Documents, works and places of historical or artistic value, monuments and notable natural landscapes, as well as archaeological sites, are under the special protection of the Public Power.
EC nº 1/1969 CHAPTER IV INDIVIDUAL RIGHTS AND GUARANTEES [...] TITLE IV FAMILY, EDUCATION AND CULTURE	Art. 153. [...] § 8º The expression of thought, political or philosophical conviction is free, as well as the provision of information regardless of censorship, except for entertainment and public shows, each one responding, under the terms of the law, for the abuses committed. The right of reply is guaranteed. The publication of books, newspapers and periodicals does not depend on a license from the authority. However, war propaganda, order subversion or religious, racial or class prejudices, as well as publications and expressions contrary to morality and good customs, will not be tolerated. [...] Art. 179. The sciences, letters and arts are free, except for the provisions of paragraph 8 of article 153. [...]

	Art. 180. Supporting culture is the duty of the State. Single paragraph. Documents, works and places of historical or artistic value, monuments and notable natural landscapes, as well as archaeological sites, are under the special protection of the Public Power.
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It is clear, therefore, that the 1988 Constitution took a step further by bringing an understanding of cultural diversity that reflects advances in sociological studies, especially human rights, by determining special protection for popular, indigenous and Afro-Brazilian cultures breaking, in this way, the previous monolith of the Nation:

The State will guarantee everyone the full exercise of cultural rights and access to the sources of national culture, and will support and encourage the appreciation and dissemination of cultural manifestations.

§ 1 The State shall protect the manifestations of popular, indigenous and Afro-Brazilian cultures, and those of other groups participating in the national civilizing process. (BRAZIL, 1988, Art. 215). (Translated).

From this moment on, at the constitutional level, it is possible for the “national civilizing process” to finally have a legal basis that allows effectively discussing the pluridiversity of the Nation and creating real possibilities of dealing with the historical inequalities that, contradictorily, mark these diversities.

The 1988 Constitution arrived, therefore, also with the premise of doing justice by expressly determining that the most representative subjects for the recognition of the identity and symbology of the Nation, the indigenous and Afro-Brazilian peoples, cease to be the most excluded in the level of public policies and social rights and guarantees. Therefore, there is a lot of significance in the constitutional devices that deal with the country's culture, and they go far beyond mere constitutional symbolism.

But the concern with cultural and heritage diversity is not restricted to Brazil. Even within the scope of the United Nations Educational, Scientific and Cultural Organization – UNESCO, there are criticisms of established heritage

standards, which still tend to favor hegemonic “cultures” to the detriment of subaltern “cultures”.

The 1972 Convention for the Protection of the World Cultural and Natural Heritage, for example, subordinates the protection of cultural heritage, in International Law, to the inclusion of certain cultural properties⁴ in UNESCO's world heritage lists, values which are intended to absolute, but which constitute, in fact, mechanisms that favor the reproduction and legitimization of the power of hegemonic sectors, whose cultural capital results hierarchical before other goods and practices of the “others” (COLOMBATO; MEDICI, 2016, p. 73) .

Returning to our current reality, in Brazil, where there is a constitutional effort to recognize non-hegemonic cultures as representative of the Nation, the endeavor to change the paradigm runs up against an important obstacle: a significant portion of the assets of subordinates, such as that of indigenous peoples and quilombolas, for example, is largely recorded only in oral memory, which makes it difficult to catalog them by the bodies and entities in charge of their protection. These memories and histories, usually permeated only by orality, are usually left out of the protective system of Administrative Law. The damage, because of this, is enormous since oral memory is fundamental, for example, to understand the historiography of slavery (ASSUNÇÃO, 2008)⁵.

And the responses of Law, in the field of heritage, to these types of memories and histories are not always satisfactory, since the heritage tradition consisted, until very recently, in recognizing only what was subject to material registration, excluding from its protective catalog everything that does not hold the materiality of the physical records⁶. Behind the discourse of protection of

4 Ignacio González-Varas Ibáñez (2008) presents relevant discussions regarding the concept of cultural goods.

5 According to Matthias Röhrig Assunção (2010, p. 70), oral memory has the following aspects: a) it also has its own vision, sometimes incomplete and fragmented, but no more deforming than that of historians who speak the from the big house; b) oral memory would bring us closer to the life experience and worldview of the enslaved themselves, as they transmitted it to their descendants; c) systematic records of oral memory of slavery were made, mainly, in the United States, from the 1930s, while, in Brazil, the first records date from the 1980s and 90s.

6 The duality between materiality and immateriality, at the international level, is contained in UNESCO's norms, through the Convention for the protection of the World Cultural and Natural Heritage, of 1972, and the Convention for the safeguard of the Intangible Cultural Heritage, of 2003. About the latter, see Arizpe (2006).

what may or may not be achieved by the Law, there are relations of knowledge and power, relations which are based on factors that are not only social, but structurally racial.

