



## **Reassessing Racial Inclusion Policies in Brasil**

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## “Reassessing Racial Inclusion Policies in Brazil”

Centro de Estudos da Metropole

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RACE IN ANOTHER AMERICA  
THE SIGNIFICANCE OF SKIN COLOR IN BRAZIL

EDWARD E. TELLES

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racial inequality. To maintain some reputation of racial tolerance in the arena of foreign diplomacy, even if less than in the past, Brazil has had to choose to either admit to a history of racial intolerance and institute policies to redress racism or maintain its historical denial of racism. The latter would seem unsustainable for very long.

### THE FUTURE

Brazil's future in diminishing racial discrimination and inequality will largely depend on the black movement's ability to exert pressure on the new government. Using international mechanisms will surely be an important part of this strategy. Nation-states increasingly need the support of their populations to further their foreign-policy agendas, especially as domestic NGOs have gained a limited but growing role in foreign policy circles. On the other hand, states can also decide to shut themselves off from the international community, although this is increasingly risky and unlikely for Brazil. Thus, it is important that the black movement continues its attempts to mobilize the victims of racism. There are signs that the black movement is being successful in slowly increasing its ranks, although there seem to be limits to reaching their presumed constituency, particularly the large mixed-race population. Although many ordinary dark-skinned Brazilians continue to avoid classification as black, they seem to increasingly recognize the burdens of being black, which itself is important for mobilization to redress racial discrimination.

Today, Brazil's racism is widely recognized, the black movement has become acknowledged as legitimate defenders of human rights, and research on race relations has become an important part of Brazilian academe. These represent a historical turnaround for Brazil. At the same time, race mixture and long-standing nonracialism continue to be valued as a unique and positive feature of Brazilian culture. Nonetheless, racial discrimination persists. For nonwhites, whitening through race mixture and even self-classification continues to offer the possibility of individual improvement, and whites continue to enjoy the privilege of racial status. Thus, the terrain on which race is understood in Brazil has shifted away from the racial-democracy era in many fundamental ways, although it is still informed by its values. However, discriminatory social practices continue to be largely informed by the even earlier white-supremacy phase of Brazilian race thinking. Brazil's new era of affirmative action will hopefully bring further positive change.

## Chapter Ten

### DESIGNING APPROPRIATE POLICIES

**T**HROUGHOUT this book, I have demonstrated how racism, racial discrimination, and racial inequality have persisted in Brazil more than one hundred years after the end of slavery. In the past twenty years, Brazil has sought to democratize and seeks to create equal opportunities for the disadvantaged, but its legal commitments began well before that. A series of legal prohibitions against various kinds of discrimination have existed since 1940, and these were consolidated in a 1989 criminal law. Since then, hundreds of antiracism laws have been passed in many Brazilian states and municipalities. Affirmative-action policies began on a large scale only in 2001, although Brazil adopted an international convention that required national policies to assure equal opportunity in the labor market as early as 1968.<sup>1</sup>

Antiracist or antidiscrimination law seeks mostly to combat discrimination through remedies to which victims can appeal after they have suffered discrimination, mostly by punishing offenders. Affirmative-action policies include a broader set of mechanisms designed to create equal opportunities and reduce overall racism, sometimes by promoting victims of discrimination.<sup>2</sup> Of course, the two sets of policies overlap, since affirmative action can become antidiscriminatory law. In this chapter, I seek to show that both kinds of policies are important in Brazil and discuss possibilities for improving those that exist. I also show how ideological and other arguments are used to dilute the effectiveness of antiracist law and to challenge affirmative action. I draw on the extensive discussion and debate of recent years and particularly address arguments against race-conscious policies. I also make comparisons with the U.S. experience where appropriate and I introduce regional variations.

#### ANTIRACIST LAW

A democratic society requires laws that can effectively uphold the citizen rights of all society, especially its most disadvantaged members. As throughout the rest of Latin America, though, justice-system reform in Brazil may be the main barrier to democracy and to extending such rights to all. As Caldeira (2000) notes, there is a continuing disjuncture between formal

democratization and application of the law. Despite the best intentions of progressive laws and policies, which have slowly made their way into Brazil's legal codes and are commonly defended by leading justice system officials, such policies are often poorly applied. Laws are often ignored in Brazil, especially when they defend the interests of the powerless. In Brazil, it is widely believed that "there are laws that stick and those that don't stick," and laws against racism invariably fall in the second category. In contrast, laws were historically used to maintain social order and protect private property through the repression of blacks. Such laws tend to stick. It is about these, which persist to date, that criminal justice system personnel often refer to, claiming that "the law is preferentially directed to the three Ps: *pobres, pretos e prostitutas* [poor people, blacks and prostitutes]."

By virtue of their low social standing and poverty, many Brazilians are excluded from enjoying the most basic of rights. Many are illiterate and often do not have even birth documents or official identification. Also, while political and civil rights have been formally extended to most Brazilians, access of disadvantaged populations to justice, abuse by the police, impunity of elites, and the precariousness of the penal system continue to escape significant reform. As Brazilian sociologist Bernardo Sorj (2000) states:

the legal framework values equality, respect for individual and collective rights and limits to public power. Brazil is in reality, a country of inequality and injustice, violating its legal precepts and the most basic principles of civility. (1)

In practice, the law is made even more inefficient because of the way it is implemented. Brazil's judicial establishment, which continues to have great influence on the Brazilian legal system, has typically represented conservative sectors and thus has had an individualist bias. The law guarantees individual rights and duties, while at the same time its concepts and commands are often violated by those with power. For example, a common saying states, "to my friends, anything they want and to my enemies, the law," demonstrating the flexible use of laws by powerful people in Brazil, including state authorities.

The abuses described above all disproportionately affect blacks and mulattos. However, the Brazilian legal system, like much of the rest of society, also sees issues of racism as unimportant.<sup>3</sup> Laws specifically designed to combat racism and racial inequality are almost never implemented. In the following paragraphs, I present two cases which characterize justice-system reasoning in cases against racism.

## TWO CASES

*The Tíricica Case.* As described in chapter 6, popular children's performer Tíricica released a song with Sony Records that demeaned black women. In response to the legal interventions of the Center for the Coordination of Marginalized Populations (CEAP), a Rio de Janeiro-based black-movement NGO, a judge ordered Sony Records to cease further production and sales and collect all records held in store inventories; but this intervention occurred only after the record had sold 320,000 copies. Despite the censorship, black-movement attorneys filed lawsuits in civil and criminal courts in various states against Tíricica and Sony for violating Brazil's antiracism laws. Sony attorneys called various witnesses to the stand, including well-known black performers, who claimed that the lyrics were merely "innocent bantering" and that Sony was not a racist company.<sup>4</sup> A criminal court in the state of Rio de Janeiro rendered the first decision, denying relief, holding that neither performer nor producer had a racist intent; that such songs in Brazil had long been produced<sup>5</sup> without anyone ever complaining; and that Tíricica, as a nonwhite performer, could not be considered racist under the law. Under that decision, Tíricica and Sony Music were then legally free to produce the song, although they would await decisions from the other courts.

The personal history of Francisco Everardo Oliveira, Tíricica's real name, weighed heavily in his defense and the final verdict. Oliveira was a poor and barely literate migrant from the underdeveloped northeastern region of Brazil, who became successful as a clown and singer. Oliveira's mother is black, and Oliveira himself is described as having "brown skin, kinky black hair and a thick voice," although he wears a blonde wig for performances. Oliviera describes himself as a religious person devoted to Our Lady of Aparecida, who is Brazil's patron saint and, as he emphasizes, a black woman. He claims that his black wife, who refused to bathe for several days, inspired him to write "Look at Her Hair." Tíricica supporters claimed that the black movement and others were jealous of his success.

The Tíricica incident continued to be fought in several other Brazilian courts, and black-movement leaders intended to make it into an exemplary case for building antidiscriminatory jurisprudence. Supreme Court Justice Nelson Jobim, who began to support black-movement legal initiatives, claimed that the black movement would have little chance of success in the Tíricica case, because he believed there would be little sympathy in favor of the black movement's argument. However, the 2000 survey for the state of Rio de Janeiro found that, upon reading Tíricica's lyrics, 67 percent of the population judged them to be racist or in bad

taste. Despite this, the popular press had claimed that the public sentiment did not believe the song to be racist, apparently based on the presence of a handful of avid Tíririca fans at his court hearings. However, the prosecution was able to frame the case as obviously not racist with ideas about race that reflect popular commonsense beliefs.

