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Inclusion cannot end at appointment: the urgency of affirmative action and autistic inclusion in decision-making within the Brazilian justice system

A inclusão não pode terminar na posse: a urgência das ações afirmativas e da inclusão de autistas nos espaços de decisão do Sistema de Justiça

La inclusión no puede terminar con la posesión: la urgencia de las acciones afirmativas y de la inclusión de personas autistas en los espacios de decisión del sistema de justicia

Leonardo Novaes Bastos
Promotor de Justiça do Estado de Alagoas. Autista. Ex-Delegado de Polícia. Ex-Promotor de Justiça do Estado do Maranhão. Mestre em Direito. E-mail: leovixx@hotmail.com

Abstract: This article argues for an immediate institutional response to barriers affecting the retention, advancement and access of persons with disabilities to decision-making positions in Brazil's justice system, with a dedicated section on autistic professionals. It combines doctrinal legal analysis, a narrative interdisciplinary review and public documentary sources. Drawing on the Constitution, the Convention on the Rights of Persons with Disabilities and Brazilian legislation, it maintains that inclusion restricted to recruitment does not fulfil equality obligations. Reasonable accommodation and protection against discrimination are already enforceable; career-related affirmative action requires priority regulation supported by participation and sufficient evidence. Historical judicial workforce records and research on organizational barriers warrant concurrent investigation and intervention, without establishing the present representation of autistic professionals in senior positions. The proposed principle of inclusive continuity covers promotion, transfer, constitutional-fifth lists and higher courts. Urgency arises from cumulative disadvantage, opportunities that may not recur and the inadequacy of making individual protection dependent on complete statistical evidence. The autism section addresses social stereotypes, diagnostic disclosure, camouflaging and burnout, distinguishing professional competence from support needs. The article proposes immediate administrative measures, prompt regulation of proportionate preferences and the initiation of necessary legislative or constitutional reforms. Incomplete data require better institutional knowledge alongside action on identifiable barriers.
Keywords: persons with disabilities; autism; affirmative action; career advancement; inclusive continuity; justice system.

Resumo: O artigo sustenta a necessidade de resposta institucional imediata às barreiras que restringem a permanência, a progressão e o acesso de pessoas com deficiência aos espaços de decisão do Sistema de Justiça brasileiro, com seção específica sobre profissionais autistas. Mediante pesquisa jurídico-dogmática, revisão narrativa interdisciplinar e análise de documentos públicos, articula a Constituição, a Convenção sobre os Direitos das Pessoas com Deficiência e a legislação brasileira. A tese é que a inclusão limitada ao concurso não satisfaz os deveres de igualdade: adaptações e proteção contra discriminação já são exigíveis, enquanto ações afirmativas de trajetória devem ser regulamentadas com prioridade, participação e evidência suficiente. Os registros históricos do Conselho Nacional de Justiça e a literatura sobre barreiras organizacionais justificam investigação e intervenção concomitantes, sem autorizar estimativas sobre a atual presença de autistas nas cúpulas. Formula-se o princípio da continuidade inclusiva e defende-se um programa de medidas para promoção, remoção, listas do quinto constitucional e tribunais superiores. A urgência decorre da acumulação de desvantagens, da perda de oportunidades que não se repetem e da insuficiência de exigir prova estatística completa antes de proteger direitos individuais. No caso do autismo, examinam-se estereótipos de sociabilidade, divulgação diagnóstica, camuflagem e esgotamento, distinguindo competência profissional de necessidade de suporte. Propõe-se execução administrativa imediata, regulamentação célere de preferências proporcionais e encaminhamento das reformas

legislativas ou constitucionais necessárias. Conclui-se que a ausência de dados completos exige melhorar o conhecimento institucional e agir sobre as barreiras já identificáveis, sem transformar pesquisa em autorização para adiar a igualdade.
Palavras-chave: pessoas com deficiência; autismo; ações afirmativas; progressão funcional; continuidade inclusiva; Sistema de Justiça.

Resumen: El artículo sostiene la necesidad de una respuesta institucional inmediata a las barreras que restringen la permanencia, la progresión y el acceso de personas con discapacidad a los espacios de decisión del sistema de justicia brasileño, con una sección específica sobre profesionales autistas. Combina investigación jurídico-dogmática, revisión narrativa interdisciplinaria y documentos públicos. A partir de la Constitución, la Convención sobre los Derechos de las Personas con Discapacidad y la legislación brasileña, propone el principio de continuidad inclusiva. Los ajustes razonables y la protección contra la discriminación son exigibles; las acciones afirmativas para la carrera requieren regulación prioritaria y evidencia suficiente. La urgencia deriva de la acumulación de desventajas y de oportunidades que pueden no repetirse. Se examinan los estereotipos de sociabilidad, la revelación diagnóstica, el camuflaje y el agotamiento autista, diferenciando competencia profesional y necesidad de apoyo. Se proponen medidas administrativas inmediatas y la tramitación de las reformas legales o constitucionales necesarias. La insuficiencia estadística exige investigar y actuar de manera concomitante.
Palabras clave: personas con discapacidad; autismo; acciones afirmativas; progresión profesional; continuidad inclusiva; sistema de justicia.

1 Introduction

The inclusion of persons with disabilities in the Justice System must immediately advance from admission to career development and the exercise of decision-making power. Reserved positions in competitive examinations addressed an important obstacle, but do not, by themselves, ensure accessible working conditions, equality in promotion, needs related to transfers, or the filters used to form lists for the courts. Career continuity cannot depend on repeatedly overcoming barriers that the institution has a duty to remove.

The legal question examined in this article is why, and through which instruments, the CNJ, the CNMP, courts, Public Prosecution Offices, professional representative bodies, and appointing authorities must act now. The answer defended here is not limited to stating that inclusive policies are possible. It maintains that protection throughout the career is mandatory and that regulating affirmative action after entry is an institutional priority when persistent barriers and exclusion make general procedures insufficient.

The central hypothesis is that there is a duty of inclusive continuity, grounded in substantive equality, the Convention on the Rights of Persons with Disabilities, and the right to career advancement on an equal basis. Urgency operates differently in each area: accommodations and the fight against discrimination do not depend on a new statute; preferences in promotions and candidate lists require proportionate design and a rule issued by

the competent authority; changes to the constitutional composition of courts require their own reform. These fronts must advance simultaneously.

The issue has specific contours for autistic professionals. Technical competence, success in a competitive examination, autonomy, or a late diagnosis do not eliminate support needs. Procedures that confuse fitness for the role with conformity to expectations of sociability can render significant barriers invisible. The article therefore devotes a specific section to the legal recognition of autism, merit assessment, camouflaging, burnout, and measures applicable throughout a professional career.

The scope focuses on the judiciary and the Public Prosecution Service, while also covering legal practice under the constitutional fifth rule and the nomination and approval stages for the Higher Courts. The contribution is normative: to demonstrate the need for action and offer instruments compatible with each authority's powers. Available data do not establish the current extent of vertical exclusion, nor do they permit discrimination to be inferred from every difference in outcomes. This limitation calls for precision in selecting measures; it does not justify retaining concrete barriers while awaiting complete statistics.

2 Method and limitations of the investigation

The research uses a doctrinal legal method to interpret the Constitution, the Convention on the Rights of Persons with Disabilities, infra-constitutional legislation, and acts of the National Councils. The reasoning combines systematic interpretation, review of jurisdiction, and proportionality. It is not enough to identify a constitutional value favorable to diversity. One must show who may enact the measure, which procedure may be changed, and which safeguards prevent affirmative action from becoming an arbitrary privilege.

