

Affirmative Action Policies in Higher Education in Brazil

Subjects: Sociology

Contributor: Rosana Heringer

The debate about the implementation of affirmative action policies in Brazil is not disconnected from the development of this discussion, proposals, and policy implementation at a global level. Although there is knowledge in Brazil about affirmative action programs in several different countries since the second half of the 20th century, the most common experience of this type of policy that is quoted and more broadly known is the US experience.

Keywords: affirmative action ; Brazil ; higher education ; quotas ; race relations

1. Introduction

Until recently, the adoption of affirmative action policies for black Brazilians was considered a distant dream. The black movement demanded specific policies. Occasionally, multinational companies raised concerns about the workforce in relation to their Brazilian branches. However, as recently as the 1990s, affirmative action seemed unlikely. In a few years, a major shift happened. The subject garnered a groundswell of attention in debates due to the preparatory process that led up to the landmark event in 2001, the World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance. Beyond the mobilization of the black movement and the increasing visibility of their demands, an important aspect of this process has been public statements of some government entities, mainly the Instituto de Pesquisa Econômica Aplicada—IPEA (Institute for Research on Applied Economics), linked to the Ministry of Planning, Budget, and Management. The debate intensified during the World Conference, when the official report was released, including the recommendation for the adoption of quotas for black students in public universities ([da Silva and Pereira 2013](#)).

Since then, there have been major changes in the reactions of Brazilian society to proposals for the promotion of racial equality. Since 2002, social movements, NGOs, and academic institutions have produced studies of affirmative action in higher education. In 2002, not more than three public higher education institutions had adopted these policies. In 2003, the University of Brasília (UnB) was the first federal university to adopt affirmative action. Ten years later, the picture was very different. In 2011, 115 public institutions had enacted some kind of affirmative action policies for excluded groups ([Jodas and Kawagami 2011](#); [Heringer and Ferreira 2009](#)).

With the creation of the Special Office for the Promotion of Racial Equality, President Lula's administration advanced the debate about how to increase black student access to higher education. In July 2003, a working group was created to discuss this issue at the federal level. Initially, participants had varying perspectives about and levels of commitment to affirmative action. SEPPIR's leader, Minister Matilde Ribeiro, stated that the government supported the adoption of quotas since the presidential campaign in 2002, but it was necessary to intensify the discussion. In the same ceremony, the Minister of Education (MEC), Cristovam Buarque, stated that the working group did not have the creation of quotas as an objective.

Early in 2004, the MEC delivered a proposal for a presidential decree that called for authorizing federal universities to adopt quotas. The authors of the proposal attempted to legitimize this type of measure and avoid future judicial demands. The decree proposed the self-declaration of color or race as the mechanism for identifying the quota's beneficiaries and pointed to the need for minimum score attainment on the exams by the quota beneficiaries. After several days with no decision about which policy would be adopted, in January 2004 President Lula decided to send a bill to congress in order to elicit more debate on the issue. The new Minister of Education at the time, Tarso Genro, came up with a proposal for discussion a few weeks later: recruiting black, brown, and indigenous students, as well as students with special needs and former prisoners, to enroll at private higher education institutions and fill one hundred thousand vacant seats. This number would represent 25 percent of the seats available in private institutions. More than a third—37.5 percent—of private student slots were vacant. The government would provide tax exemptions to participating institutions ([Heringer and Ferreira 2009](#)).

Due to its controversial nature, this proposal generated broad discussion, evoking both criticisms and positive assessments. Without a doubt, the government redefined the debate and broadened the scope of the discussion, diluting the specific question of expansion of access to public universities. One of the criticisms received was exactly this: why not invest the equivalent amount of this tax break in the federal universities, expanding the number of places? The Ministry of Education responded that, even if this measure was taken, the number of places generated in the federal universities would be small. Although the proposal was still controversial, the government decided to create the University for All Program (Programa Universidade para Todos, PROUNI) through Decree 213 (2004), which later became Law 11,096 (2005). Between 2004 and 2011, the PROUNI program offered 1,128,718 scholarships, and 748,788 were used by students ([Neves 2012](#)).