*The Leda Francisco Case.* A 1997 case involved a black woman named Leda Francisco. In this case, Ms. Francisco and a merchant had agreed to reimbursement for the payment of a product that had been delivered late. According to court records, the merchant had suggested Ms. Francisco suspend her check, which she did after politely requesting reimbursement for the bank charge. To this, the merchant responded "I don't like doing business with blacks; blacks shit when they enter and when they leave," and said to Ms. Francisco's white friend, "I am surprised that you associate with her." Unable to sleep and seeking an apology, Ms. Francisco returned the next day and was again insulted about her blackness (called "*neguinha safada*"), as witnessed by police who arrived on the scene.<sup>6</sup> She was able to have her case tried under the racism laws. Ms. Francisco was eventually denied relief. In her decision, the judge stated:

There was no reason for imprisoning the merchant. There was no failure to serve or deny access to the accused's store as required in article 5 of Law 7716/89. On the other hand, the racial question and racism should be ignored in favor of peaceful relations among the races. In a tolerant country like ours, it is important to erase such things so that society goes on harmoniously. No one wants racism. Our guide is the law.

## ANALYSIS

These two cases involving racism revealed several problems with gaining justice under Brazilian law. Both cases showed that ideology plays an extraordinary role. In the case of Leda Francisco, the judge defended a strong version of the racial-democracy idea as she boldly opined that racism should be ignored in favor of racial harmony. The judge in the Tíririca case viewed the song as clearly acceptable in Brazilian culture, which the black movement set out to defy to gain attention for themselves. Personal ideologies, shaped partly by a tradition of authoritarianism and contradictory beliefs about the status of blacks, continue to be important guides for individual justice-system officials and the general legal culture. For a judge to claim that Tíririca's lyrics merely constitute inoffensive banter misconstrued as racism suggests that racism is deeply ingrained in Brazilian culture. In both cases, black-movement arguments that these were examples of the constant devalorization of black people,

which perpetuates Brazil's racial hierarchy by harming the self-concept of the black population, seemed to be ignored.

In a systematic analysis of several racial discrimination cases, Seth Rascussen (2000) finds that a judge's ideology of race and understanding of racial discrimination best explain the variation in the logic behind judicial inquiry and findings. Since racial discrimination according to Brazilian law is construed as an act of prejudice, the law requires judges to evaluate prejudicial attitudes of the defendants, which in turn is mediated by the judge's own ideology of race. This belief seems to be incorporated at all levels of the justice system, including judges, police, and prosecutors.

The Tíririca case also revealed the situational and ambiguous nature of Brazilian race classification and the ideology that Brazilians, who are largely of mixed race, cannot be racist since their ancestry and culture is largely black. Tíririca himself was called a mulatto in several press reports and court records but was also referred to as black or negro. He would call himself a mulatto, but in the context of making a case against the black movement, the court and press could conveniently refer to him as black. Tíririca does not proclaim himself as black but claims his wife and mother are and that he worships a black saint. Although Tíririca does not identify as black, he claims that his black ancestry and reverence for a black saint demonstrate that he cannot be racist. Rascussen (2000) calls this the "mulatto defense."

A related problem is that local tribunals display an overall lack of seriousness in terms of their handling of crimes of racism, and judges dislike imposing the harsh criminal sentences mandated by the Constitution for racist infractors. Judges and prosecutors, as members of Brazilian society, view alleged incidents of racism as fairly innocuous and are not willing to put violators of these laws behind bars for the kinds of behaviors that are common in Brazilian society. In the case of Leda Francisco, the judge clearly preferred to ignore racism. Racist comments, as both cases revealed, are considered inoffensive and of little consequence. Even prior to the possible registration of a case, the police also tend to treat cases of racism as unimportant, and complaints, when they are registered, are often not followed up by investigations, and the investigation cases often do not reach court. According to Hedio Silva Jr., of the 250 cases registered in the now extinct Special Racial Crimes Police Precinct of São Paulo, none ever resulted in conviction. Nationally, there have been several convictions since 1951, but no one has ever served a criminal sentence for racism as required by law.<sup>7</sup>

A further problem is that the application of antiracist law has been limited to only the most blatant and egregious types of racism which usually involve racist insults (*injuria*). Although these are the most commonly

recognized forms of racism in Brazilian society, they represent only a small part of the many forms of racial discrimination. Similarly, such acts also reflect the justice system's narrow perception of what constitutes racism. More importantly, black-movement activists have been able to use these cases to demonstrate to the Brazilian public that even blatant racism occurs in their society.

Also, Brazilian law requires that relief for victims under Brazil's anti-racism laws requires that racism be intentional. That is a very high standard, which further diminishes the likelihood of conviction. Tíririca claimed, and the court agreed, that he had no racist intent but was merely referring to his unbathed wife. Indeed, they also assured us that Tíririca showed deep respect and love for particular black persons. Brazilian social etiquette, guided by its antiracist ideology, presumably forbids the manifestation of explicit racism, but Brazilian law finds that these lyrics are not enough to prove racist intent. This suggests a strong disjuncture between Brazilian values and legal practice.

Related to racist intent, under the Brazilian legal tradition, an individual perpetrator must be responsible. However, critical-race theorists argue that while racism had perpetrators under white supremacy, it began to be increasingly detached from its perpetrators, as white supremacy was gradually replaced with white hegemony. Although this shift began in the 1960s in the United States, it began at least thirty years earlier in Brazil.<sup>8</sup> In that context, the antidiscrimination laws in Brazil may therefore be especially ineffective. For the vast majority of cases involving subtle racism, perpetrators cannot be identified with much certainty in a culture where racist acts are commonplace and largely unconscious. Some judges seem to doubt that any normal Brazilian can be a perpetrator because of their supposed antiracist values. In addition, this system brings a focus on punishing an individual rather than doing anything for victims.

By the 1970s, Derrick Bell, the field's most influential source, was concerned with the ineffectiveness of the spate of civil-rights laws of the 1960s in the United States. He began to recognize that the limitations of the law derived from three principles: (1) the framers of the Constitution sought to protect property over justice; (2) whites support justice for blacks only when they gain; and (3) they will not support such gains that threaten their own status. Bell became the most influential source of the new field of critical race theory, whose proponents have sought ways to improve the effectiveness of law. These theorists have generally concluded that racism is a normal part of culture and discrimination is often unconscious and unintentional without any attempt to harm. Nonetheless, the effects of such racism are frequently manifested through slights and aggressions, which can lead to misery, alienation, and despair among many

of its victims. Antiracist law does not address these forms but only deals with expressed or blatant forms of racism. Progressive jurists in Brazil, especially those associated with the black movement, have also noted such problems in their own country and have thus sought alternatives.

#### ALTERNATIVE USES OF LAW

Because of the ineffectiveness that the few victories have on achieving a modicum of racial justice, black-movement attorneys have sought alternative strategies for using the law. One avenue that was beginning to be examined by black-movement attorneys in 1999 was the use of civil rather than criminal laws to try cases of racism. This follows a more general trend of seeking to reform a justice system that has been historically preoccupied with criminalization and punishment. Civil cases, they believe, would increase the likelihood of conviction; potentially provide legal, economic, and psychological support for victims; secure income for the legal services of black-movement organizations; and allow for speedier and less expensive trials. Attorneys also sought to introduce civil legislation to invert the burden of proof. Instead of victims being required to prove they were discriminated against, the alleged discriminator would be required to prove that he took measures not to discriminate. Relatedly, companies found guilty of discrimination would temporarily lose access to credit or public financing.<sup>9</sup>

Another avenue for redressing Brazil's racism is through international courts. The Additional Protocol for the American Convention on Economic, Social and Cultural Rights (San Salvador Protocol) and its monitoring agencies, the Interamerican Commission of Human Rights and Interamerican Human Rights Court, will take appeals in cases where domestic remedies have been exhausted. Not surprisingly, these cases represent an affront to the Brazilian justice system. Out of nearly 1,000 cases, as of July 2002, roughly 70 cases are pending in the Interamerican Court against Brazil. This is up from 2 cases in 1994 out of a similar total, reflecting the isolation until recently of the Brazilian human-rights community.<sup>10</sup>

The increasing use of the Interamerican system is largely the result of the efforts of Human Rights Watch-Brazil and CEJIL (Center for Justice and International Law), both international human-rights NGOs, and more recently, the Global Justice Center, a Brazil-based NGO established in 1999, which has been especially responsive to racial-discrimination cases in its defense of human-rights violations. These cases have often involved suits defending entire black communities against the Brazilian



government. In one case, for example, the Global Justice Center and the Center for Black Studies (NEN), a black-movement NGO, denounced the Federal Republic of Brazil for the arbitrary and unjustified murder of a young black soldier, Wallace de Almeida, and for failing to prosecute the police involved. Extensively citing the study by Ignacio Cano (2002) in their arguments, they noted the unnecessary and lethal force that the Rio de Janeiro police commonly use, especially against black men.<sup>11</sup>