3. INVENTIONS OF HERITAGE [RIGHTS] AND THE RACIALIZATION OF DISTINCTION

Hegemonic logics are usually permeated by binary reasoning, that is, ways of thinking and acting that promote the exclusion and/or subjugation of the other. In the context of heritage and representation of the Nation, this is no different and this logic is perceived through the division between material and immaterial heritage.

The binarism between materiality and immateriality is not new, but stems from the colonization process. The first object of recognition and legal protection was the set of assets that represented the legacy of the colonizers, with recent regulation, at the national and international level, regarding the protection of cultural assets representing subaltern peoples and communities. To assert itself, colonization established and imposed its values, which, in order to be protected, needed legal protection, petrifying such values, as recorded by Michel Foucault (2010, p. 57-58):

In the Indo-European system of representation of power, there are always these two aspects, these two faces, which are perpetually con-joined. On the one hand, the legal aspect: power binds by obligation, by oath, by commitment, by law, and, on the other hand, power has a function, a role, a magical effectiveness: power dazzles, power petrifies. [...] (Translated).

History is the discourse of power, the discourse of obligations through which power submits; it is also the discourse of brilliance through which power fascinates, terrifies, immobilizes. In short, binding and immobilizing, power is the founder and guarantor of order; and history is precisely the discourse by which these two functions that ensure order will be intensified and made more effective. (Translated).

Consequently, colonization provided the strongest impetus for the transformation of European ethnocentrism into scientific racism. In the early

eighteenth century, the ideological rationalization of African-American slavery was based on explicit formulations of the ontological order inherited from the Renaissance; however, in doing so, it transformed the Renaissance worldview, bringing its alleged mismatches much closer to the very practices that confirmed them; blacks were inferior and, as a result, could be enslaved and plundered⁷; enslaved blacks misbehaved and, as a result, were inferior: in short, slavery in the Americas ensured that blacks continued to occupy the lowest position in the human world (TROUILLOT, 2016, p. 127-128). Regarding this, Frantz Fanon (1968, p. 198-199), citing an example that correlates with the quilombola insurgency, recalled that national culture is,

Under colonial rule, a contested culture whose destruction is systematically undertaken. It is very quickly a culture condemned to clandestinity. This idea of clandestinity is immediately perceived in the reactions of the occupiers, who interpret complacency in traditions as fidelity to the national spirit, as a refusal to submit. The persistence in cultural forms condemned by colonial society is already a national manifestation. (Translated).

The colonial mentality and logic did not allow, for a long time, the recognition of a black heritage⁸ and, when it did, it did so in a reduced way, at a level of symbolism that did not allow evidence of heritage racism. Indigenous and black peoples made an enormous contribution to the constitution of Latin nations, but the historical events they played a role in are generally seen as something of little importance. Seeking to reverse this pattern created by hegemonic groups, social scientists from different areas have recently cast new eyes on events silenced by official history, such as the Haitian Revolution that,

It went down in history, therefore, with the peculiar characteristic of having been inconceivable, even while it was happening. Official debates and publications of the time, including the long list of pamphlets on Saint-Domingue published in France from 1790 to 1804, demonstrate the inability

7 The cultural heritage of subaltern peoples, mainly before the 21st century, were objects of constant spoils by Museums of hegemonic countries, mainly in Europe and the United States. Currently, there are several claims from the dispossessed nations, such as those involving the Peabody Museum, Yale University, and Peru. In this sense, see Swandson (2008-2009).

8 There are current and relevant discussions involving black heritage, also known as Afro-Brazilian heritage. See Guran (2017), Lima (2012, 2014), Santos (1997) and Serra (2005).

of most contemporaries to understand the ongoing revolution in their own terms. They were able to read the news only from their standardized categories, and these categories were incompatible with the idea of a slave revolution” (TROUILLOT, 2016, p. 22). (Translated).

The Haitian Revolution was unthinkable in its time and the unthinkable would be that which cannot be conceived within the spectrum of possible alternatives, that which perverts all responses, because it challenges the terms in which the questions were posed: it questioned the very framework within which proponents and opponents had examined issues such as race, colonialism and slavery in the Americas (TROUILLOT, 2016, p. 136). This disregard and silencing is intentional, since the Haitian Revolution – an example that bears similarities with the Quilombo dos Palmares, in terms of black protagonism in History – caused panic in Latin American societies because of the revolutionary potential that blacks could provide in these stratified societies. Thus, this insubordination and dissidence, symbolically, were dangerous and should be hidden/invisible, that is, “forgotten” from the collective memory⁹.