The literature review is narrative and interdisciplinary. Works were selected on substantive equality, the social and human rights models of disability, ableism, reasonable accommodation, autism and employment, diagnostic disclosure, and career advancement. No systematic review or meta-analysis was intended. International scholarship is used to identify plausible mechanisms of exclusion and organizational alternatives, not to transfer findings automatically to Brazilian legal careers.

The documentary analysis covers the Federal Constitution, Decree No. 6,949/2009, Laws Nos. 12,764/2012 and 13,146/2015, precedents of the Federal Supreme Court, and acts of the National Council of Justice and the National Council of the Public Prosecution Service. Data from the National Council of Justice are used descriptively, identified by the year of the

survey and without claiming to portray the current situation. Because the databases do not permit reconstruction of every career trajectory, the figures are treated as signals for investigation rather than isolated proof of causation.

The article uses the expression person with a disability in the legal sense adopted by the Convention and the Brazilian Law on the Inclusion of Persons with Disabilities. Neurodivergence is not used as a synonym. It describes variations in neurological functioning and may encompass people who are not legally considered persons with disabilities. In Brazil, Law No. 12,764/2012 establishes that an autistic person is considered a person with a disability for all legal purposes. For other conditions, application of the protective regime depends on the statutory concept and, where appropriate, on a biopsychosocial assessment.

The sources examined do not allow complete national trajectories of entry, promotion, transfer, and access to courts to be reconstructed by type of disability, nor do they allow the causal effect of each procedure to be estimated. The proposals are a normative design, not an evaluation of an implemented policy. Three levels are distinguished: facts documented in the sources; explanatory hypotheses to be investigated within the Justice System; and the author's reform proposals. The time frames and affirmative models presented belong to the third level and are not described as commands already enacted into law.

3 From formal equality to inclusive continuity

Formal equality prohibits arbitrary distinctions and remains indispensable. Its limitation appears when the same rule applies to people subject to unequal conditions. Substantive equality asks about the effect of institutions on participation, recognition, and the distribution of opportunities. Fredman organizes this idea into four dimensions: redressing disadvantage, addressing stigma, enhancing participation, and transforming structures that reproduce exclusion (FREDMAN, 2016). The value of the model lies in preventing equality from being reduced to a single indicator.

In the field of disability, the shift is even clearer. The exclusively medical model locates disadvantage in the individual's impairment. The social model shows that environments, rules, and expectations convert differences into restrictions on participation. The human rights model embodied in the Convention connects impairments, barriers, autonomy, dignity, and the State's positive duties (DEGENER, 2016). Disability is not denied, but it ceases to justify treating exclusion as natural.

Article 5(4) of the Convention states that specific measures necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination. Article 27 does not limit the right to work to recruitment. It encompasses opportunities for career advancement, job retention, just conditions, and affirmative action programs. General Comment No. 6 of the Committee on the Rights of Persons with Disabilities distinguishes direct and indirect discrimination, denial of reasonable accommodation, and harassment, and recognizes specific measures as an instrument of substantive equality (UN, 2018a). General Comment No. 8 applies these duties to work and calls attention to segregation, underemployment, and inaccessible environments (UN, 2022).

Under domestic law, Article 37(VIII) of the Constitution requires a percentage of public offices and jobs to be reserved. The rule shows that the constituent authority did not consider abstractly open competition sufficient. Article 34 of the Brazilian Law on the Inclusion of Persons with Disabilities prohibits discrimination in job retention and career advancement and guarantees access to career plans, promotions, bonuses, and incentives on an equal basis. Read together, these rules prevent inclusion from being restricted to the moment before appointment.

The term principle of inclusive continuity is proposed for the duty to maintain a barrier-removal perspective throughout the institutional journey. The principle requires both immediately enforceable measures and measures involving normative structuring. The former include protection against discrimination, responses to accommodation requests, and correction of exclusionary procedures. The latter include affirmative instruments for advancement, supported by a sufficient diagnosis and participation. The distinction organizes powers and intensity; it does not create a queue in which equality must wait until every study has ended.

This formulation avoids two extremes. The first assumes that every disparity requires reserved positions. The second considers any intervention after appointment a violation of merit. Between them lies a continuum of responses: barrier audits; accessibility of courses and assessments; adjustment of routines; objective transfer criteria; active outreach to candidates; targets; affirmative lists; alternating calls for applications; and, in the most rigid constitutional cases, amendment of the constitutional text itself.

Continuity does not mean using identical instruments. Competitive examinations, promotions, transfers, and appointments to courts have different purposes and legal regimes. Legitimacy depends on whether the measure is suitable for the career stage. A reservation that works at entry may be unnecessary or legally inappropriate for transfers. A transparency measure sufficient for a six-person shortlist may be incapable of correcting serious

underrepresentation in access to appellate courts. The principle guides the question; the answer depends on institutional design.

Inclusive continuity also has a temporal dimension. Barriers do not operate only at the moment a decision is made; their effects accumulate. One inaccessible meeting may appear isolated, but a sequence of inaccessible meetings reduces exposure, learning, and belonging. Delay in granting an accommodation may not formally alter seniority, but it can prevent a person from participating in an activity considered for promotion. Looking only at the final call for applications removes from the analysis the processes that produced the résumé presented to the collegiate body.

This cumulative effect helps distinguish equality of treatment from equality of opportunity. Two people subject to the same scoring at the final stage have not had equivalent opportunities if one had to overcome institutional obstacles to access the items being scored. Correction may occur earlier, through universal design and accommodation, or later, through calibrated affirmative measures. The earlier a barrier is removed, the less intervention in the outcome will be required.

The principle is also related to the prohibition of regression, but it does not make any particular technique immutable. An institution may replace an affirmative list with another mechanism if it demonstrates equal or greater effectiveness. What it may not do is abolish instruments and return to presumed neutrality without examining the effects. The obligation concerns effective equality; the tools remain subject to evaluation.

4 Horizontal and vertical inclusion

An entry policy measures how many persons with disabilities reach the institution. A career policy measures where they are five, ten, or twenty years later. The distinction between horizontal and vertical inclusion makes this difference visible. Horizontal inclusion concerns presence in the workforce. Vertical inclusion concerns distribution among levels, grades, jurisdictions, collegiate bodies, positions of trust, and leadership centers.

The concept of vertical segregation is well known in studies of work and inequality. Small disadvantages accumulated through assessments, networks, and opportunities can produce substantial differences at the top, even when no single act appears decisive. In legal organizations, this accumulation may involve assignments, temporary designations, institutional teaching, participation in working groups, recognized publications, geographic availability, relationships with voters, and access to informal information about openings.

For persons with disabilities, the mechanisms vary. Architectural barriers may restrict placements. Digital systems incompatible with assistive technology can raise the cost of tasks. Sensorily hostile environments may make ceremonies, hearings, or long working days more exhausting. People with non-apparent disabilities may hesitate to disclose their diagnosis for fear of stigma. A request for accommodation may be interpreted as lesser commitment, even though its purpose is to ensure equal performance.

The literature on autism in the workplace illustrates this ambivalence. Disclosure of a diagnosis can permit support, clearer communication, and environmental adjustments, but it can also expose the worker to stereotypes, bullying, and an undue lowering of expectations (SRECKOVIC et al., 2024). Reviews of neurodivergence identify prepared managers, flexibility, task clarity, and inclusive design as facilitators, whereas implicit social processes and rigid environments operate as barriers (KOLDAS et al., 2025).

These findings do not authorize essentializing autistic people or presuming incapacity. Autism is heterogeneous, and many people do not require the same accommodations. The institutional consequence is precisely the opposite of standardization: accessible general rules must coexist with an individual analysis of barriers and with the right not to disclose information beyond what is necessary.