More recently, a collective of Brazilian and U.S. organizations denounced both the Brazilian and U.S. governments before the Interamerican Commission for violating the land rights held by a traditional African-origin (*quilombola*) community, located on the eastern edge of the legally protected Amazon region. The Brazilian government constructed the Alcântara space port there in 1983, which they claim to have done for national security purposes. However, in 2000, the Brazilian government signed a defense-technology agreement with the United States, allowing it to profit from U.S. government and private launchings at this site. These actions, clearly not for national security, would further displace the native population and prohibit them from constructing more homes, accessing their traditional cemeteries, and planting crops in areas of the proposed expansion.<sup>12</sup>

Aside from its courts, the international human-rights system includes the UN and other international organizations, which hold forums for international governments to discuss human rights and pass human-rights conventions. These forums pressure countries to position themselves with respect to human rights, under the auspices of the international community, and declare whether to become signatories and thus commit to international human-rights laws. While powerful countries, particularly the United States, often ignore these treaties, arguing that their rule of law and democratization are well established, peripheral countries are concerned that their positions regarding these treaties affect their international reputations. International human-rights organizations like Amnesty International and Human Rights Watch carefully monitor, document, and publicize human-rights abuses in countries like Brazil. Moreover, foreign aid is sometimes tied to a country's human-rights record, which is especially important in Brazil since it is one of the largest debtor countries in the world. Globalization and the international human-rights system have thus greatly influenced Brazil's human-rights legislation; however, actual practice is another issue.

Another strategy proposed by progressive jurists, including those of the black movement, is to use the laws adopted in the 1988 Constitution for defending collective rights (*direitos difusos*),<sup>13</sup> which are rights for groups that cannot be guaranteed for individuals. Theoretically, whereas

the criminal laws currently in the books benefit at most a single victim, these could be used to promote large-scale social change, such as reducing inequality of various types. For example, attorneys have successfully pursued this strategy by requiring the government to subsidize anti-HIV drugs for persons with AIDS.<sup>14</sup> In the case of racial discrimination, attorneys might use statistical evidence showing racial differences in the effects of institutional actions such as government provision of social services, a strategy that has been used in the United States. Since the inability to obtain education is the biggest impediment to black progress and racial equality, such strategies could be used to correct discriminatory patterns and resultant inequality in schools, which affect large numbers of people. Also such changes could set important jurisprudence for similar cases. Collective-rights actions are closely related to affirmative-action policies, except that collective rights would be mandated by the justice system or the Public Prosecution as opposed to being mandated by the executive or legislative branches of government.

According to legal scholar and former member of the Public Prosecution, Joaquim Barbosa Gomes (2001), the Public Prosecution (*Ministerio Publico*) should monitor and propose such actions to redress racial discrimination. The current law makes this possible, although the Public Prosecution faces political obstacles in its mission to defend the population against elite interests. Nevertheless, the potential for the Public Prosecution to successfully defend the public good surfaces occasionally; this was demonstrated in 1999 by a civil public action. As part of a government campaign to educate the public about its intent to prohibit firearms, a billboard advertisement showed a youth with a pistol in his hand, outfitted with a cap and eye patch. The billboard's caption read, "Disarm the bandits and not the good citizens." At the instigation of the state of São Paulo's Public Prosecution, a judge required the advertising company to remove its billboards on the basis of antiracist laws. According to the state prosecutors, "the advertiser's message reinforced racial prejudice by showing a poor black youth as a bandit."<sup>15</sup> An even greater prospect for change is the Public Prosecution's efforts in the states of Minas Gerais and Ceará to require public universities to increase their admissions of public secondary students. Such actions represent real gains in efforts to promote collective rights.

Discrimination is produced largely through institutions, such as the media and school systems, which, except for general principles of guaranteeing equal opportunity, are largely unaffected by antidiscrimination laws. For example, public funding in some municipalities might be diverted or preferentially directed to schools that enroll relatively large proportions of white children, but antiracist law in Brazil as it is practiced

currently would be unable to undo this kind of discrimination. Because of this, the potential impact of the law in affecting racial inequality would be minor. Although it may cure some of the minor symptoms of racism (e.g., racist acts), Brazilian law has not been able to address the major symptoms (e.g., racial inequality) or the root causes (e.g., ideology or institutional racism). Thus, large-scale social policies, which include affirmative action, including universalist policies like those that fight poverty, may offer the greatest hope for addressing Brazil's racial inequalities.

### AFFIRMATIVE ACTION

The recent implementation of race-conscious affirmative action in late 2001 represents the first time the Brazilian government has used public policy to explicitly promote, rather than subordinate, the black population. In the past, slavery and immigration policies helped create the racial inequality that persists today; but the new racial quotas now seek to reverse this. Although the Brazilian government signed UN Convention 111 in 1968, which mandated the promotion of racial and ethnic minorities in occupations, no one ever expected such policies to be implemented, until the Durban Conference. The Brazilian government unexpectedly created racial quotas despite a near absence of discussion about them, catching policy analysts and public opinion off guard. However, without their sudden imposition, serious discussion about race in Brazilian society and policies to redress racism probably would never have occurred. Regardless of their design or their potential benefits, the implementation of these policies has projected the issue of race and racism to a level never before seen in modern Brazilian history. Brazilians now largely agree that racism exists and that racial inequality is high. Therefore they often argue that something must be done to alleviate these problems. There is less agreement about the appropriate policy solutions.

Proposed solutions involve affirmative-action policies that are both race blind and race conscious. Race-conscious policies are often perceived as a North American solution, appropriate only for a highly segregated and racist system where race is a primary barrier to mobility. Opponents also argue that race-conscious policies are contrary to Brazilian philosophical, cultural, and legal traditions. Instead they propose that universalist or class-based policies for reducing inequality and poverty can effectively redress racial inequalities, without considering race. However, opponents of race-conscious policies are increasingly less likely to deny the existence of racial discrimination.

The U.S. example, although distinct from Brazil in many ways, may offer some important lessons. Opponents of U.S. race-conscious policies

often use some of the same arguments as opponents of these policies in Brazil. For example, while affirmative action in the United States began mostly in the 1960s with broad-based support, it has suffered major setbacks in states like California and Texas, including rulings declaring that race cannot be used for university admissions. Under a changing racial ideology that is now called color-blind or laissez-faire racism, public opinion supports the principle of racial equality but largely rejects race-conscious social policies.<sup>16</sup> As a result of changing public opinion and state-level decisions to end such policies, there has been a new surge in affirmative-action literature and a major rethinking of how to maintain racial diversity, especially in higher education. Supporters of U.S. race-conscious policies demonstrate that affirmative action has had positive benefits for minorities but that racism and underrepresentation persists. The recent University of Michigan Law School case decided by the U.S. Supreme Court upheld the use of race as one criteria in admissions decisions. This ruling, as well as the rethinking occasioned by the scaling back of affirmative-action policies, can surely provide valuable lessons for Brazil. Soon after that ruling, one of the lead attorneys defending the University of Michigan traveled to Brazil to help supporters of affirmative action strategize to defend the Rio de Janeiro state laws on racial quotas. The case will soon be similarly tried in the Brazilian Supreme Court for constitutionality.

Before making such comparisons, it is important to note that I intend the U.S. case as merely one example. Other non-U.S. examples may be found, including in other Latin American countries. Needless to say, there are many differences between Brazil and the United States, as I have made clear throughout this book; however, there are some similarities, and the U.S. comparison might help us not to reinvent the wheel at every turn. A prominent example of difference is the case of Brazil's *quilombos* (rural black lands and communities). The beginnings of federal affirmative action through the Ministry of Agrarian Development's acting to recognize and title all *quilombo* lands represents an important break from the U.S. model from the start. This shows that other examples apart from the United States are important for understanding affirmative action internationally. Another example can be found in Colombia's extensive legislation (Ley 70) that recognizes Afro-Colombian communities and seeks to protect their territories and strengthen the rights of their members.<sup>17</sup> Additionally, the case of *quilombos* in Brazil has long been central to black-movement demands, not only because of its material effects on thousands of poor people, but also because of its symbolism for black political struggle. Many of these residents are direct descendants of slaves who held out and resisted Brazilian slave owners on these very lands. In the 1988 Constitution, the recognition of *quilombos* represented one of

the first black-movement conquests at the federal level, but implementation of land titles has been mostly stalled.