Now, for the system of heritage protection, events such as the Haitian Revolution, the Quilombo dos Palmares, the Balaiada¹⁰, among others, will not always prove to be worthy of “distinction”, because, behind the discourse of distinction, there are disputes political, social, economic, etc. For this reason, not in vain, Balaiada and the Quilombola role in this important popular movement do not receive any attention in the country's heritage agenda. About this, Matthias Röhrig Assunção (2010, p. 106-107) records that,

The quilombola could become a peasant because, alongside the world of the plantation house and the slave quarters, there already existed, at the time of the Balaiada, a free peasant with whom he tried to blend in. (Didn't the captain of the bush, in the previous story, need to check whether the old men had iron?) And it is this peasantry that is the main actor in the Bem-te-vis revolt, the most positive name that oral memory has given to this civil war. The enslaved also played a prominent role in the revolt. In 1838, the existing quilombolas in the forests of Codó were joined by more slaves who took advantage of the confusion to flee. When Cosme Bento das Chagas assumed the leadership of two or three thousand quilombolas, they began to play a more active role in the revolt, which was also the largest slave insurrection in

9 On collective memory, see De La Garza (2002), Halbwachs (1990) and Subirats (2016).

10 For a more in-depth look at Balaiada, see Araújo (2008) and Assunção (1998, 2018).

the history of Brazil, both in terms of the number of insurgents and the difficulty of defeating them. , a fact little assimilated by the historiography on this subject. Dom Cosme had an exceptional political vision and sought an alliance with the bem-te-vis to achieve freedom for his people. Unfortunately I did not find significant records about him in oral memory. What people still remembered, in 1982, were war episodes where slaves were protagonists. (Translated).

Why does an event like the Balaiada, for example, as explained above, as well as the quilombos, not join the heritage agenda? Antonio Gilberto Ramos Nogueira (2008, p. 244) argues that the construction of the Nation's cultural heritage, perceived as a social practice, usually shows a field of material and symbolic conflict in the process of constituting collective or group memory. This construction of cultural heritage bears a regime of historicity, and the choice of certain cultural assets as representative of national identity or of certain groups or ethnic groups is always a political operation and can also be translated into the choice of a revealing historical and cultural past. of the permanent fight for the representation of the Nation. There is little doubt, in this context, as to the difficulty of attributing to the “others”, the marginalized subjects, the production of History¹¹.

One cannot forget that one of the most basic foundations of hegemonic policies is the attribution of fundamentally historical, aesthetic and use values to goods which legal protection usually gives “distinction”; such conception of heritage carried forward an idea based on the economic value of cultural assets that can be admired for their history or beauty, enabling the birth of a market that moves astronomical resources around it, making it necessary to explain and break with this model of heritage management based on in the idea of a monocultural Nation (COLOMBATO; MEDICI, 2016, p. 70), realizing what Michel Foucault (2010, p. 60-61) called counter-history.

11 A relevant example of subalternized black history and memory is given by Ibrahima Thiaw (2012, p. 21), in Senegambia, when dealing with how social scientists value, above all, Europeans, local aristocracies, priests and merchants , considered as the “producers of history par excellence”, because they control the selection, archiving, production and transmission of historical information, not giving visibility in these historical constructions, in most cases, to common, marginalized individuals. In recent times, in South Africa, the “Rhodes must fall” movement demonstrates dissatisfaction with the exaltation of the colonizers, a movement that emerges mainly from universities as a field of struggle. See Ndlovu-Gatsheni (2016).

The historical discourse that appears at that moment can therefore be considered a counter-history, opposed to Roman history, for this reason: in this new historical discourse, the function of memory will completely change its meaning. In Roman-type history, memory had, essentially, to guarantee non-forgetting, that is, the maintenance of the law and the perpetual increase in the brightness of power as it lasted. On the contrary, the new history that appears will have to unearth something that was hidden, and that was hidden not only because it was neglected, but also because it was jealously, deliberately, maliciously, distorted and disguised. (Translated).

In this way, if we think about the formation of our Nation-States, tradition and cultural heritage are generally designated, appropriated, reproduced and transmitted by the dominant and winning groups or sectors of history. This means that the ruling classes are the holders of the political agenda and, ultimately, who generally define which cultural goods and practices are considered subject to patrimonialization and which will be folklorized¹², as well as the mechanisms used to guarantee their conservation and dissemination, although not are free from the pressures that the rest of the agents will exercise to change the active cultural assets or even create new practices that challenge official records (ANDRÉS, 2010, p. 119-120).

All this points to the intimacy that configures the link between culture and power relations. The link between the cultural heritage policy and the power exercised by the hegemonic groups of each society is difficult to combat, since cultural heritage is conceived and managed by the dominant sectors of society. It is these groups that restrict the selection of their properties to cultural goods that legitimize the exercise of their power or that, failing that, try to eliminate the conflicting character of cultural heritage, since the latter serves as a factory for the production of an “identity”. national”, producing a reality of the memorable, the bond that unites us, at the same time that it arbitrarily discards the cultural vestiges that put this bond in check (ANDRÉS, 2010, p.120), such as the quilombola heritage, because it awakens the undue privileges (abuses) that the legal system itself can express. In fact, Michel Foucault (2010, p. 59) had already noted that,

12 Regarding the folklorization of black culture in Brazil, focusing on the reaction of the black population to its process of exclusion, see Velasco Molina (2016).