The same care applies to other disabilities. An aggregate indicator may conceal internal inequalities. People with physical, sensory, intellectual, or psychosocial disabilities face different obstacles; gender, race, social origin, and territory may amplify or alter their effects. Monitoring must be detailed enough to guide policies, but it must not enable reidentification or undue exposure.

Vertical inclusion does not require every level to reproduce the exact demographic composition of the general population. Careers have maturation periods, requirements, and individual choices. What it requires is an institutional explanation for persistent differences and a test for barriers. When representation progressively declines at each level, the burden of investigating cannot be shifted to those who are absent.

There is also an epistemic dimension. Groups absent from decision-making spaces have greater difficulty converting experiences of barriers into institutional knowledge. When reports of inaccessibility are treated as individual cases and do not inform revision of the rules, the organization loses information. Participation by persons with disabilities on committees, examination boards, and deliberative bodies does not guarantee correct outcomes, but it reduces the likelihood that relevant questions will be excluded before the debate begins.

This justification does not depend on an alleged cognitive essence of the group. People with the same disability disagree with one another and do not necessarily share political positions. The institutional advantage arises from diverse trajectories and the possibility of challenging normalized patterns. Descriptive and substantive representation are not identical, but the near-complete absence of the former may limit the conditions for the latter.

5 The data deficit as a legal problem

The survey published by the National Council of Justice in 2021 gathered 17,553 records of judges: 74 identified as persons with disabilities, 16,952 without disabilities, and 527 with no information. The 74 represent 0.42% of the total, while missing information accounts for 3.00%. This is a historical record supplied in the institutional survey, not a current estimate or a census specifically concerning autistic people. The table does not describe career levels or trajectories and, by itself, does not prove vertical exclusion (CNJ, 2021a, p. 12).

A legally relevant reading of these data requires two cautions. The universe of members eligible for promotion should not be replaced by the general population when calculating a reservation. Nor should the lack of detail be converted into a presumption of equality. The survey makes it necessary to update records and analyze career filters, alongside correcting known obstacles. It does not provide a ready-made quota percentage, but it prevents institutional representation from being treated as dispensable.

The central problem is not merely numerical scarcity. Institutions usually publish stocks, not flows. Knowing how many persons with disabilities belong to a career in a given year does not show how many applied for promotion, how many withdrew, how long they remained in each grade, how many held leadership positions, or how many left the career. Nor does it distinguish delayed entry from blocked progression.

A monitoring system must preserve privacy and avoid turning health into a requirement of public exposure. Data collection may be voluntary, separate from decision-making processes, and subject to access governance. Results should be aggregated and, when numbers are small, cross-tabulations capable of identifying individuals should be suppressed. The General Personal Data Protection Law classifies health information as sensitive personal data and requires purpose limitation, necessity, and security.

A dashboard with at least eight dimensions is proposed: annual entry; composition by career level; median time to promotion; applications and outcomes in selection processes; transfer requests and approvals; service in leadership positions; leaves and departures; and

perceptions of barriers. Each indicator should be compared across groups and over time. A statistical difference does not prove discrimination, but it indicates where rules, environments, and practices should be investigated.

Vertical inclusion can be summarized through a representation ratio between levels. If persons with disabilities account for a given proportion of the eligible base, comparison with their proportion at the higher level reveals relative retention or loss. This index should not operate as an automatic quota. It serves as an alert. The analysis must control for career length, the eligible universe, specialization, location, and declared choices.

The duty to produce data derives from the requirement of effectiveness itself. Without a diagnosis, an institution cannot justify why a measure is necessary, calibrate its intensity, or know when to end it. Informational omission favors two equally fragile conclusions: that no problem exists because there is no proof, and that every absence demonstrates discrimination. Qualified data allow both to be abandoned.

6 Organizational barriers and the institutional construction of merit

Merit is not a ready-made substance waiting to be found. It is an institutional assessment defined by previously selected criteria, weights, opportunities, and evidence. Seniority can be calculated. Productivity can be measured. Quality, promptness, training, leadership, and suitability for roles are evaluated through indicators that embody normative choices. Even numerical metrics depend on which activities were made possible and recognized.

In legal careers, part of merit is constructed before the call for applications. Relevant assignments generate experience; committee participation increases visibility; courses require time and accessibility; academic production depends on resources; and informal networks communicate opportunities. If access to these inputs is unequal, the final comparison may merely certify accumulated inequality.

Persons with disabilities may face the accommodation cost: the time, strain, and exposure required to obtain a condition that should form part of the environment. Express refusal is only the most visible form. There are also delays, unnecessary reassessments, repeated demands for medical reports, precarious solutions, and an expectation of gratitude. These costs reduce availability for valued activities and may discourage applications.

Non-apparent disabilities add a dilemma. Without disclosure, the person may be judged for behaviors interpreted out of context. With disclosure, the person may face stereotypes or have their competence called into question. The decision to disclose should not become a

condition for respect, and health data should not circulate among evaluators beyond what is strictly necessary to implement the accommodation.

A policy of inclusive merit preserves performance requirements while revising the means by which performance can be demonstrated. It asks whether the criteria measure the role or conformity to a social profile. It verifies whether physical presence, availability for travel, or participation in ceremonies is truly essential. It guarantees accessible formats, advance communication, reasons for scores, and an opportunity to challenge them.

Affirmative action operates on a complementary plane. Accessibility, accommodation, and correction of underrepresentation may be implemented concurrently when the available evidence supports each measure. A specific list does not declare that all members of the group are equally meritorious; it establishes that, in that cycle, comparison will occur among candidates from a historically excluded group who already meet the requirements. Merit remains, but it ceases to be used as an abstract label for procedures whose neutrality has not been tested.

Three concepts must remain separate. Accessibility is the general duty to organize spaces, technologies, and communications for safe and autonomous use by the greatest possible number of people. Reasonable accommodation responds to a specific need and cannot be refused without demonstrating an undue or disproportionate burden. Affirmative action addresses group inequality and may grant a temporary preference. Confusing these concepts produces two errors: treating accommodation as a competitive advantage or using a quota to dispense with individual correction of the environment.

This distinction has procedural effects. A person requesting an accessible format should not have to prove collective underrepresentation. An institution proposing an affirmative list, by contrast, must demonstrate the group's diagnosis, the measure's suitability, and its duration. Denial of accommodation is an autonomous form of discrimination under the Convention and the Brazilian Law on the Inclusion of Persons with Disabilities; the absence of a quota is not unlawful in itself. When evidence and context reveal persistent inequality, the institution must examine and decide on affirmative measures within a useful time. Repeating studies without correcting the identified mechanism does not satisfy that duty.

Equality of opportunity must also be distinguished from compulsory equality of outcomes. The proposed model does not require every selection process to produce a predetermined composition. It requires repeatedly homogeneous results to be examined and the design to be corrected when barriers explain the difference. Predictable criteria protect both candidates and institutional legitimacy.

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7 Autistic people and the urgency of inclusion in decision-making spaces

Legal recognition and professional capacity

Law No. 12,764/2012 considers an autistic person a person with a disability for all legal purposes. The protection contains no general exclusion based on support level, education, or occupation. Thus, the expression level 1 autism does not authorize prior denial of legal status. Recognition of the condition and determination of an accommodation are distinct matters: the former does not depend on demonstrating inability to work; the latter requires identifying needs and barriers in the specific case (BRAZIL, 2012; BRAZIL, 2015).

Success in a competitive examination, high-quality legal work, and responsible performance of duties are compatible with support needs. The argument that someone is too competent to be a person with a disability reproduces a false opposition between disability and capacity. Article 34 of the Brazilian Law on the Inclusion of Persons with Disabilities covers job retention and career advancement and prohibits discriminatory restrictions. The need for an adjustment is not equivalent to functional incapacity, just as good performance does not prove that the environment is accessible.