The goals of affirmative action, whether race conscious or not, should be to improve racial justice, create role models for young blacks, strengthen the sense of self-worth among blacks and promote racial diversity at all class levels. To do so in Brazil requires attacking the three major barriers to achieving a true racial democracy: hyperinequality, the glass ceiling, and racist culture. If the Brazilian government is to make a significant difference in the lives of most black and brown people, Brazil needs to develop a set of policies that combine universalist social-development policies to reduce Brazil's hyperinequality with race-conscious affirmative action that can break the glass ceiling and alleviate racist culture. In the rest of this chapter, I present arguments for such policies. I seek to systematize them and distill the main points of the discussion surrounding public policy and race as well as to suggest new avenues for policy development. Since such policies are fairly new for Brazil and since the Brazilian case is unique in some respects, the potential political and technical problems, as well as the opportunities for designing these policies, will require continuous discussion, experimentation and reevaluation.

#### REDUCING INEQUALITY THROUGH UNIVERSALIST OR CLASS-BASED POLICIES

Macrolevel policies aimed at economic growth are a central feature of the neoliberal agenda, however, they often do not include mechanisms to effectively redistribute income or reduce poverty and attack Brazil's hyperinequality. Brazil's economic growth has had relatively little effect on poverty and has often increased inequality.<sup>18</sup> Similarly, the liberal argument has also argued that economic development will eventually eliminate or diminish racism and racial inequality. However, the findings from chapter 5 show that this clearly is not the case. Rather, the barriers preventing nonwhites from entering the middle class have strengthened. Creating only universalistic policies may well have the effect of increasing racial inequality, as poor whites will be in the best position to take advantage of new opportunities, further isolating the black and brown poor.

Many economists agree that educational reform is necessary to significantly reduce Brazil's vast inequality and poverty. Improvements in education are perhaps the most economically efficient and politically acceptable means for redistributing income. Ideally, secondary education would be guaranteed and required for all children and at minimum, everyone should be functionally literate. The average educational level in

Brazil is now 4 years for nonwhites and 6 for whites, and the university system currently has the capacity for only 10 percent of the college-aged population. Many Brazilians cannot read, and most who can do not understand what they read. The poor state of Brazilian mass education is revealed by a recent study finding that Brazil was ranked the lowest among thirty-two countries, in terms of literacy.<sup>19</sup>

Wilson (1996) argues for universal policies to help the poor in general. He claims that affirmative action will not remedy the problems of the most disadvantaged in the U.S. case. This argument seems especially applicable to Brazil, given the large number of poor and undereducated persons and the large size of the informal Brazilian economy. For Wilson, most blacks and browns need to escape from poverty and the symptoms it produces, including crime and inadequate housing. Without universalist policies, a large proportion of nonwhites (and many whites) will continue to be poor. He further argues that blacks from the most advantaged families disproportionately benefit from preferential policies in college admissions, and from promotions and hiring in middle-class jobs, leaving the problems of most blacks intact.<sup>20</sup> For this reason, Brazil needs similar universalist programs, including those that can provide a decent minimum salary, ensure unemployment income and a livable old age pension, eliminate child labor, and most importantly, make large improvements in public education and ensure that families have the material conditions for their children to attend school.

Unlike the United States, these are problems that are at the core of Brazil's economic development. A large percentage of the Brazilian population, which includes a disproportionate number of nonwhites, is outside of the formal economy. Blacks and browns are also especially likely to reside in the Northeast and in rural areas, places that are especially underdeveloped. Solutions for these poor populations are thus largely about employment creation and regional development, issues that have occupied the mind of economists and policy makers for years. However, the search for finding solutions for these problems should not preclude the need to find remedies for persistent and growing racial inequality in the middle and upper echelons of Brazilian society.

At the top end of the educational system, some have called for quotas for students from public schools. This may be considered a universalist policy in the sense that it does not use ascribed characteristics like race but merely links up a public secondary-school system to its higher-education counterpart. Since nonwhites are disproportionately represented among public school-secondary students and are rarely in private schools, such a policy is also likely to reduce racial inequality in access to the university. Given that the private/public school divide is the most

apparent institutional cleavage determining the quality of Brazilian schools and nonwhites are almost invariably in public schools, this policy could well increase black and brown representation at the university level.<sup>21</sup> However, it could also fall short of its intended effects. White secondary students in public schools would probably be in better positions to take advantage of these quotas, since they tend to be more successful in the schools for reasons outlined in chapter 6, and because predominately white public schools are better resourced than predominately nonwhite schools. Such a policy might further increase racial inequality, leaving nonwhites further isolated at the bottom of the social structure, unless college attendance were to become universal or close to it.

In the United States, similar class-based solutions have been used to replace race-conscious affirmative action in university admissions, most notably through the so-called Texas plan. The Texas plan was implemented as a response to a high court ruling that the University of Texas used unconstitutional race-based quotas for admissions. The University of Texas thus opted for a class-based policy, believing that it could maintain the levels of racial diversity they previously achieved under the quota system. Banking on the fact that schools were highly segregated in Texas, the state congress ruled that all graduates in the top 10 percent of their high school classes would be permitted to attend the state public university of their choice.<sup>22</sup> For the first two years of its existence, racial diversity was roughly maintained for undergraduate admissions in Texas.<sup>23</sup> However, racial diversity precipitously declined at the graduate level, particularly in the law and medical schools, where the 10-percent rule did not apply. Some version of this plan could benefit Brazil but mostly in those cases where nonwhites are a large majority. In most places, though, the results might be less efficient than in Texas, because white-nonwhite segregation in Brazil is lower, and because nonwhites in Brazil disproportionately drop out before completing secondary education.

Kahlenberg (1996) argues in favor of class-based policies and for the end of race-conscious policies in the United States. However, he is also concerned with maintaining racial diversity and thus argues that class must be defined broadly beyond income to include socioeconomic factors that disadvantage racial minorities. Since U.S. blacks experience more concentrated poverty and more family breakdown and because they have lower amounts of accumulated wealth, then institutions should seek to recruit persons having these characteristics, rather than using race directly to select candidates. He also argues for abolishing regional preferences that advantage white students and claims that class-based slots be very generous in order to guarantee that substantial numbers of blacks are admitted. Finally, he believes that antidiscriminatory laws need to be effectively applied to punish discrimination where it is found to occur. Al-

though such class-based affirmative action would almost certainly benefit minorities, it does not overcome other mechanisms of racial discrimination. What about the low self-esteem or anxiety of blacks resulting from a culture that constantly signals their inferiority? In the Brazilian case, what about the few middle-class blacks and mulattos who would be excluded from class-based programs but have barely gained a toehold in the middle classes, where they are often treated as oddities?

Cardoso's minister of education, Paulo Renato Souza, was a key spokesperson for universalist programs, although he rejected race-conscious policies.<sup>24</sup> During the Durban conference in 2001, he declared, "when an effort is made to improve the lives of the poor, one is, in large measure, improving or trying to emphasize issues of the black population."<sup>25</sup> I agree, but I also believe that educational reform and other universalist programs must include mechanisms to ensure that black and brown people benefit at least as much as whites. Without them, even greater racial inequality could result. Indeed, in the past forty years, this is exactly what has occurred at the college level.

#### BREAKING THE GLASS CEILING THROUGH RACE-CONSCIOUS POLICIES

Much of the attention in developing Brazil's affirmative action thus far has focused on admission to the university, which is highly appropriate since unequal access to university education has become the major impediment to racial equality in Brazil. Some kind of race-conscious policy is necessary in order to overcome Brazil's huge racial inequality in access to the middle class. Quotas for university admissions and in the workplace—which have sprung up in several states of Brazil—are perhaps a necessary beginning, because they reveal real action beyond rhetoric and academic debate. Quotas represent an important first step in dealing with racial inequality at the university level, although they often do not go far enough. For example, getting black and brown students into the middle class, as should be the goal of these programs, requires programs that can keep these students in colleges; this would require the implementation of programs such as writing assistance, counseling, and financial aid, and after graduation, mechanisms to help them land jobs appropriate to their education, which would help them overcome their relatively weak social capital. Quotas have also sparked a national policy debate about ending the Brazilian government's historical apathy about redressing racism and racial inequality. Surprisingly, there has been little or no opposition to quotas from anyone denying discrimination, which reveals that the racial-democracy belief has largely disappeared.