What is right, law or obligation, if we look at the thing from the side of power, the new discourse will show as abuse, as violence, as extortion, if we place ourselves on the other side. In this, the history that then appears, the history of the struggle of the races, is a counter-history. But I believe she is equally so in another, even more important way. Not only, in fact, does this counter-history dissociate the sovereign unity that obliges, but also, above all, it breaks the continuity of glory. (Translated).

Heritage choices are not in vain and are based not only on power relations, but also on knowledge. The classes that direct and guide heritage policies legitimize the expert, enshrined as the only agent authorized and qualified to work in the processes of restoration and heritage conservation as a specific figure to guide and design their actions (ANDRÉS, 2010, p. 120). The formulators of heritage policies belong to the same social network as researchers of popular performances, who are the same ones who intervene as mediators of the spectacularization of traditions and who, in turn, directly appropriate them, putting themselves in the spotlight. place formerly occupied exclusively by the popular artist (CARVALHO, 2004, p. 11).

In the past, the Social Sciences in Brazil, under the use of Anthropology and social thought, had the historical task of producing a strong narrative of the Nation, bringing together sectors of the right and left around the nationalist rhetoric, whose condition of existence was the inclusion of the black in a subaltern and concordant position. However, the representation of action meant under the ideological work of this Anthropology, it presented a society stratified in economic and social terms, although “cordial” and harmonious in cultural terms (SEGATO, 2005, p. 14). Furthermore, this image of black men

It equips the ideological project of Brazilian Anthropology with useful categories in formulating the idea of a happy slave, of a contented subordinate, by force of culture. “Civilizing” reasons silence the complaints of those who suffer. In a context like this one, in which generations of anthropologists joined forces in this task of ideological persuasion based on a notion of “culture” that seems unsustainable to me today, it is difficult to open the doors to a discussion that would inevitably imply a radical change of paradigm and, with that, in a change in the people who hold the disciplinary power (SEGATO, 2005, p. 14). (Translated).

From a hegemonic perspective, heritage can be seen as inventions, based on the idea of distinction: what is patrimonialized is what presents itself under the clothing of the singular, differentiated, which is distinguished in relation to a certain class of material or immaterial goods. , not protecting what may be under the sign of “banality”, such as the quilombos, seen as devoid of any material or immaterial “distinctions” capable of attracting the “heritage gaze”. Well then, the differentiation between what is “distinct” or “banal” is relative, dependent on different understandings of the world. Recent research has sought to analyze, based on data, to what extent the State is effectively open to dissident heritages. See Milton Guran's provocation (2017, p. 222).

However, even today, out of a total of 1,241 listed assets, only thirteen are directly linked to the African matrix. An analysis of the heritage protection processes (material goods) currently under evaluation brings us other relevant information: of the 338 processes under examination, practically all of which were initiated by civil society, only 33 are linked to the African matrix. This means that the main stakeholders – Afro-descendants and their organizations at all levels – have not yet become aware of the importance of protection or have not organized themselves to the point of occupying this institutional space as a front in the struggle for the recognition of their rights within a broader perspective. (Translated).

It does not seem that the problem is a lack of mobilization by Afro-descendants. On the contrary, there is a lot of mobilization, but at the same time, there are many blockages, which began to be erected hundreds of years ago, provided by the patrimonial logic that privileges groups that know the administrative intricacies of patrimonialization. Disregarding this is ignoring the institutional and cultural racism that permeates the Brazilian Public Administration. Therefore, it is up to society and the State to discuss this mediation and seek ways to enforce the 1988 Federal Constitution when dealing with Brazilian “culture” and “identity” (PEREIRA; FARRANHA, 2017). But what constitutes the Brazilian “culture” or “identity”? Even for a hegemonic or traditional tradition of Social Sciences, this is a difficult and complex question to answer:

We still don't know what the Brazilian ethos is, nor will we be able to know it before these partial researches that allow the analysis of the region and the community, and the understanding of the human personality in face of its cultural group. Brazil extends over an immense territory populated by a diverse humanity that is mistakenly considered homogeneous. Their unity can be political, or at best linguistic. But from an anthropological point of view, there is no Brazilian “culture”, but “cultures” that are only now beginning to be studied and understood. It is still early, therefore, to ask about the “national character” of its ethos, in generalizing views that make use of historical or social criteria (RAMOS, 2015, p. 210). (Translated).