An appropriate policy also avoids romanticizing autism. It does not presume superior intelligence, exceptional honesty, innate impartiality, or automatic legal talent. Such attributes do not necessarily follow from a diagnosis. Inclusion is grounded in the equal rights of diverse people, assessed according to competencies relevant to the role, without using identity either to disqualify or idealize them.

Sociability and merit filters

In selections for positions of greater authority, expressions such as institutional profile, poise, or interpersonal ease may conceal insufficiently defined criteria. Clear communication, respect, and cooperation matter, but they are not synonymous with constant eye contact, participation in informal gatherings, fluency in small talk, or conformity to a dominant social style. When used, these indicators must have a demonstrable relationship to actual duties and accept equivalent forms of performance.

Sasson et al. (2017) investigated initial impressions of autistic and non-autistic adults. In the studies, assessments based on audiovisual cues were less favorable to autistic participants and were associated with less willingness to interact; the difference did not appear in the same way when the assessment was limited to transcribed speech content. The result calls attention

to the weight of social presentation. It does not show that Brazilian selection panels discriminate or measure judicial promotion; it offers a relevant hypothesis for auditing interviews and vague judgments of fit.

It is therefore proposed that career interviews use structured questions, previously disclosed criteria, and recorded reasons for assessments, with individualized accommodations. Leadership should be assessed through decisions, organization, collaboration, and concrete professional results. Inferring lack of empathy, instability, or inability to lead solely from atypical communication should be prohibited. The requirement of respectful interaction remains applicable to everyone and does not authorize punishment of differences that do not impair official duties.

Camouflaging and autistic burnout

Hull et al. (2017), in qualitative research with 92 autistic adults, described camouflaging strategies used to adjust social presentation to others' expectations, as well as reports of exhaustion and effects on self-perception. The study does not permit prevalence to be estimated in legal careers. Its contribution is to show that an outward appearance of adaptation may coexist with high personal cost, so the absence of a complaint should not be treated as sufficient proof that barriers are absent.

Raymaker et al. (2020), in a qualitative participatory study, investigated autistic burnout through interviews and public accounts. They identified experiences of prolonged exhaustion, reduced available abilities, and lower tolerance for stimuli, which participants associated with an imbalance between demands and support resources. These findings neither diagnose members of the Justice System nor provide causal proof about a particular organization. They support investigating working conditions and addressing requests before strain makes participation unviable.

The normative consequence is preventive. It is unreasonable to condition institutional intervention on a crisis or leave of absence. When a barrier is documented, the accommodation must be considered in time to preserve professional activity. A career cannot reward the continuous concealment of needs and then use illness as retrospective proof of unsuitability. Prevention, support, and professional assessment must be coordinated, without presuming that every autistic person will experience burnout.

Late diagnosis and protection of information

A diagnosis received during one's professional life does not erase the preceding trajectory or prove that the person never faced barriers. Nor is it sufficient, by itself, to reopen past assessments, presume fraud, or conclude incapacity. The institution must update access to rights and examine present needs, while preserving the specific requirements of each measure. Any investigation of a concrete fact requires its own grounds and due process.

Disclosure must occur through a restricted channel. Medical reports and health information need not circulate among list voters or colleagues. The authority responsible for the accommodation may communicate the necessary measure while keeping clinical details under justified access controls. Requesting an accommodation must not automatically trigger incapacity proceedings. When functional assessment is legally appropriate, it must consider actual duties, support resources, and environmental conditions, with an opportunity to challenge the decision.

Specific measures throughout the career

The review by Koldas et al. (2025), covering 56 studies in 12 countries, brought together the experiences of neurodivergent workers and employers. It identified barriers involving managers' understanding of differences and facilitators related to support, flexibility, and workplace adjustments. The universe is broader than autism and does not correspond to the Brazilian Judiciary. Its contribution to this proposal is organizational: examining the interaction among job requirements, supervisory practices, and support, without attributing every obstacle to the individual.

For promotion, this article supports the immediate review of subjective criteria and equivalent opportunities for those who use accommodations. Courses, committees, and scored activities must permit accessible participation. Work performed under an authorized adjusted arrangement cannot, without a connection to performance, be converted into evidence of lesser dedication. Affirmative lists for persons with disabilities must include eligible autistic people and recognize non-apparent barriers; an exclusive sub-reservation requires its own diagnosis and justification.

For transfers, the analysis must consider the sensory environment, travel, predictability of routines, and continuity of support networks. Adjustments to lighting, fewer interruptions, clear instructions, advance notice of changes, and breaks may be appropriate depending on the case. Remote work or relocation does not follow automatically from the diagnosis: it must be

examined according to need, effectiveness, duties, and alternatives, through an individualized and reasoned decision.

Under the constitutional fifth rule and in the higher courts, autistic candidates need genuine access to procedures, without an informal requirement to conceal their condition. Accessible publicity, active outreach to qualified professionals, interview accommodations, and autistic participation in drafting the rules are defended. None of these measures dispenses with constitutional requirements; all prevent stereotypes from diverting the comparison.

Why the response must begin now

An autistic professional's right to an accessible procedure does not depend on how many autistic people already belong to the career. The individual request must receive a useful response while the body produces aggregate data and structures collective policies. This separation prevents the absence of specific statistics from becoming a circular justification for inertia.

Urgency therefore does not arise from presuming universal fragility. It arises from the possibility of avoiding exclusion from current opportunities for training, movement, and advancement. If an opening closes while an adjustment is awaited, later recognition may not restore the opportunity. Making the career accessible now protects autonomy and competence and allows the diagnosis to cease operating as an obstacle to the legitimate exercise of authority.

8 Constitutional foundations for affirmative action after entry

The Constitution combines equality, prohibition of discrimination, the objective of reducing inequalities, and reserved public positions. The Convention adds positive duties and authorizes specific measures. Together, these provide a sufficient basis for rejecting the claim that affirmative action is constitutionally tolerated only at initial entry.

In ADPF 186, the Federal Supreme Court upheld the constitutionality of race-based affirmative action in higher education and emphasized substantive equality, temporariness, and periodic assessment. In ADC 41, it upheld reserved positions for Black candidates in federal public examinations. These cases do not directly resolve promotion of persons with disabilities. They supply parameters: a legitimate constitutional purpose, a relationship between the measure and the inequality, reviewable criteria, preservation of requirements, and reassessment.

ADI 5,357, concerning inclusive education, is relevant because it reaffirmed that the Convention requires social transformation and that the costs of inclusion do not authorize

excluding persons with disabilities. Although it addresses education, the precedent confirms the normative force of the human rights model and institutions' responsibility for inclusive environments.

At the administrative level, CNJ Resolution No. 525/2023 created gender-based affirmative action for female judges' access to appellate courts through merit promotion. The rule established alternating calls for applications in contexts of underrepresentation and preserved eligibility requirements. The institutional precedent demonstrates that inequality may survive the competitive examination and that promotion is not immune from substantive equality.

Identity between the cases must not be presumed. Gender and disability have different histories, databases, and barriers. The value of the precedent is structural: the CNJ recognized authority to intervene in an advancement procedure when evidence indicates low representation of a group in appellate courts. A policy for persons with disabilities requires its own record and the direct participation of the affected group.

Within the Public Prosecution Service, CNMP Recommendation No. 108/2024 included gender and racial equity actions among the elements to be observed in merit-based promotion and transfer procedures. The recommendation does not establish a disability reservation, but it confirms that merit assessment may be structured by commitments to equality, transparency, and impartiality.