An impressive number of federal universities have adopted quotas. The phenomenon has been studied by academics since 2000. A study by the research group NIREMA from the Catholic University of Rio de Janeiro (PUC-Rio) has shown that 57 public higher education institutions adopted affirmative action policies between 2005 and 2008 ([Paiva 2013](#)).

These policies were not adopted without polemics about their legitimacy and their accordance with the constitutional principle of equality. Throughout the past decade there were many articles published in the national press and intense debates in the academy about these policies, mainly those specific to Afro-Brazilians ([Júnior 2010](#); [Júnior and Campos 2013](#)). The debates centered on how to identify who is black in Brazil and, therefore, could benefit from the policies. How higher education institutions would deal with students who were less prepared and might not perform well was also discussed.

In this context of controversy and criticism, some universities were sued because of the adoption of these policies. There was concern regarding the outcome of two cases considered by the Brazilian Supreme Court, both questioning the quota system. The Supreme Court's unanimous decision in 2012 in favor of the constitutionality of affirmative action policies, including racial quotas, was a major development. This result brought legal protection to the practices that had been implemented by dozens of institutions in the country, as well as legal, political, and ideological legitimacy to the viewpoint that affirmative action policies are fair and healthy for democracy. The detailed and decisive statements from Supreme Court members articulated the ideas and reflections formulated over many years by black and anti-racist activists. The legal recognition of affirmative action policies in access to higher education in Brazil remains a historical landmark that will contribute to the consolidation of these policies in the country ([Silverio 2012](#)).

In 2012, congress approved new federal legislation that created mandatory affirmative action policies in all federal higher education institutions in Brazil (Law No.12,711, 29 August 2012). The implementation was planned over a span of 10 years and mandated 50 percent quotas in federal universities for public high school students, with specific racial sub-quotas according to the proportion of the Afro-Brazilian and indigenous population in each state.

In 2022, the Brazilian Black Movement has celebrated a decade of the most important affirmative action policy in the national context: the quota legislation (Law No. 12,711, of 29 August 2012) that made it mandatory for Brazilian federal universities to reserve a percentage of places to low-income, Afro-Brazilian and indigenous students ([Brasil 2012](#)).

Quotas are a type of affirmative action policy that aims to provide greater equality of opportunities for historically disadvantaged groups through actions that expand the insertion of these groups in the educational system, in the labor market, and in health services, among others ([Hasenbalg 1977](#); [Almeida 2019](#)).

The quota law regulates affirmative action policies in access to federal public higher education with the aim of promoting slots into universities and federal institutions of secondary technical education. The law establishes, in each call, per course and shift, a minimum of 50% reservation of places for those who have attended all high school in public schools. Half of these places should be reserved for students with a family income of up to 1.5 minimum wage per capita.

Regardless of family income, the law provides a sub-quota for blacks, browns, and indigenous people, calculated in a proportion equal to the share of those in the population of each state according to the last demographic census. As of 2016, the law was amended to include a sub-quota for people with disabilities.

2. Brazilian Affirmative Action Policies in an International Context

The debate about the implementation of affirmative action policies in Brazil is not disconnected from the development of this discussion, proposals, and policy implementation at a global level. Although there is knowledge in Brazil about affirmative action programs in several different countries since the second half of the 20th century ([Paiva 2013](#); [Júnior and Zoninsein 2006](#); [Moehlecke 2002](#)), the most common experience of this type of policy that is quoted and more broadly

known is the US experience ([Medeiros 2013](#); [Pires 2013](#); among others). The American experience has inspired the activism of the Brazilian Black Movement and has also served many times as a mirror to analyze the perspectives of racial equality policies in Brazil. As a consequence, many of the proposed policies to address racial inequalities in Brazil have been directly inspired by US affirmative action policies in the 1960s, 1970s, and 1980s.