However, on a legal level, there is a definition of what Brazilian “culture” or “identity” is, since there are textual definitions, such as those provided for in the Constitution. Logically, the semantics of legal concepts can vary according to the interpretations and resignifications to which such concepts fit, depending on the political struggles waged by the interested groups. Thus, they are not static concepts, but conform according to the mechanisms of power and negotiation processes.

If traditions can be recognized or even invented, one must inquire how the recognition of these demands is in societies marked by racial structures, such as Brazil. The history of the formation of cultural heritage among us demonstrates that there was indeed a racialization of heritage, which privileged elements of a European and white cultural ideology and a significant cultural appropriation.

Currently, regarding this convenient cultural appropriation, José Jorge de Carvalho (2004, p. 6-7) states that this is consistent with the voracity of a self of the white elites, who demand that all Afro-Brazilian and indigenous performance traditions, sacred or profane, are at your disposal, both to satisfy your aesthetic desires as a consumer and a performer, as well as to try to resolve the ambivalence and political schizophrenia of your Western identity and your profound Eurocentrism.

In addition, the anthropologist questions why, suddenly, a sector of the white middle class needs to pose as a native of popular traditions and, sometimes, even directly invade the expressive space of the popular classes (above all, Afro-Brazilians) in an attempt to perform for herself that that popular

culture belongs to her, when historically they constitute an emblem of the resistance of Afro-Brazilian communities against the discrimination that they still suffer at the hands of whites (CARVALHO, 2004, p. 7). In other words, indigenous and black cultural elements were used, with some convenience, to convey the image of a “mixed race” Nation, permeated by “racial democracy”, as the mortar of its founding myth. However,

When the construction of this “national” thematizes the black population, the signs are reversed: it would represent for him the problem of the unpleasant image of himself (a dilemma embedded in the terrain of identity and not alterity), of the need to absorb, integrate, but without becoming contaminated, without letting this other, so intimate and so numerous, alter the image of a westernizing and white nationality. In this case, the universality of the “problem” would not be at the human level, but at the level of subaltern populations that need to be educated and controlled. Its dilemmas would sometimes be those of democracy, sometimes those of capitalism, so that the positive sign would fall not on preservation and isolation, but on change and intervention. Marked and devalued as an appearance, in his relationship with “Brazilian society”, the black person is a contamination agent, making otherness serve, in his case, for the construction of a political value judgment (ARRUTI, 1997, p. 10). (Translated).

This white and Westernizing identity construction in Brazil, and now conveniently mestizo, could not have been done without a legal system that would protect it and remove the pretensions of dissident and subaltern heritages. Bearing in mind the factors mentioned above, it is necessary to value the narratives of Afro-Brazilians, reinventing Brazil's heritage, as it is precisely the specificity of the historical trajectory of Afro-Brazilian expressions and their symbolic meanings that are indicated as the main justifications for their insertion in the set of representative goods of the “national culture”. The importance of the racial debate in the field of safeguarding Afro-Brazilian intangible cultural assets, in this sense, appears as a fundamental aspect for the reinvention of Brazilian cultural heritage, especially if we consider its importance in the elaboration of the narratives used to justify the registration of these assets. cultural (LIMA, 2014, p. 8).

In this perspective, it is recalled that, in the Americas, the United States occupies a key place in terms of research related to black memory and slavery,

thanks to the presence of black researchers engaged in highlighting their memories and histories; already, in Latin America and Brazil, the recognition of the memory of the diaspora began belatedly, due to a certain historical reticence of these countries in relation to their slave-owning past and the emphasis given to concepts of national identity based on the idea of miscegenation and racial democracy; thus, the delay in this process would explain the relative scarcity of studies on the patrimonialization of the memory of Atlantic slavery in Brazil (VASSALO; CICALO, 2015, p. 242).

One cannot lose sight of the fact that heritage, as a form of identity, is usually presented in the guise of a collective consensus, which behaves as a bonding field; today, however, there are heritage sites that rapidly change in importance and profitability due to the demand for new proposals for consumption or even the emergence of new actors at UNESCO¹³, due to the need for specialized knowledge that offers greater advantages in the competition or because they are based on forms of manipulation. Traditions, converted into attractive themes for spectacle heritage, are pressured not to lose their function as a heritage or identity collection, allowing, still, to supplant their purposes and metaphors for more profitable uses and meanings for the financial and political exercise, thus resulting in a disturbing paradox (MARTÍN JUEZ, 2004, p. 9 and 13).

Therefore, there is a significant connection between heritage practices and the market for tourist goods, which consequently favors the heritage of goods that have greater market potential for tourism or consumption. In another sense, it prevents goods with little tourist or consumer appeal from being prioritized in the patrimonialization process, as is the case of sites with historical reminiscences of former quilombos, unlike other examples of black culture which ended up going through a process of appropriation. What is the attraction of quilombos? Giving the Quilombo do Rio das Rãs as an example, Jean-François V éran (1998-199, p. 300-301) draws attention to reflect on this:

13 On the changes in UNESCO's conception of the authenticity of heritage and the battles waged by different nations for the recognition of their heritage as a way of promoting tourism, see Scifoni (2003). For a critique of patrimonialization and its commodification in Latin America, see Andrés (2010), Arizpe (2006), Piedras (2006), Rojas Alcayaga (2006) and Salazar Peralta (2006).