The constitutional test should combine five questions. Is there demonstrated underrepresentation or a barrier? Is the measure suitable for addressing it? Is there a less restrictive alternative with similar effectiveness? Are the essential requirements of the role preserved? Are there provisions on duration, monitoring, and an exit criterion? Affirmative and documented answers reduce the risk of arbitrariness.

Proportionality must be applied symmetrically. Rigorous proof of the cost of an inclusive policy is often demanded, while the cost of omission is accepted without examination. That cost includes loss of talent, turnover, illness, litigation, and a legitimacy deficit. The correct constitutional comparison does not oppose costly intervention to cost-free neutrality; it compares two institutional designs and their effects on rights, efficiency, and autonomy.

The necessity analysis does not require beginning indefinitely with symbolic measures. If prior experience, comparable data, or the structure of the procedure shows that a simple recommendation will not alter the filter, the institution may adopt a more intensive instrument, provided it states its reasons. Gradualism is a method of calibration, not a pretext for postponing equality.

At the final balancing stage, the interests of other candidates must be considered. A transparent, prospective, and temporary policy reduces surprise and protects legitimate expectations. Essential requirements and general competitive routes preserve merit. On the other hand, the impact on candidates outside the group cannot be assessed as though the previous distribution constituted a vested right to reproduce their proportions.

9 The duty to act immediately and the limits of institutional delay

The immediate need arises from three cumulative grounds. Legal duties are already in force; barriers may accumulate losses over the course of a career; and career decisions occur through limited opportunities. If an accommodation arrives after registration, a scored course, or formation of the list, the formal right may survive while its usefulness disappears. Urgency is tied to the actual calendar of the opportunity and the seriousness of the barrier, without amounting to automatic promotion.

Article 4 of the Convention requires legislative and administrative measures to give effect to rights and modify discriminatory practices. The reference to the progressive realization of economic, social, and cultural rights preserves immediately applicable obligations. Articles 5 and 27, read together with Articles 4 and 34 of the Brazilian Law on the Inclusion of Persons with Disabilities, reject the interpretation that an institution may await a new quota policy before responding to a denial of accommodation or a discriminatory criterion (BRAZIL, 2009; BRAZIL, 2015).

Over time, small exclusions can affect future opportunities. Inability to attend a course, perform an assignment, or participate in a committee reduces the elements later valued in promotion. The final call for applications is only one stage in this chain. The institution must examine the trajectory that made the candidates comparable, including opportunities that it offered itself. Correcting only initial access preserves an appearance of openness and leaves the subsequent distribution of power unanswered.

Insufficient data impose an additional responsibility on the body that controls the records. A candidate cannot be required to demonstrate complete national inequality before an individual barrier is considered. For more intensive collective measures, the diagnosis must be proportional to the intervention: documents, local flows, selection rules, and properly investigated reports may support the decision while more robust series are produced. The absence of definitive causal proof is not proof of neutrality.

This article argues that urgency must also reach the regulatory decision. When there are consistent indications of exclusion and qualified candidates, the competent bodies must initiate a procedure with a defined subject, responsible parties, participation, and a completion deadline. The choice among adopting a preference, improving the design, or rejecting it on stated grounds must be addressed. Successive working groups without a verifiable deliverable do not, by themselves, fulfill the duty of protection.

It does not follow that a self-executing national percentage of positions for persons with disabilities currently exists for every promotion or court. The need for affirmative action and the authority to institute a particular model are related but distinct issues. This article supports prompt regulation of alternating calls, affirmative lists, and proportionate priorities in legally compatible fields. For reservations that depend on a statute or amendment, the immediate measure is to begin their formulation and deliberation alongside the adjustments already required.

This thesis permits review of omission without disregarding jurisdiction. A responsible plan identifies the barrier, adopts interim protection when appropriate, defines the necessary normative act, and accounts for its progress. The body may demonstrate that a particular solution is unsuitable; it may not treat the entire problem as optional. The immediate necessity defended is for a response capable of preserving present opportunities and instituting effective changes, with review as new evidence becomes available.

10 Promotion and access to higher levels

Promotion is the field closest to the precedent established by the CNJ on gender. It changes a person's position in the career and may lead to the appellate level. Its design depends on the seniority and merit regime, the powers of collegiate bodies, and the constitutional rules in Articles 93 and 129(4).

A first level of intervention is procedural. Accessible calls for applications, adequate deadlines, active publicity, interviews in adapted formats, published criteria, and reasoned decisions benefit all candidates. The institution must ensure that courses, inspections, and activities used as evidence of merit are accessible. It must also exclude criteria that, without a functional need, penalize accommodations or legally protected absences.

A second level consists of targets and active outreach. Eligible people may refrain from applying because they anticipate exposure, rejection, or incompatibility between the functions

and their needs. Institutional communication, voluntary mentoring, and clear information about accommodations reduce this effect without reserving outcomes.

Priority regulation is proposed for alternating open-competition and affirmative calls wherever the available diagnosis demonstrates persistent exclusion and the insufficiency of general measures. Production of a complete national series should not be a condition for deciding on the basis of sufficient institutional evidence. The affirmative pool would include persons with disabilities who meet every requirement for promotion. A person could choose the general competition and would not be confined to the specific list. Frequency and the trigger for application would depend on the relationship between presence at the eligible and higher levels.

Another possibility is a parallel list. Applications would be assessed under the same minimum requirements, with a general list and an affirmative list being formed. The opening, or a defined sequence of openings, would alternate between lists while underrepresentation persisted. This model requires clear rules on order, tie-breaking, accumulation, and the situation in which no eligible candidate exists.

Intensive policies must contain a review clause. Termination cannot depend on political impressions but on disclosed indicators. Once the benchmark has been met for a sufficient period, the reservation may be suspended while monitoring and accommodations continue. If inequality reappears, reactivation must follow a previously defined procedure.

The risk of tokenism also deserves attention. A promoted person must not be made the compulsory representative of all disabilities or have their decisions assessed under a stricter standard. Promotion must be accompanied by accessibility in the new position, data protection, and institutional support when requested.

11 Transfer and territorial equality

Transfer is not promotion. It moves a member within the same career and may serve the public interest, personal preference, or a need related to disability. Treating both with the same instrument would erase relevant differences. Location, travel, health-care networks, family support, urban accessibility, and the sensory environment may disproportionately affect the possibility of performing one's duties.

The first obligation is to recognize situations requiring individual accommodation. When an assignment imposes a barrier incompatible with equal performance, transfer or relocation may constitute a reasonable accommodation. The analysis must assess effectiveness,

necessity, and any disproportionate burden, through a reasoned decision. It is neither a favor nor a career reward.

The second front is structural. Movement rules may grant objective priority to situations related to disability without replacing individual examination. Published criteria reduce dependence on personal relationships and prevent similar requests from receiving opposite answers. Assessment should be conducted by a technical body, with limits on the health data shared with the decision-making authority.

Affirmative transfer lists require greater caution. If transfer to a particular unit is scarce and contested, absolute preference may affect seniority and planning. The design must show that the advantage corrects a disability-related barrier rather than merely offering a generic benefit. In many cases, priority based on a concrete need will be more appropriate than a categorical quota.

Territorial segregation must also be avoided. A policy that concentrates persons with disabilities only in units considered accessible may alleviate an immediate problem while perpetuating the inaccessibility of the others. The long-term solution is to make the entire structure accessible. Individual measures function as a bridge, not as a justification for maintaining exclusionary environments.

The choice among accommodation in the current assignment, remote work, transfer, and travel support must consider the person's preference and the nature of the role. The institution may not impose the apparently cheapest alternative when it reduces participation or career prospects. Nor should it use a granted accommodation to exclude the member from future opportunities.