Another important reference for the Brazilian Black Movement has been the debates and the advocacy work developed at the World Conference Against Racism in Durban, South Africa, in 2001 ([Werneck 2009](#)). That scenario has presented to Brazilian black leaders the need to develop concrete policies to address racial inequalities and the importance of making the Brazilian state responsible for the implementation of these policies.

At this point, the main concern of black movements was the issue of representation, understood as the need for more black and brown students' enrolment in Brazilian public universities. The Brazilian black and brown population has been excluded from public higher education for decades ([Hasenbalg 1977](#); [Paixão and Carvano 2008](#)) and this has become one of the main attempts to transform this picture.

However, there has been a subsequent understanding from black activists in Brazil that the representation was only the first step. There were severe limitations to really producing a change in a context in which more black and brown students were enrolling in Brazilian universities, but these institutions were elitist, excluding, discriminatory; in one word, colonial. This is where the political process of affirmative action implementation in Brazil has a straight dialogue with critical diversity studies and de-colonial approaches to affirmative action ([Bhambra et al. 2018](#)). Works such as those of Icaza and Vazquez, about diversity in the University of Amsterdam, show very clearly the limits of demographic diversity: "While it is of utmost importance that universities reflect the demographic diversity of the societies they are supposed to serve, the question of demographic diversity falls short of addressing the question of decolonisation. How can the university address the role it has played in reproducing global inequalities?" ([Icaza Garza and Vazquez 2018](#), p. 115).

There is a growing understanding that demographic representation is only a first step and that the task of transforming in a structural way the traditional (and colonial) universities is a long-term process.

3. Affirmative Action in Brazilian Federal Universities

The reservation of openings for specific groups in federal higher education institutions is part of a broader set of policies that seek to expand access to the university. Most of them result from the political struggle led by black organizations, indigenous peoples, people with disabilities, movements for the human right to education, and other social movements that historically denounce the elitist and white origin of Brazilian higher education ([Gomes 2017](#); [Heringer and Johnson 2015](#)).

Such policies cannot be thought of in isolation, but rather in conjunction with other actions that include the expansion of vacancies in federal universities, the creation of new federal universities and institutes, new campuses, and new courses. Also, part of this set of measures is the University for All program (Prouni, the restructuring and expansion of the Federal Universities program (Reuni, the Unified Selection System (Sisu, and the adoption of the National High School Exam (Enem) as the main form of entry into Brazilian higher education ([Klitzke 2018](#)).

All these measures resulted in an increase in the number of enrollments in higher education, which reached 8.6 million in 2019, representing 21.4% of the Brazilian population aged 18 to 24 ([INEP 2020](#)). Most of these enrollments, however, took place in private higher education institutions. The continuous growth of enrollments in public higher education was interrupted in 2017 due to deep budget cuts, intensified by the approval of the "spending ceiling"¹ (EC 95/2016) and the de-structuring of the expansion programs of public universities after the institutional coup of 2016. These budget cuts have also contributed to the reduction in resources to student support policies that have been implemented in Brazil in a more structured way since 2010 when the federal government created the PNAES—National Student Assistance Program—with the following objectives: "I—democratize the conditions for young people to remain in federal public higher education; II—minimize the effects of social and regional inequalities on retention and completion of higher education; III—reduce retention and dropout rates; and IV—contribute to the promotion of social inclusion through education" ([Brasil 2010](#)).

In order to achieve these objectives, the PNAES defined actions that should be adopted in the following areas: housing; food; transport; health care; digital inclusion; culture; sports; early childhood education for students' children; and access, participation, and learning of students with disabilities ([Brasil 2010](#)). Although there was an increase in the public

resources allocated to this program until 2016, a limited number of higher education students benefited from these program actions (Vargas and Heringer 2017).

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