This case for affirmative action in the university has been eloquently made by an influential publication reflecting on the past thirty-odd years of affirmative action efforts in U.S. universities. William G. Bowen and Derek Bok (1998), former presidents of Princeton and Harvard Universities, respectively, analyzed data on 80,000 undergraduates using rigorous statistical methodologies in order to argue that, while affirmative-action policies have slowly lessened racial inequalities, large gaps remain. They thus argue that it is far too early to end university affirmative action in the United States. Most notably, they find that the racial gap in precollege preparation is wide and unlikely to be eliminated during their lifetimes because of the long history of racial differences in “resources, environments and inherited intellectual capital.” However, they also conclude that black students have made enormous improvements in standardized test scores and graduation rates from all fields and at all levels. Furthermore, affirmative action has created a sizable black middle class. Successful blacks often serve as role models for younger blacks, and many have become committed to serving previously neglected black communities.<sup>26</sup>

While the gap in higher education has been increasing in Brazil, it has narrowed in the United States. The cross-national differences in Brazil and the United States are consequently mirrored in the racial composition of the middle classes. I illustrate this change in figure 10.1 by showing the change from 1960 to 1996 in the likelihood that nonwhites are in professional occupations compared to whites in the United States and Brazil.<sup>27</sup> Specifically, I present relative odds ratios of the likelihood that whites are in professional occupations compared to nonwhites, using the 1960 census for both countries and the respective U.S. and Brazilian 1996 household surveys. The years 1960 and 1996 represent the time just previous to, and thirty years following, the beginning of U.S. affirmative action; all of this was time during which there was no affirmative action in Brazil.

Figure 10.1 dramatically reveals that racial inequality declined in the United States but increased in Brazil during the past forty years. In the United States, white males were 3.1 times more likely than black males, and white females were 2.8 times as likely as black females, to be in professional occupations in 1960. However, by 1996, that inequality had fallen to 1.6 for males and 1.4 for females in the United States, demonstrating how affirmative-action policies have increased the size of the black middle class. By contrast, Brazilian males had about the same level of racial inequality at the professional level as the United States did in 1960, but racial inequality increased from 3.1 to 4.0 in the case of Brazilian males, and 3.4 to 4.8 for Brazilian females. Despite potential methodological quibbles, the trends are undeniable. Affirmative action in the United States has been a major success for getting North American blacks

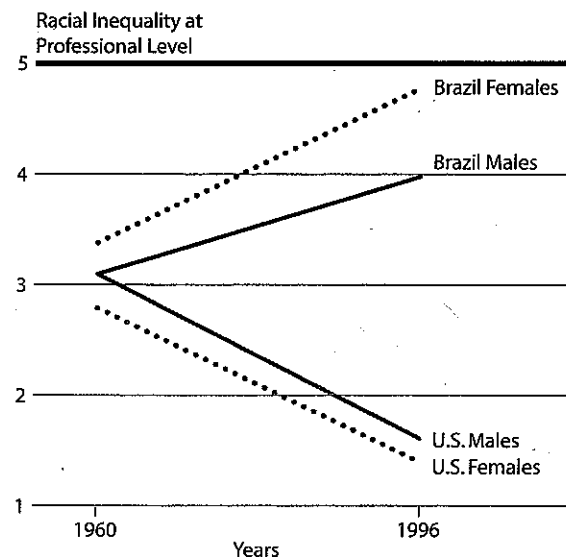


FIGURE 10.1 Relative likelihood that whites are in professional occupations compared to nonwhites (blacks in the United States, blacks and browns in Brazil): Males and females in Brazil and the United States, 1960 and 1996. (1960 U.S. data: *Employment and Earnings*, Vol. 7, No. 1, July 1960; 1996 U.S. data: *Employment and Earnings*, U.S. Department of Labor, Bureau of Labor Statistics, January 1997; Public Use Sample of 1960 Brazilian Census; 1996 PNAD.)

into universities and into the professional labor market, even though it hasn't eliminated racial inequality. By contrast, Brazil's racial inequality at this level remains high and continues to grow. Without race-conscious affirmative action in Brazil, this disturbing trend is likely to continue.

Race-conscious affirmative action in the labor market is important as well. Several federal government ministries have instituted quotas for hiring as well as preferences for government subcontractors with large nonwhite work forces. Local and state governments have instituted similar programs. Preferences for subcontractors with work forces comprising larger proportions of nonwhites are likely to decrease employment discrimination for those companies participating in them. Such policies at higher levels are also likely to ensure that blacks and mulattos who complete college make the transition to work free of racial discrimination. Race-conscious policies are also necessary in blue-collar occupations, since class-based policies will not prevent labor-market discrimination. The problem that remains is what to do with the large number of unemployed persons and with those employed in the informal work force. In that sense, there is no substitute for universalist policies that seek full

employment and generally improve the livelihood and life chances of these persons.

Based on a review of published affirmative-action studies, a study by Holtzer and Newhart (2000) concluded that (1) affirmative action promotes distributive justice by increasing employment for women and minorities among the organizations that use it; (2) employers using affirmative action recruit and select more carefully by looking more broadly for employees and evaluating them on more criteria; and (3) employers engaging in affirmative action pay nothing in the job performance of their employees. If anything, minority- and female-employee job performance is better, even in cases where white-male credentials were superior, because of other attributes uncovered by the use of a broader set of hiring criteria. Aside from active promotion through quotas or affirmative action, employers must therefore implement more formal personnel procedures. Leaving decisions to informal decision processes invites abuse, as Bento (2000) shows for São Paulo. This is especially important when workers are not affected by limited affirmative action. A challenge thus remains as to extending programs beyond a handful of government ministries and local governments, and especially to the private sector.

### BRAZIL'S UNIVERSALIST MANTRA

I have thus far pointed to the need for both class- and race-based social policies to reduce Brazil's racial inequality. Discussions about the best way to reduce racial inequality often get hung up on either-or solutions. I firmly believe that both are needed: the first to eliminate Brazil's hyper-inequality, and the second to break the glass ceiling that prevents non-whites from entering the middle class. However, while universalist policies are increasingly supported, there has been much more controversy regarding race-conscious policies. In the following sections I discuss the major barriers to implementing race-conscious policies and present counterarguments as well, beginning with Brazil's mantra of universalism.

In contrast to the race-conscious policies, it seems that, at least at the rhetorical level, universal redistribution policies have become widely accepted. Indeed, many sectors of the Brazilian elite seem to vigorously support black-movement demands for reducing racial inequality but have pushed for universalist policies while rejecting race-conscious measures.<sup>28</sup> This obsession with universalism or a class-based approach was demonstrated at a 2001 meeting of the Interamerican Development Bank, which black-movement leaders attended. Brazilian government minister Roberto Brant expressed a widely held sentiment in response to a newspaper in-

terview, noting that, while he mentioned a litany of Brazilian social ills, he didn't mention "race" or "blacks." He declared:

that was on purpose, our problem is not racism but poverty. We have discrimination and we have laws to stop it . . . we can't bring to our country a discussion which has no basis in our reality.<sup>29</sup>

Brant's statements epitomized the universalism argument by adding that racial discrimination rarely exists in Brazil; although he went against the general public acknowledgment of racism, on the other hand, he may have simply sought to make a strong, although probably ineffective, argument about why there should not be race-conscious policy.

A common argument is that race-conscious policies will make Brazilians newly conscious of group differences and create resentments across racial lines. Although many now dismiss racial democracy as myth, many argue that it embodies Brazilian values of universalism, and the absence of strong racial divisions such as those found in the United States. Brazilians often argue that racial distinctions between blacks and whites in the United States continue to be sharp. They attribute black-white polarization to race-conscious policies, including segregation in the past and affirmative action today. However, it seems to me that if racial distinctions were not divisive in the past, as commonly believed, then race-conscious policies are unlikely to make them so now. In the U.S. case, there has been hostility and polarization between blacks and whites since slavery. If anything, affirmative action, or at least some set of factors during the period since the initiation of these policies, has softened these conflicts and distinctions. For one thing, post-civil-rights reforms have made North Americans aware of racism and have made the practice of explicit racism socially undesirable.<sup>30</sup> The case of women further supports this. As far as I can tell, polarization between males and females does not seem to have grown because of affirmative action for women. Similarly, I cannot foresee this happening for race in Brazil.

The case for universalistic rather than race-conscious policies has also been argued from a legalistic perspective, as the Federation of Private Schools, the plaintiff in the State University of Rio de Janeiro case has done. Resistance to affirmative action includes claims that affirmative action is unconstitutional, violating Brazil's legal universalism (*isonomia*). Opponents claim that the Constitution seeks equality of opportunity and not equality of results; but the 1988 Brazilian Constitution specifically promulgates equality of results in several ways. Article 3 states that the Federal Republic of Brazil "fundamentally" seeks to create a free, just, and undivided (*solidaria*) society, eradicate poverty and marginalization, reduce social and regional inequalities, and provide special incentives to



protect women in the labor market; this article even suggests the use of affirmative action for women and for the physically disabled.<sup>31</sup> Thus, the constitutionality of affirmative-action programs in Brazil seems to have a solid legal foundation.