To what extent does the connection that the current social group maintains with the past translate into an explicit reference to the origins and conservation of an “oral memory”, articulated to a specific moment in its history, such as, for example, while “quilombo”? Numerous works show how a specific past is remembered only when it acquires a value in the present, and how this “memory” is oriented by the present in which it makes sense: “The events are not there just to be produced”, he said. Max Weber, “but they are endowed with meaning and arise only because they signify”. In the same way, the quilombo past is not a priori a memorable event, and the existence, or not, of this memory must be understood from the “post-quilombo” experience of the communities. To what extent, in Rio das Rãs, was the experience of the ancestors of the “remnant communities” significant in the course of the century that followed the abolition of slavery? To the extent that a group would have preserved the memory of the escape from slavery, what meaning is attributed to this event? (Translated).

Anthropologists Benedito Souza Filho and Maristela de Paula Andrade (2012, p. 91), both with extensive experience in traditional communities, when analyzing the issue of the quilombola intangible heritage in the city of Alcântara, in the state of Maranhão, show that, in addition to the problems arising from the relationship between culture and intangible heritage, the formulation of instruments for obtaining information seems to have fallen victim to the symbolic, historical and political weight of the category “material heritage”. The latter, in turn, is usually used to name, due to its “exceptionality”, goods of a material nature, with the adjective immaterial or intangible having been added to it, as if both (material heritage/intangible heritage) were symmetrical and homologous, which does not correspond to reality. In the case of the quilombolas, this separation between material and immaterial culture is not so evident, as they merge into a larger concept, which is territoriality, and whose trajectory is generally based on orality. Thus,

The oral memory of captivity in Maranhão is like a window offering a privileged perspective on the concrete reality of slavery in that province. At the forefront of this memory are the life stories of the family's direct ancestors, shared only by a small number of people. In the middle of the field, with more visibility, the oral memory of communities, especially those settled in “black lands” (ASSUNÇÃO, 2010, p. 110). (Translated).

However, the marks of material heritage, present in the nuances of objectivity or quantification of instruments for identifying intangible heritage, do

not only represent the difficulty of ensuring a proper feature to this intangible/intangible heritage; however, these marks also signify, due to their symbolic power, that the material has a type of colonization of the immaterial, which institutional policy has not yet been able to resolve (SOUZA FILHO; ANDRADE, 2012, p. 91-92; SOUZA FILHO, 2013, p. 245-276).

Thus, the situations worked on in the city of Alcântara (MA) by the two anthropologists (SOUZA FILHO; ANDRADE, 2012, p. 92; SOUZA FILHO, 2013, p. 245-276) allow us to see the problems related to the arbitrary separation between material and immaterial, since the characterization of the intangible heritage of the quilombolas, in this case, depends on and is related to its material base, and both are part of the same phenomenon, which is inclusive.

Therefore, these questions lead us to think that the current valuation of the intangible heritage of groups such as the quilombolas is still based on an institutional dilemma related to the weight of the past in relation to the Brazilian heritage policy: if, in the past, heritage protection was the category Central to this policy, registration was introduced as its counterpart, in an attempt to balance the two aspects (SOUZA FILHO; ANDRADE, 2012, p. 94).

As discussed before, anthropologists discuss the issue from a patrimonial point of view quite marked by the binarism between material versus immaterial. There is a certain reason for this argument, but this view ignores that the patrimoniality provided for in art. 216, § 5, is not always linked to Quilombola contemporaneity (art. 68 of the ADCT). Therefore, they can and usually go together, however, at different times, they are independent, as shown by the heritage sites of Serra da Barriga and Quilombo do Ambrósio.

Coloniality, the racialization of heritage¹⁴ and tourism itself mean that many do not see any attraction in quilombola heritage assets, as they considered that such sites are, at most, of interest to Archeology professionals, as well as ignoring the cultural multiplicity, with their knowledge, actions, forms of expression, etc., of these subjects. However, as the 1988 Constitution determined that said sites should be the object of protection, the foundation for their patrimonialization does not lie in meeting the desires of the tourism market,

14 A specific approach to the racialization of heritage can be found in Barrenechea Vergara (2015).

but in the very reconstruction of the narrative of the Nation-State, which the text priority, as a result of the social and legislative struggles that permeated the Constituent Assembly¹⁵.

In this case, there are no options for the bodies and entities for the protection of the Brazilian cultural heritage, as the constitutional text is categorical in determining that they must open spaces for heritage practices aimed at the effective expansion and inclusion of such subjects in the national memory, attending to the interests of society and the Brazilian State, and not to any interests of the tourism industry¹⁶, which is eminently racialized, whitened, gentrified and exclusive¹⁷.