12 The constitutional fifth rule and successive filters of power

Article 94 of the Constitution reserves one fifth of the seats on the Federal Regional Courts and the courts of the States, Federal District, and Territories for members of the Public Prosecution Service with more than ten years in the career and lawyers of recognized legal knowledge and unblemished reputation with more than ten years of effective professional practice. The process combines a six-person shortlist, reduction to a three-person shortlist, and appointment by the head of the Executive. Each stage may be legally legitimate and, together, produce persistent homogeneity.

The constitutional fifth is especially sensitive because no authority alone controls the entire outcome. Bar associations and Public Prosecution Offices form lists; courts reduce them;

the Executive chooses. A national policy must distribute duties among these actors and respect institutional autonomy.

Some measures are immediately defensible. List-forming bodies can ensure accessible applications, sessions, and oral presentations; disclose criteria; publish the aggregate composition of lists; actively seek qualified candidates; and give reasons for choices when required by the applicable legal regime. Courts and Executive authorities may publish data and ensure accommodations during the stages under their responsibility.

This article supports establishing a minimum presence of candidates with disabilities on the six-person shortlist when eligible applicants exist, through a proportionate rule issued under demonstrated normative authority. The rule would not reserve the final seat, but would prevent the group from being eliminated at the first filter. Its validity depends on the body's normative authority, the voting method, and preservation of the requirements in Article 94. A national statute or amendments to the organic laws would provide a safer basis than isolated acts.

Periodically reserving the constitutional-fifth seat itself is a more intensive intervention. Although the Constitution defines origin and proportion, it does not internally distribute seats by disability. Even so, a rigid obligation binding all actors may generate controversy regarding separation of powers, autonomy, and constitutional selection requirements. For legal certainty and democratic legitimacy, the preferable route is a constitutional amendment or a statute whose compatibility has been carefully demonstrated.

The objective is not to anticipate a judicial outcome or suggest that identity determines a vote. Representation concerns access to the conditions for candidacy and decision. Persons with disabilities remain subject to the same duties of independence and reasoned decision-making. Diversity of experience broadens the institutional repertoire without creating an identity-based mandate.

The three stages of the constitutional fifth also require traceability. If the group appears among applicants, disappears from the six-person list, or is repeatedly eliminated when the list is reduced to three names, the mechanisms differ. Publishing only the final composition makes it impossible to identify which filter requires action. Aggregate data for each stage, accompanied by the eligible universe, permit narrower and legally sounder policies.

Secret voting, where allowed by the applicable regime, increases the importance of previously disclosed criteria and statistical reports. Transparency does not mean revealing a protected individual conviction, but making the structure of the process, participation, and accumulated outcomes visible. Institutional reasoning can coexist with constitutional forms of deliberation.

The right to stand as a candidate deserves separate attention. Inaccessible in-person sessions, late communication, campaigns that depend on intensive travel, and lack of accessibility resources may exclude people before the vote. Correcting these points is less intrusive than reserving a seat and must precede any conclusion that interested candidates do not exist.

13 Higher courts and constitutional reservation

The Higher Courts have different structures. The Superior Court of Justice distributes seats among state appellate judges, federal judges, the Public Prosecution Service, and the legal profession. The Superior Labor Court combines labor judges and the constitutional fifth. The Federal Supreme Court comprises eleven justices appointed by the President of the Republic after approval by the Senate, subject to requirements of age, outstanding legal knowledge, and unblemished reputation.

For seats preceded by lists, some measures discussed for the constitutional fifth apply: transparency, accessibility, disclosure of criteria, and encouragement of candidacies. Bodies responsible for forming lists may monitor diversity and adopt measures compatible with their authority.

For the Federal Supreme Court, there is no mandatory constitutional list or reservation by professional origin. Selection is political within the requirements of Article 101. Without constitutional reform, the President and Senate may consider diversity and remove barriers from the process. They may also publish commitments, hold accessible hearings, and increase transparency. What they cannot do by administrative act is change the number of seats or create a legal reservation binding future appointments contrary to the current constitutional structure.

This article advocates opening immediate deliberation on the periodic reservation of a seat for a person with a disability on the Federal Supreme Court and other relevant Higher Courts, through a proposed constitutional amendment whenever the measure changes or binds their constitutional composition. This conclusion does not diminish the legitimacy of the issue. It recognizes that lasting change must have the same normative density as the rule being amended. The amendment would have to define scope, eligibility, frequency, transition, and its relationship with existing requirements.

There is also a less rigid option: a constitutional or statutory duty to give qualified consideration to diversity, accompanied by public reasons and data. This model preserves

political choice while creating institutional responsibility. Its effectiveness, however, depends on a design capable of preventing diversity from becoming an empty formula.

The debate must resist personalization. The thesis concerns the conditions under which persons with disabilities gain access to spaces of constitutional interpretation and the need to address barriers and underrepresentation when documented. Processes built around names lose normative force and may create suspicion of personal benefit. Abstract criteria, transition, and temporariness protect the policy.

Foreign experience must be used prudently. Some countries select judges through a career system, others by political appointment or election; in many, disability data are not even produced in comparable form. The existence of diversity programs does not show that a given mechanism can be imported into the Brazilian Constitution. The safest comparative lessons lie in the principles of transparency, accessibility, talent outreach, and monitoring.

The same applies to voluntary targets. They can broaden the pool of names considered and create public accountability, but their effectiveness depends on indicators and reporting. A commitment without a deadline, denominator, or responsible authority tends to produce diversity language without verifiable change.

If chosen, a constitutional reform should avoid closed categories that quickly become outdated. The concept of person with a disability already has a constitutional, treaty-based, and statutory basis. Regulation could govern proof, alternation, and review, while respecting the biopsychosocial model. The transition rule would need to prevent manipulation of the vacancy calendar.

14 A layered regulatory model

The proposals may be organized into four layers. The first contains universal duties of accessibility, reasonable accommodation, protection against discrimination, and data. It already derives from the Constitution, the Convention, and legislation. The second comprises procedural reforms: transparent criteria, reasons, accessible formats, training, and barrier audits. Councils and governing bodies must implement them within their powers, in coordination with accessibility guidelines such as CNJ Resolution No. 401/2021 (CNJ, 2021b).

The third layer comprises career-related affirmative measures, such as alternating calls, parallel lists, and representation targets. They require relevant empirical grounds, an eligibility rule, proportionality, and review; temporary preferences must state their duration and conditions for maintenance. Depending on the subject, they may require a national resolution,

organic law, or formal statute. The fourth consists of changes to the constitutional composition of courts, for which a constitutional amendment is the secure route.

Table 1 Proposed measures for institutional careers

Subject	Initial measure	Possible affirmative measure	Likely normative basis
Promotion	accessibility, public criteria, and auditing	alternating calls or parallel lists	national resolution and, where applicable, organic law
Transfer	individual accommodation and reasoned priority	specific cycles only when tied to demonstrated barriers	normative act and organic law according to the regime
Constitutional fifth	transparency, accessibility, and active outreach	minimum presence on lists when eligible candidates exist	statute and possible constitutional amendment to reserve the seat
Higher courts	data, accessibility, and public commitment	qualified-consideration rule or periodic reservation	statute for procedures and amendment for rigid composition

Source: prepared by the author.

The model operates on simultaneous fronts. Individual requests and barriers in ongoing procedures receive an immediate response. In parallel, the institution identifies eligible people, compares flows, consults persons with disabilities, and prepares affirmative rules. A sufficient diagnosis precedes a concrete preference, but continuous improvement of the database does not halt measures already justified. Each intervention must have a responsible party, indicator, and review date.