There are also several precedents for affirmative action. A congressional law in 1990 mandated that “up to 20 percent” of positions in public-service exams be reserved for the disabled, and in 1991 that large firms would be required to fill 2 to 5 percent of jobs with physically disabled persons.<sup>32</sup> In 1996, Congress established that at least 20 percent of candidates for elected offices be women, and in 1997 increased this percentage to 30, which has led to a 110-percent increase of women in city councils throughout Brazil. Also, the Brazilian government ratified the CERD and Convention 111 of the International Labor Organization in 1968, which mandated the promotion of social and economic equality for minorities through national policies. Still earlier in Brazilian history, Getulio Vargas supported affirmative action with the so-called two-thirds law, which required that at least two-thirds of all hiring by firms on Brazilian soil must be of native-born Brazilians. This effectively allowed blacks and browns to enter the industrializing labor markets formerly dominated by immigrant workers.<sup>33</sup>

Another argument deriving from a culture that values universalism is that race-conscious policies, and especially racial quotas, stigmatize nonwhites. The argument claims that, for example, a university diploma will be a second-class degree for black (negro) persons, regardless of whether that person was admitted on the basis of quotas or not. I suppose this may occur, but it seems like a small price to pay for a program that is designed to compensate for societal discrimination and is almost certain to reduce racial inequality. Also, there are already a significant number of nonwhites in many universities, so quotas would merely increase their proportion. It seems to me that stigmatization of blacks overall would decline from today’s levels, because they are frequently stigmatized on the basis of their concentration in the lower tiers of Brazilian society. For reasons of racial stigma, quota programs should thus be supplemented with campaigns to educate the public about their necessity. Presumably, nonwhite students will take the same courses and have the same expectations placed on their schooling as whites. Because of differences in prior schooling, one cannot expect that the average black student will suddenly do as well as the average white student, but given the opportunity and the proper resources, many may do better.

The strict use of universalist policies has also had very strong support from the left. The traditional Marxist view holds that class is the central problem in terms of exploitation and that attention to race distracts from and divides the working-class struggle. Orthodox Marxists believe that

the emancipation of workers—or, in the more moderate version, reduction in poverty and inequality—necessarily leads to an end or a reduction in racism and racial inequality.<sup>34</sup> For many, race consciousness is a type of false consciousness. At best, scholars like Florestan Fernandes and Octavio Ianni granted that racism was a product of capitalist alienation, thus denying its existence prior to or beyond capitalism. For them, societal cleavages had material bases, and ideology was important to the extent that it legitimized and served capitalist interests. They argued that the ideas of race and racism and their effects are never autonomous from capitalism. The major organization representing the left, the Worker’s Party (Partido dos Trabalhadores or PT), has also emphasized class, but the new Brazilian president, who represents that party, supports race-conscious actions. The acknowledgment and strong support for race-based policies by the PT leadership may largely reflect the growing political clout of blacks and mulattos qua blacks (negros) within the party ranks.

#### QUOTAS AND MERITOCRACY

Brazil’s recent affirmative-action plans have thus far focused on racial quotas, especially for university admissions but also for government service positions. Quotas are extreme forms of affirmative action, because they fix a set number of slots for a particular population in employment or college admissions. As I observed in 1996, when discussion of such policies was just beginning in Brazil, affirmative action was commonly believed to be equivalent to quotas, a notion reflecting the conception of diversity from the United States that is played up in the media.<sup>35</sup> This is still the case today. Quotas are clearly the most efficient method for guaranteeing greater representation of blacks and browns but they also face the greatest opposition among various types of affirmative action, because they are thought to directly violate principles of meritocracy and fairness. On the other hand, trying to reformulate quotas into U.S.-style goals risks losing race-conscious policies altogether through the political process.

Some individuals have rejected quotas and other race-conscious policies, alleging that they override the principle of meritocracy. The meritocracy argument is common, as the letters sections of Brazilian newspapers and recent legal actions against the State University of Rio de Janeiro have shown. Critics assume that admission to Brazilian universities, which is based entirely on one’s score on the college entrance exams (the *vestibular*), is unambiguously rewarded on merit. However, passing the admissions test seems to be more related to one’s ability to pay for the generally expensive course that prepares students for these exams (*cursinho*) and to take a year or more off to dedicate oneself to studying for the exams

than to one's ability to succeed in college. Also, the superior quality of schools of the white middle class gives students great advantages for passing these tests. A real meritocracy, as the originator of the term describes it, is utopian because it seeks to reward individuals on the basis of intelligence or cognitive abilities.<sup>36</sup> Entrance into the university thus seems to be based more on "testocracy" than meritocracy, where passing grades on this exam is a questionable test of merit, at best.

The U.S. experience shows that conventional measures like test scores correlate well with short-term success, but longer-term success depends more on other factors. As recent quantitative research for the United States has demonstrated, intelligence or merit is only one of several variables that determine one's lot in life. These variables also include class, motivation, and responsibility.<sup>37</sup> Surprisingly, a study of Harvard freshmen over three decades showed that students with low Scholastic Achievement Test (SAT) scores and blue-collar backgrounds were more successful than their solidly middle-class peers mostly because of their greater initiative or drive.<sup>38</sup> Merit, as Amartya Sen notes, is contingent on the definition imposed by socially dominant groups. Institutions need to define long-term successes, and this is largely a question of values about what is important. Is it performance in school? Performance or effectiveness in a profession? Service and leadership for poor communities? Being a role model for younger persons? Perhaps there is a need to better define the public good, if this is to be a value used to decide who is admitted to the university.

But even if merit could be measured, it doesn't seem that most Brazilians buy the meritocracy argument. Anthropologist Livia Barbosa (1999) argues that Brazilians do not see individual merit or a work ethic as affecting one's destiny, in the way that North Americans do. Rather, they openly believe that one's position in the hierarchy depends on the social system itself. According to Barbosa, Brazilians see others as having roughly equal ability and believe that the social system has determined their position. Society thus determines one's value; networks and connections are believed to be more important than productivity. Under this logic, quotas might not be as unpopular as they are in the United States. Rather, they might be perceived as a substitute for the lack of access that blacks and browns have to necessary social networks.

Popular-opinion polls support this hypothesis, reporting that most Brazilians support racial quotas.<sup>39</sup> Clearly, the greatest Brazilian opposition to quotas is among the white elite, as the same survey shows. Evidence from the 2000 Rio de Janeiro random household survey demonstrates that a slight majority of blacks and browns and just less than half of whites supported the principle of government obligation in promoting blacks and supported quotas for the university and for employment in "good jobs." Opposition to the government-obligation principle was

particularly strong among college-educated whites in Brazil, while support for such programs was particularly strong among the least-educated sectors of the population of all colors. Among those with four years of education or less,<sup>40</sup> between 76 and 86 percent of the black and brown population supported quotas for either university admissions or employment, and between 59 and 78 percent of whites of the same educational level also supported quotas. For university-educated whites, only 4 to 6 percent supported quotas.

Public-opinion surveys reveal continuing support for the racial-democracy values of antiracism and race mixture. For the white middle class, these values are also important, but their class and race privileges seem stronger still. This seems to explain why they are especially likely to oppose race-conscious affirmative action. In principle, black social mobility seems important for them but not if it is threatening to their own status or that of their families. In this context, privilege trumps values.

Given Brazil's political system, perhaps it's only the elite that count. Public opinion in the rest of the population may have little importance. Elisa Reis (2002) found that Brazilian elites tend to support only universalistic programs for poverty reduction or income redistribution. While elites agree that blacks and women are discriminated against, they strongly concur, independently of political orientation, that racial quotas themselves are discriminatory and deny equality of opportunity. Thus, it seems that middle-class whites will not support actions that significantly threaten their privileges in securing university admissions and middle-class positions for their children. However, there is support for race-conscious policy among a few influential persons of various political backgrounds, and this trend may be growing. Whereas opposition to race-specific policies or even recognition of racial divisions was nearly universal among the left and the right for many years, there has long been support from leading neoliberal advocates such as Rubens Ricupero and Roberto Campos.<sup>41</sup> From the left and especially from the Worker's Party, particular congressional representatives have strongly supported race-specific policies, but such support seemed to be weak at the top of the party structure; although there are signs of change with the new president from the Worker's Party.