Changes in heritage paradigms are necessary; and it is necessary to reflect on its role and the extent to which Law is used as the basis of a bureaucratic-administrative system to assert this heritage. It is no longer possible to define heritage without investigating the power and knowledge relations that surround it. Currently, the area of heritage encompasses a significant set of issues of a political nature, power relations, force fields and social spheres. Previously alien to this practice, today, heritage seeks to take into account issues related to intellectual property, the environment, cultural rights, diffuse rights, copyright, the cultural impact caused by large enterprises, in addition to the already traditional themes, such as those involving issues of urbanism and land use, urban expansions over decadent historic areas, housing issues in historic urban areas and, mainly, the limits that the listing imposes on private property (CHUVA, 2012b, p. 152).

José Jorge de Carvalho (2004, p. 14) says that, for the first time, probably, it is being admitted, as a legitimate subject of intellectual academic discussion, that the Brazilian intangible cultural heritage is not colorless, as is

15 On the current meaning of patriminality provided for in the Constitution, see Rodrigues (2006).

16 Discussions involving the relationship between tourism and cultural heritage, see Crespi Vallbona and Planells Costa (2010) and Donaire (2008). On the formation of tourism in Brazil, see Camargo (2007).

17 Regarding racialization, whitening, gentrification and exclusion resulting from heritage policies, taking as an example the emblematic case of Pelourinho, in Salvador, state of Bahia, see Romo (2015), who well summarized the work of John Collins (2015). Still, on the problems and misconceptions of heritage policies applied to Pelourinho, given the tutelage of international bodies and the low participation of the local population, mostly black, see Azevedo (2004), Espinheira (2005) and Meskell (2018).

implied in the speech of our academic elite, from Gilberto Freyre until today, but it is racialized; the overwhelming majority of performing arts that are being targeted by appropriations¹⁸ are of African origin (congado, jongo, maracatu, tambor de creole) and, at the same time, are practiced by artists from black communities; on the other hand, all heritage theorists and policy makers, as well as researchers and mediators, are mostly white¹⁹; the use of these traditions for entertainment, therefore, is a racialized operation: blacks from poor communities use their traditions of African origin to entertain a white middle class. Until now, the discussion of cultural traditions had not admitted the indissoluble imbrication between class and racial cleavage; however, from now on, this escape into a brown, mestizo or integrated dimension of Brazilian society is no longer sustainable (CARVALHO, 2004, p. 14).

Consequently, it is not surprising that, in the field of heritage, there is a predominance of Luso-Brazilian conceptions and that indigenous and Afro-Brazilian heritages are recognized in a punctual, essential way, located in limited times and spaces, that is, this patrimonial formula/process serves as a castration process that limits the broad nature of nationality of such heritage, making them only regionalized and folklorized examples of the Nation.

As if that were not enough, the administrative situation of the sites with historical reminiscences of the former quilombos, object of “no decision” on the part of the bodies and entities in charge of the heritage, sounds even more serious, so far, without solutions on the part of the formulators of the heritage policies, whose pro -Decision-making process has been dragging on since the enactment of the 1988 Constitution.

18 Deepening discussions on the appropriation of black culture in Brazil, see Velasco Molina (2016).

19 The main references specifically involving the management of heritage policies come from Europe, see Ángeles Querol (2010), Ballart Hernández and Tresserras (2014), Bermúdez et al. (2004), Fontal Merillas (2015), Gutiérrez Robledo and Garrote Mestre (2004), Paquin (2015) and Velasco Mailla and Prieto de Pedro (2016). There is not even a reference in Latin America or outside the European continent.

4. CONCLUSIONS

In 2019, Estação Primeira de Mangueira was the champion Samba School of the Special Group of Carnival in Rio de Janeiro, with the samba-enredo called “Grown-ups lullabies”. Carnival is one of the greatest cultural expressions of the Brazilian people and, through it, a lot can be learned about our narratives. In its samba-enredo, Estação Primeira de Mangueira said, among other things, that it wanted a “country that is not in the picture”:

[...] Brazil, my dear
Mangueira has arrived
With verses that the book erased
Since 1500 there have been more invasions than discoveries
There is blood stained on
Behind the framed hero
Women, Tamoios, mulattoes
I want a country that is not in the picture

This is the first parade after the 2018 elections, when a need to counter the narratives that the conservative groups, who won the elections, were trying to establish emerged. Among the conservative agendas and discourses, it was said that the search for historical revisionisms regarding the history of Brazil was not adequate, that is, for such groups, there is a need to maintain the narrative that silences the dissent of subaltern groups such as indigenous peoples, blacks, women, LGBTQI+'s etc., that is, this narrative only allows the existence of Brazil that “is in the picture”, as the Samba School sang.