A five-stage cycle is suggested: diagnosis, participatory design, implementation, independent evaluation, and recalibration. Diagnosis avoids symbolism. Participation fulfills the international motto nothing about us without us and improves identification of barriers. Independent evaluation reduces conflicts of interest. Recalibration prevents ineffective solutions from continuing automatically.

A national committee could develop a common methodology for the Judiciary and the Public Prosecution Service while preserving their differences. Its minimum membership would include representatives with different disabilities, as well as experts in data, data protection, constitutional law, and career management. Participation should not be merely consultative at the end, but should be integrated into defining questions, indicators, and measures.

The model also requires a challenge mechanism. Candidates must be able to know the criteria, correct data, and challenge decisions. Accessibility complaints need expedited

processing because a solution after the selection process ends may be useless. Whenever possible, the reviewing authority should differ from the authority that made the decision.

Participation by persons with disabilities must follow the parameters of General Comment No. 7 of the UN Committee (UN, 2018b). Late consultation on a finished text is not effective participation. Representatives need documents in accessible formats, time for analysis, and resources to contribute. Selection cannot always fall on the same people, at the risk of creating a consultative elite detached from the group's heterogeneity.

Organizations of persons with disabilities may collaborate in design and evaluation, but they do not replace State responsibility. The deciding body must publish how contributions were considered and explain disagreements. Participation improves legitimacy and quality without granting automatic veto power.

The regulatory cycle must include budgeting. Accessibility of systems, research, and independent evaluation requires resources. Budget allocation turns commitment into implementation capacity. A predictable lack of funding should not later be invoked as a generic reason for noncompliance.

15 Safeguards of legitimacy

The legitimacy of an affirmative policy depends on both its purpose and its design. The first safeguard is the empirical basis. Underrepresentation must be measured within the relevant universe, considering eligible people, career length, and level. Comparisons with the general population may be informative but are insufficient to define the proportion of a list.

The second is qualification. The measure does not eliminate constitutional and statutory requirements. Beneficiaries must meet the requirements of seniority, performance, legal knowledge, or experience applicable to the opening. Affirmative action reorganizes the opportunity for comparison; it does not turn identity into automatic approval.

The third is freedom to compete. Whenever possible, a person with a disability should be able to compete through both the general and affirmative routes, without incompatible double counting or confinement. The choice must not result in unnecessary disclosure of the diagnosis to evaluators.

The fourth is review tied to outcomes. For preferences designed as temporary, a fixed term may be combined with an assessment of whether the disadvantage persists. Reaching a numerical target does not by itself prove that barriers have been eliminated. Accessibility and

accommodations are permanent duties; specific measures should last while their purpose and necessity remain justified, without automatic perpetuation or merely symbolic termination.

The fifth is protection against fraud with due process. Eligibility verification must respect the biopsychosocial concept, allow an appeal, avoid humiliating examinations, and recognize non-apparent disabilities. Fighting fraud does not authorize generalized suspicion of persons with disabilities.

The sixth is data protection. Eligibility panels must not influence merit assessment beyond indicating that the candidate belongs on the list. Full medical reports need not circulate. Statistical databases must be separate, aggregated, and subject to retention periods.

The seventh is intersectionality. Women, Black people, and persons with disabilities may face combined barriers that do not appear in isolated categories. Monitoring should consider intersections when group size permits protection of identity. Policies concerning one dimension should not block people who belong to more than one group.

Table 2 Criteria for reviewing affirmative measures

Safeguard	Review question
Evidence	what data demonstrate the barrier or underrepresentation
Suitability	how does the measure change the identified mechanism
Necessity	is there a less restrictive alternative with similar effectiveness
Qualification	which requirements remain fully applicable
Privacy	who accesses the data and for how long
Temporariness	which indicator suspends, maintains, or reactivates the policy
Participation	how did persons with disabilities influence the design
Review	which independent body assesses outcomes and appeals

Source: prepared by the author.

16 Objections and responses

The first objection argues that affirmative action violates merit. The response depends on rejecting a caricature. If a policy promotes a person who does not meet essential requirements, the objection is valid. If, among qualified people, it selects members of an underrepresented group to correct demonstrated barriers, merit and equality operate together. The system itself already combines objective criteria and human assessments.

The second argues that disability is an excessively heterogeneous category. The premise is correct; the conclusion is not. Heterogeneity requires refined design, not the absence of a policy. Some measures should reach all persons with disabilities; others must respond to specific barriers. Disaggregated data, plural participation, and individualized accommodations reduce generalizations.

The third argues that the number of candidates will be small. This may occur, especially at higher levels. The rule must address the absence of eligible candidates without terminating the program. Active outreach, accessible training, and correction of earlier barriers can expand the pool over time. An empty list also produces information about the pathway.

The fourth points to a risk of stigma. Poorly designed affirmative action may fuel the idea that a person was chosen only because of disability. The risk must be addressed through clear communication about requirements, transparent assessment, and accountability for discrimination. Abandoning the measure because of prejudice gives normative power to the very stigma the policy seeks to combat.

The fifth invokes institutional independence. The autonomy of the Judiciary and the Public Prosecution Service protects constitutional functions, but it does not exempt them from fundamental rights. National rules must respect powers and specific features, yet equality, accessibility, and non-discrimination bind every body.

The sixth questions whether data can be obtained without violating privacy. The conflict is manageable. Statistical information may be collected voluntarily, pseudonymized, and disclosed in aggregate bands. Small numbers require cell suppression and care with cross-tabulation. The right to data protection does not justify institutional blindness; it determines how measurement must occur.

The seventh fears an indefinite multiplication of quotas. The answer is proportionality. Not every inequality requires a reservation, and every measure needs a purpose, evidence, scope, and exit. The model combines universal instruments and justified preferences without requiring years of waiting when the insufficiency of general measures has already been demonstrated.

17 Indicators for a national policy

A serious policy must state how it will be evaluated. The first set of indicators measures representation: the proportion of persons with disabilities in the total workforce, in each grade,

at the appellate level, in leadership positions, and on lists. The denominator must be stated. Percentages without a reference population may mislead.

The second set measures flow: application, approval, promotion, and transfer rates; time between levels; withdrawal during procedures; and the interval between an accommodation request and a response. These data show where loss occurs.

The third measures experience: perceived safety in disclosing disability, quality of accommodations, occurrence of harassment, and confidence in review channels. Anonymous surveys do not replace administrative data, but they identify invisible mechanisms.

The fourth measures institutional accessibility: the proportion of accessible buildings, systems, courses, sessions, and communications; time taken to correct failures; and budget execution. Advancement cannot be separated from the material conditions of participation.

The fifth measures decision-making quality: the percentage of reasoned decisions, successful appeals, divergence among units, and compliance with deadlines. Wide variation may indicate excessive discretion or a lack of criteria.

The sixth monitors adverse effects. The policy must examine undue data exposure, increased reports of stigma, territorial concentration, overload of promoted members, and possible manipulation of eligibility. An honest assessment records benefits and harms.

Results should be published in an accessible annual report. Time series are more informative than snapshots. When the base is small, moving averages or multi-year groupings can protect identity and reduce fluctuations. The report must explain limitations and avoid attributing causation without an appropriate design.

18 Implementation agenda

A schedule of 30, 90, and 180 days is proposed, counted from the institutional decision to establish the program. These milestones are recommendations of this article, not current statutory deadlines. Nor do they authorize suspension of existing obligations: requests connected with ongoing opportunities need a response before delay renders them useless. Implementation must occur simultaneously across individual protection, data production, and normative drafting.