#### RACIAL OPPORTUNISM AND THE BENEFITS OF RACE-CONSCIOUS POLICY

Race is important because of how others are treated in social interactions. Therefore, it is perfectly reasonable for the Brazilian state to have developed affirmative-action policies, as it is beginning to do, to counteract the



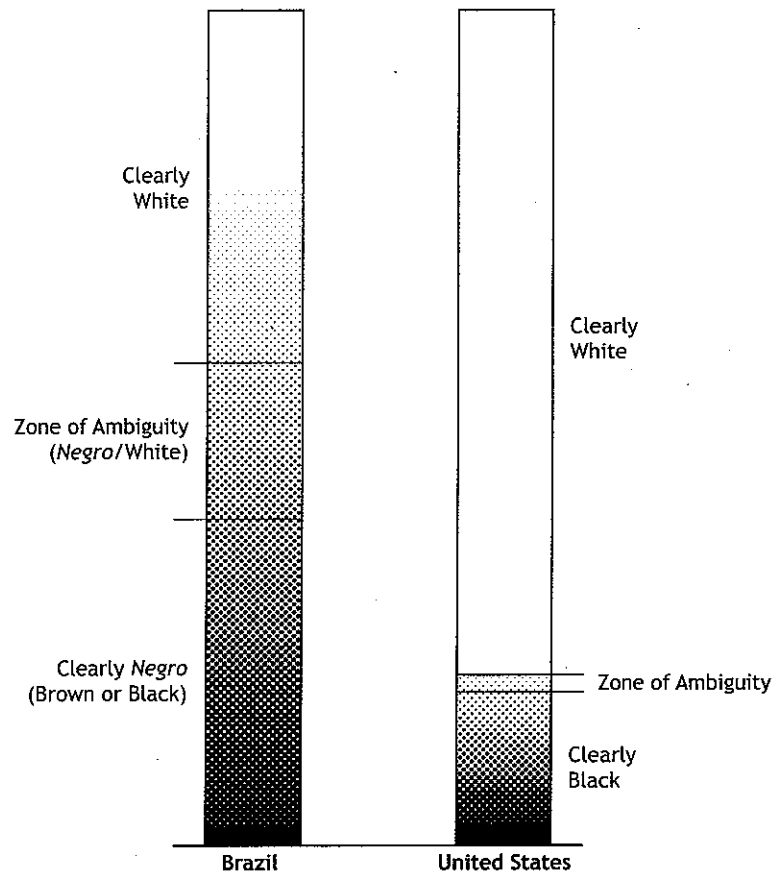


FIGURE 10.2 Primary racial boundaries in classification along the black-white continuum in Brazil and the United States.

problems created by this purely social notion. But this faces especially great problems in Brazil as adverse treatment on the basis of race depends on the situation, the classifier, and other variables. Unlike sex, the lack of discrete racial categories with precise boundaries and the existence of multiple categories make it difficult to define racial boundaries, which is necessary for policy makers deciding who will benefit from affirmative action and especially from quotas. In Brazil, the racial other, although often clear, is sometimes ambiguous. Therefore, race-conscious policies need some cutoff or threshold at which one is deemed “other” or not. In the United States, because segregation required clear classification rules, the old rules of classification became functional to the new correctives designed to restore racial equality. In Brazil, these have not existed.

Figure 10.2 compares racial classification and the white-negro divide in Brazil as used for race-conscious policies in Brazil compared to the black-white divide in the United States. On a scale with varying shades representing the extent of African admixture or appearance among the population, it plots the division between whites and blacks in the United States or negros in Brazil. Nearly everyone having African admixture in the United States is clearly black while persons with small amounts of African blood or appearance are often considered white in Brazil. The reality is even more complicated because many persons have indigenous admixture as well. Most importantly, though, the figure shows that while there is a zone of ambiguity in both countries, a considerably larger proportion of the Brazilian population falls into that zone. Despite the rhetoric of activists claiming that everyone knows who is black, the reality is far different, as I demonstrated in chapter 4.

Browns (*pardos*) have generally been included as negros in race-conscious policies, even though they do not generally perceive themselves as negros. However, given strong data indicating they suffer socioeconomically because of racial discrimination, that seems justified. But besides browns, do we include or exclude the large proportion of Brazilians that call themselves *morenos* or whites that claim to have black ancestors? Certainly, in the legal cases against the State University of Rio de Janeiro, such persons have claimed that they should be. As in the case of antiracist law, we might call this a “mulatto defense.” Additionally, what about persons that look like soccer star Romario or model Carla Peres, who are generally considered white but have a parent who is clearly mulatto? Although race did not seem to hurt them, could not someone of similar appearance argue that they are disadvantaged because their father was hurt by racism and could not adequately provide for his family? Where do we draw the line between beneficiaries and dominant-group members in the absence of clear rules for making racial distinctions?

The criteria of self-identification, more so than any other criteria, seem to have become well accepted in Brazil and around the world.<sup>42</sup> However, this criterion is problematic, especially because it may not reflect one’s classification by typical members of Brazilian society. Its ambiguity is highlighted by President Cardoso’s speech reserving slots for blacks in the Foreign Diplomacy School. He announced:

The criteria of Brazil is a criteria of self-identification. There is no discriminatory criteria: this one is white, this one is *moreno*, this one is mulatto, this one is yellow, this one is negro. Because that is too difficult. The rainbow is too large. But each one knows their own identity or one they would like to have and they should apply according to their cultural preference, and naturally, based on their life trajectory and some physical characteristic, though not necessarily.<sup>43</sup>

As shown in chapter 4, about 40 percent of self-identified whites in the state of Rio de Janeiro similarly have no problem admitting that they have black ancestors. Darkening one's identification to benefit from affirmative action is a clear possibility for many Brazilians. Since the Brazilian system is based on appearance rather than ancestry, the potential opportunity of having a quality university education for free may lead some former "white persons" to declare themselves as black or brown. For the first time, having black blood may thus offer a strategic advantage. Even Fernando Henrique Cardoso claimed to have "a foot in the kitchen"—meaning he had black ancestors—when he sought black votes for his reelection in 1998. If the president would seek to benefit from such a racial opportunity, why would not many Brazilians who normally consider themselves white?

While I do not think anywhere near the 40 percent of whites in Rio de Janeiro with African ancestors will seek to identify as negro, I do believe that Brazil's ambiguity could present a major challenge to the implementation of racial quotas. In a conversation I had in 1999 with Januário Garcia, the photographer of a program (CIDAN) that has promoted hundreds of black models and actors by putting their photos and resumes on a Web site, he related at least one incident of such ambiguity. Garcia told me that a young man whom he described as clearly white and "surfer-looking" came in asking to be photographed for the Web site. Garcia carefully asked the young man if he knew the purpose of the program and the model responded, "Yeah, I know. My grandmother was a negra, so I guess that makes me a negro." Januário thought, who was I to decide whether he was a negro? So he photographed the model and posted his picture, with résumé, on the CIDAN Web site. However, a perusal of the CIDAN Web site reveals that the vast majority of persons who availed themselves of this free service to promote negros, could easily be classified as brown or black.

Defining black in Brazil may be just as hard as defining who is "high yellow" or "dark black" in the United States, whereas the more general category of "black" in the United States is facilitated because of the one-drop rule; however, a handful of cases demonstrate ambiguity even in the U.S. case. In Massachusetts, a well-known case involves two brothers who were rejected from the Boston Fire Department but reapplied as blacks, claiming that they discovered a great-grandmother who was a light-skinned black; they were later hired. In another case in Washington state, allegations of "racial fraud" led employers to survey employees and request documentation to support the accuracy of self-identification in categories covered by affirmative action.<sup>44</sup> At the conclusion of the survey, 2.5 percent of employees changed their racial status.<sup>45</sup>

Given the extent of racial ambiguity, the magnitude of this problem is likely to be much greater in Brazil, especially in the Northeast and at the working class level. On the other hand, there is relatively little ambiguity among the university educated. Indeed, the consistency of classification between interviewers and university-educated respondents along the white-nonwhite divide in the southern regions was about 98 percent. Where ambiguity is especially likely to be great, though, Brazilians need to find creative solutions. One solution offered before the emerging consensus on self-identification was to include color on one's official identification, which is often based on information from the birth certificate.<sup>46</sup> However, this is problematic because it assumes that racial classifications are rigid and essential. Also, Brazilian parents have long sought to whiten children's color classification on birth registrations, from which all subsequent registrations and racial identification would presumably be drawn. Another proposal, said with some tongue in cheek, by some black activists is to hire doormen or police consultants, because they never seem to err in classifying negros. However, there is likely to be variance and arbitrariness in their decisions as well.

Given that self-identification seems to have been most widely accepted, administrators of these policies have sought further means to assure their viability. Claims that whites would not want to classify as negros because no one wants to be *negro* in Brazilian society, or that the social consequences of classifying as such are too great, may not always hold water. The potential benefits are especially great and besides, who would know other than the admissions officers? Certainly not the police or doormen that apportion negative consequences. A professor at the University of Brasilia more reasonably claims that "white" opportunism in using racial quotas may occur, but these problems should not be anticipated. Instead, he recommends evaluating the efficacy of these policies, including the extent of their abuse, after several years.<sup>47</sup>

Another solution is to provide personal-background statements and supply color photographs with job or university applications to help establish legal and administrative mechanisms to adjudicate challenges on a case-by-case basis. Hiring and admissions boards might also include blacks and others sensitive to these issues. Rio de Janeiro's state secretary of science and technology had previously disagreed with the criteria of self-identification and proposed, perhaps flippantly, creating a commission to establish the legal criteria; this commission would consist of geneticists, anthropologists, and black-movement activists. Once the self-identification criteria was established, he threatened to punish anyone found to be lying about their color on university applications under the laws governing fraud.<sup>48</sup> However, another state university representative

correctly noted that many persons who would normally be classified as white could never be proven not to be negro.