There are Brazils that are not in the portraits: they constitute part of the “story that history does not tell”, that is, “the reverse side of the same place”, as another verse of the samba-enredo by the Escola de Samba Estação Primeira de Mangueira. These narratives were silenced by the Nation's officialdom, that is, they are the stories that shame the Nation itself, because they unmask its myths of origin, among them that of racial democracy or miscegenation, which, on the other hand, point out that other subjects they are also builders and

equally protagonists of history, such as indigenous people, black people, immigrants from non-hegemonic countries etc.

In a constitutionalism based on the discourse of recognition and inclusion, such as the one inaugurated after 1988, forgetting memory will have consequences in the field of public policies. Constitutional and Administrative Law consecrate, discursively, the groups that the official historiography says suffer a greater process of spoliation of rights: it is not in vain that transitional justice and social movements are so concerned with recovering these memories, not only as a form of reparation, but as prevention, with the aim of preventing similar events from recurring.

In the meantime, interest in resistance to slavery, such as the quilombos, became the object of greater understanding²⁰. The creation of fissures in the slave system resulting from resistance to slavery and the economic activities of enslaved people, a few decades ago, began to be the object of greater attention from Brazilian and foreign historians who are interested in the subject.

In the field of heritage and, consequently, the right to cultural heritage, the function of historians is of strict importance. It is they, with their technical/historical knowledge, who say what is considered relevant to the Nation's History. It is known that the work of the historian, by fabricating a heritage in his own craft of writing history, is part of a project to nationalize, to build the State and, therefore, exercising great power (CHUVA, 2012, p. 11).

The analysis above is important because, in the field of the symbolic domination of culture and heritage, there are now elements that can affirm that the enslaved were subjects who fought to change the course of History,

20 For a better analysis of this theme, see Machado (1988). This study was referred to, as it is a research that coincides with the year of enactment of the 1988 Constitution and is referenced by historians such as Flávio dos S. Gomes (2012), demonstrating its relevance. Maria Helena Machado (1988, p. 159) says that despite the large number of works produced on slavery, the historiography remained incomplete as it remained circumscribed to the fact of slavery as a delimiter of the transition process and the events of 1888 as the deadline, as historians had hardly ventured into considerations regarding the historical fate of former slaves in Brazilian society; The silence of historians regarding post-abolition blacks began to be filled in, from the 1960s onwards, by studies of a sociological nature such as *The Integration of Blacks in Class Society*, by Florestan Fernandes (2008), published in 1965.

contributing to the end of history. slavery in various forms, including beyond the quilombos, because,

In addition, the prevalence of certain types of independent activities carried out by slaves may have strongly interfered in the process of the breakdown of slavery.[...] However, despite favoring the point of view of the economic logic of the masters, the expansion of the concept of peasant gap for the consideration of a varied range of informal activities of slaves could open the necessary theoretical spaces for the reconstitution of the struggle of the captives for the establishment of determined margins of autonomy that were concretized through the independent economic activities, not always of according to the lordly interests (MACHADO, 1988, p. 149 and 151). (Translated).

As quilombolas or using their free time to take care of activities alien to their masters, this new perspective of historians places the black population as protagonists, also, in the construction of the idea of the State-of-the-Nation, which weighs more than a century (1888 to 1988) of invisibility of this protagonism.

Since the patrimonial field is permeated by the idea of “distinction”, the appearance of fissures in the narrative of the Nation-State is important to recall the history of women, indigenous peoples and the black population. With it, it is possible for the State to recognize, in the field of rights and in the context of heritage policies, the protagonism of these groups.

In the case of the black population, such recognition is important because it allows public policies to be formulated that combat the solidified conception of black inferiority or that places this population as a passive victim of the slave system, lacking a reasonably stable family or social organization (MACHADO, 1988, p. 153).

These new approaches, which interfere in heritage and memory policies, point out that monitoring the evolution of the economy, regardless of enslaved people in their social insertion, can become an important instrument for focusing on the transition process from a new perspective, because, if

slavery, as a legal status, could disappear with a determined date (1888), the transition process has a much longer reach (MACHADO, 1988, p. 158), which allowed the existence of the continuity of individual racism, cultural and institutional in the following centuries.

The recognition and inclusion of “new” heritages in the restricted administrative list of assets of national “value”, such as the insurgent heritage of the quilombos or the dissident heritage of the indigenous peoples, opens up a heritage agenda that, perhaps, can be affirmed as decolonial, as it allows subaltern subjects to have access to legal resources, thus being able to create fissures that allow the hegemonies of consolidated narratives to be broken, and therefore allowing the “story that history does not tell” to be told. , that is, that “the country that is not in the picture” appears, as sang by the Escola de Samba Estação Primeira de Mangueira, joining the narrative of the Nation-State.

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