Within the first 30 days, each body should designate a responsible authority, establish a restricted accommodation channel, identify ongoing selection procedures, and correct evident barriers. Communication must ensure that status as a person with a disability, including an autistic person, does not imply lower professional expectations or public disclosure of

medical reports. Urgent requests should permit a reasoned interim measure when necessary to preserve participation.

Within 90 days, the CNJ and CNMP, within their respective powers, should complete an initial diagnosis of available data, open an accessible consultation, and present a proposal for national criteria. Courts and Public Prosecution Offices may provide aggregate flows of applications, promotions, and transfers. The initial diagnosis must declare its gaps without concealing them or using them as a generic reason to postpone the rule.

Within 180 days, a decision is proposed on regulating career-related affirmative measures within the respective authorities' powers, with implementation projects where sufficient evidence and an eligible pool exist. The decision must indicate the model adopted, justification, responsible party, first opportunity for application, and review. If a measure requires legislation, the bill should be drafted and submitted by the authority with power of initiative, without promising a deadline for parliamentary approval.

For the constitutional fifth, the immediate agenda brings together the Public Prosecution Service, the Brazilian Bar Association, courts, and Executive authorities around accessibility, transparency of filters, and consideration of qualified candidates. Proposals for presence on lists and reservation of the seat follow their own normative routes. For the Higher Courts, authorities can immediately broaden consideration of eligible professionals with disabilities and autistic professionals while reform of the composition is discussed where necessary.

Evaluation must begin in the first implementation cycle and continue periodically, with an annual public report. Data guide improvements during execution. Training on ableism, autistic participation, and accessibility budgets form part of this process but do not replace decisions about criteria and opportunities. The expected result of the schedule is an operating policy with identifiable responsible parties and compliance controls.

19 Limitations and research agenda

The main limitation is empirical. Existing data do not establish the extent of vertical segregation by disability or identify its causal mechanisms in the Judiciary and the Public Prosecution Service. The article formulates questions and a research design that need to be tested.

Future studies may combine anonymized administrative records, interviews, analysis of calls for applications, and audit experiments. Entry cohorts would permit comparison of time

to advancement. Interviews would identify the costs of disclosure and accommodation. Decision analysis would reveal which concepts of merit predominate.

Another agenda is comparative. Countries differ in judicial selection, recognition of disability, and affirmative action. Useful comparison should examine mechanisms rather than copy percentages. Political appointment, career, and electoral systems produce different risks.

Intersectionality must also be studied. The small number of people in some combinations makes publication of data difficult, but qualitative methods may reveal experiences erased by averages. Autistic women, Black persons with disabilities, and persons with disabilities from peripheral regions may face specific obstacles.

Finally, the effect of the policies themselves should be evaluated. Increased representation is important but insufficient if accompanied by hostility, overload, or attrition. Success involves retention, real authority, occupational health, accessibility, and the ability to disagree without identity being used against the person.

20 Parameters for a national normative act

A national normative act on inclusive continuity should begin with its subject matter. The rule should not promise equality in the abstract, but govern data production, accessibility of career procedures, and corrective measures. Its scope must indicate whether it covers courts, units of the Public Prosecution Service, institutional schools, and auxiliary bodies. Definitions should refer to the Convention and the Brazilian Law on the Inclusion of Persons with Disabilities, avoiding the creation of a more restrictive administrative concept of disability.

The first chapter could establish governance. Each institution would designate a responsible unit with technical autonomy and participation by persons with disabilities. That unit would coordinate data collection, barrier audits, and reports, but would not have unrestricted access to individual medical reports. Separating statistical management, eligibility verification, and merit decisions would reduce improper circulation of sensitive information.

The second chapter would regulate data. Self-identification would be voluntary for monitoring and mandatory only when a person sought a benefit dependent on the condition. The rule would define purpose, legal basis, access, retention, aggregation, and suppression of small numbers. Results would be published annually in an accessible format, with denominators, methodological limitations, and a historical series.

The third chapter would address universal procedures. Calls for applications, registration, sessions, interviews, and appeals should be accessible from the outset.

Accommodation requests would receive a timely decision, with concrete reasons in the event of denial. Granting an accommodation could not reduce a score, prevent assignments, or be recorded as an unfavorable factor. Courses and activities considered for promotion would need to offer equivalent conditions of participation.

The fourth chapter would regulate priority application of affirmative action in procedures within the body's authority. Each project would indicate a sufficient diagnosis, eligible universe, method, decision deadline, review, and criteria for maintenance or termination. Pilots may support calibration but must not become a universal prerequisite for fulfilling rights already enforceable. Applying on the affirmative list would not exclude the general route, subject to rules against duplicate outcomes. The eligibility committee would be separate from the collegiate body comparing merit. An interim report would assess applications, outcomes, appeals, and adverse effects.

The fifth chapter would address transfers. The rule would recognize priority related to a concrete barrier, support network, or accessibility without presuming a single solution. The person would be heard regarding alternatives. The decision would compare accommodation in the unit, travel support, remote work where compatible, and transfer, giving reasons for the chosen solution. Health needs would not be subjected to publicity incompatible with privacy.

The sixth chapter would create periodic evaluation and control, with a specific protocol for barriers faced by autistic people and express recognition of non-apparent disabilities. An independent audit would examine data quality, compliance with deadlines, and effectiveness. The rule would provide an accessible complaint channel, urgent relief for failures capable of preventing candidacy, and a report on measures adopted. Repeated noncompliance would produce a corrective plan with a timetable and responsible authority.

Finally, the act should contain a general review clause for a specified period. The review would hear affected people and assess whether less intensive measures had become sufficient or underrepresentation required a stronger response. This structure makes it possible to begin within administrative authority, produce evidence, and refer to the Legislature only the changes that truly depend on a statute or constitutional amendment.

21 Conclusion

The Justice System must adopt an immediate policy of inclusive continuity. The Constitution, the Convention, and the Brazilian Law on the Inclusion of Persons with Disabilities do not permit protection to end at appointment: retention, development, promotion,

and participation in decision-making spaces form part of equality of opportunity. The thesis defended is the necessity of action, using the intensity and instrument appropriate to each authority's powers.

Urgency arises from duties already in force, the cumulative effects of barriers, and opportunities that may not recur. The absence of complete information prevents a claim about the exact extent of vertical exclusion, but it does not justify denying accommodation, retaining a discriminatory criterion, or indefinitely postponing a decision on collective measures. Producing evidence and removing obstacles must occur concurrently.

This article advocates prompt regulation of alternating calls and affirmative promotion lists where sufficient grounds exist; transfer priorities related to concrete barriers; proportionate inclusion on constitutional-fifth lists; and immediate opening of legislative or constitutional deliberation on reservations requiring those routes. The proposal preserves essential requirements and does not claim that an automatic national quota exists where none has been established.

For autistic people, the response must recognize that professional competence and support needs can coexist. A late diagnosis, atypical communication, or use of an accommodation does not authorize presumptions of incapacity. The specific section demonstrates why objective assessment, privacy, appropriate sensory conditions, and prevention of strain must accompany opportunities for advancement and access to courts.

The proposed schedule turns priority into verifiable commitments: protection of present opportunities, an initial diagnosis, regulation, and oversight. The permanent duty is to ensure that qualified people can build a career and exercise authority without avoidable barriers. Inclusion is fully realized only when access to a position is accompanied by effective conditions to remain, advance, and decide.

Final declarations

Nature of the research and data: legal and documentary study using public sources. No interviews were conducted and no individual health data were produced for this article.

Authorial position: the author identifies himself in the source manuscript as a public prosecutor and an autistic person. This position informs the definition of the problem without replacing the normative or empirical demonstration of the arguments.

Editorial assistance: this version was reorganized and expanded with the aid of artificial intelligence in assisted research, drafting, and file preparation. The tool is not an author.

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