Still, another possibility is to make quotas or goals generous enough that both whites who become nonwhite as well as persons that are socially considered to be black or brown can be accommodated. The problem is that nonwhites may lose out if there are no mechanisms to assure that they benefit. Similarly, programs for both the poor and negroes may be more politically viable in some places, but such programs must be vigilant that poor negroes benefit. Finally, the issue of skin color should be somehow considered. Programs for negroes are likely to disproportionately benefit lighter-skinned persons, so correctives should be considered, to the extent possible.

The 1990 Americans with Disabilities Act (ADA) may provide lessons for dealing with classificatory ambiguity. This North American law prohibits discrimination on the basis of disability and defines a disabled person as one who has a physical or mental impairment that substantially limits one or more major life activities; has a history or record of such an impairment; or is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered but deals with challenges regarding qualifying disabilities on a case-by-case basis.<sup>49</sup> Critics of the ADA claim that it is fraught with misuse by persons who demand ADA coverage for being overweight, having “bad backs,” or “emotional problems.” However, according to the ADA home page, there have been surprisingly few such cases brought forth more than a decade after its implementation.<sup>50</sup> Deciding who is black in Brazil may not be altogether different. When abuses are reported, further investigation is then appropriate. In a large majority of cases, there is no doubt about who is negro or white in Brazil. The problem lies with those in the grey area between the two categories. In most of those cases, a claim for blackness must be accepted since there is no rule about who is black, except perhaps by resorting to an undesirable blood-quotient rule. Provided the quotas are generous enough to give such persons the benefit of the doubt, these problems might then be minimized.

#### SPECIAL CONSIDERATIONS FOR DESIGNING RACE-CONSCIOUS POLICIES

In designing race-conscious policies, whether for college admissions or the labor market, at least three additional factors should be considered: the need for regionalization, the special case of black women, and the legal status of these policies. National and even state policies mandating quotas obviously need to be sensitive to the racial composition of particular places, which varies widely in Brazil. Specific quotas or goals should

be appropriate to the local racial composition. For example, the equivalent to a quota for Rio de Janeiro, which is about 45-percent white, should be higher in Bahia, which is about 25-percent white, but lower in Rio Grande do Sul, which is about 80-percent white. Policy makers need to be especially attentive to the number of black students already in the universities, which they often underestimate. For example, in 2002, the State University of Bahia established quotas requiring that 40 percent of newly admitted students be defined as black or brown—the same proportion that had been established for the State University of Rio de Janeiro. However, a census of students there found that more than 40 percent of those already enrolled were black or brown, based on self-classification.<sup>51</sup> This also raises the question of racial classification itself. Could it be that identifying as black or brown is more highly valued in the university setting than in the rest of Brazilian society? If so, such data may overestimate the number of students in Brazilian universities who are socially defined as nonwhite. On the other hand, the State University of Rio discovered it had set its quotas too high in 2001 and lowered them and limited them to negroes for 2003. In that case, administrators discovered that applicants that previously identified as white were encouraged to reclassify as brown to improve their chances of gaining admission.

The political and economic costs and opportunities for implementing affirmative action may also vary by region. This is an important consideration that thus far has received little attention. Political support for affirmative action is more likely in places where blacks are a numerical minority like the southern region, since the costs are less, white-nonwhite distinctions are clearer, racial animosity is greater, and one can document a history where whites were explicitly favored through preferential immigration and land distribution. It seems especially difficult to implement affirmative action in the North and Northeast where negroes or blacks and browns are a majority, white-nonwhite distinctions are more difficult, and opportunities are fewer. Solutions are thus likely to vary by region.

Mechanisms should be built into policies to insure the inclusion of black women who are at the lowest position on the economic ladder, among all race and gender groups. Dark-skinned women in Brazil are the poorest of the poor. They confront greater health risks, are especially affected by poor reproductive-rights policies, are severely isolated, and are more often subjected to violence. Also, black women are especially likely to be single without husbands, who, for better or for worse, contribute the largest share of income in two-parent families. Therefore, universal policies directed at the poorest will especially help black women, but such policies need to be sensitive to the race-gender issues of black women and must be sure to reach this population. In terms of race-conscious policies, like quotas, it is important that gender bias be monitored. As legal

scholar Kimberlé Crenshaw argues, the intersectionality of race and gender simply does not exist in the affirmation-action policies in U.S. law. As far as I know, it does not in Brazil either. There are laws and policies that seek to guarantee rights and protect against discrimination for women, and there are others for blacks, but these often better protect black men and white women than black women.

The legal status of the policies instituted thus far by the federal government are questionable regarding their permanence and enforceability. The affirmative-action policies of the Ministries of Agrarian Development and Justice are administrative decrees, which are very fragile from a legal perspective and can be fairly easily challenged. Ministerial decrees are fourth-level legal acts preceded in ranking by the Constitution, laws voted by Congress, and presidential decrees. Affirmative-action legislation is thus particularly important, as recent gains have come largely through the executive decisions and, although unlikely, could be undone by future administrations.<sup>52</sup> A black-movement organization, the National Office of Black Issues (Escritório Nacional de Assuntos Negros-Zumbi dos Palmares-ENZP), was established in 1999 to work with and educate members of the national Congress to help establish such laws, but it survived only two years. Their work was patterned on the women's-rights NGO, the Feminist Studies and Assistance Center (CFEMEA), which has worked closely with Brazil's national Congress on women's issues since 1992 and consequently has helped design hundreds of laws, including quotas for women, which together comprise some of the most progressive women's-rights legislation in the world. Getting the national Congress to enact further race-specific social policies may be a taller order, considering the elite's historic ideology about race.

### ELIMINATING RACIST CULTURE

Finally, the third major problem in Brazilian race relations is its racist culture. Elimination, or at least reduction, of racist culture and the establishment of genuine universalism thus presents the greatest challenge for the long term. While bold and effective policies might attenuate the effects of the glass ceiling and Brazil's hyperinequality, only massive educational and media interventions, as well as exemplary leadership, could possibly change a racist culture. Media and educational institutions are particularly powerful in the socialization of children and the images they absorb about nonwhite people. The effort to change this image is already underway in schools with the elimination of racist school textbooks, requirements to teach about African history and culture, and teacher training.

Relatedly, media representations must foster Brazil's multiracial character and egalitarian goals, and stop promoting the ideal of whitening. The experiences of the United States would surely make one skeptical of whether this can be done. Negative images of minorities in the media continue to promote racism, although some positive ones may have helped, especially in reducing the most blatant forms of racism. Several Brazilian scholars believe that media efforts would be more successful in Brazil because there is a shared value of racial democracy, which gives that society better raw material for building a system of racial justice. I agree that the attitudes of Brazilian whites place a great value on antiracism, although I am skeptical about whether individual behaviors will change much, given the benefits from racism and the entrenched common sense about the appropriate place of blacks and whites in the racial hierarchy. Will prolonged affirmative action eliminate racism in Brazil? Probably not; but its virulence may decrease. Affirmative action and various forms of antiracist educational campaigns have not eradicated racism in the United States, but the more egregious and explicit forms of racism seem to have decreased.

State collection of racial data is thought to be especially problematic because it reifies the use of race and thus all its negative consequences. Since race has no scientific validity but has been used socially to divide and stratify humankind, ideally we should probably deracialize, starting by no longer collecting race data. This was also an argument made by proponents of California's Racial Privacy Initiative in 2003, which proposed eradicating most data collection on race in that state. Indeed, the liberal French model has long held that France comprises only French citizens and there are no racial distinctions, therefore race data is not collected in France.<sup>53</sup> This may also be part of the rationale for not collecting race data by most Latin American governments. Gilroy (2000) has argued for this approach, the idea being that if we stop talking about race and collecting data about race, then we can get rid of race and racism. But is this really possible, since race is so embedded in the popular consciousness of societies that collect as well as those that do not collect race data? Racism is prevalent in France, throughout Latin America, and in the rest of the world, regardless of whether the concept of race is officially used or race data is collected. Racial profiling by state agents, in everyday interactions and in media images, persists despite the status of data collection. In the absence of data collection and state monitoring, racial injustices may indeed worsen as monitoring mechanisms would consequently be eliminated. Without such data, there is simply no way to know whether or not a society is progressing in the pursuit of racial justice.

Similarly, many analysts believe that we should somehow get rid of the concept of race altogether since it only creates injustices.<sup>54</sup> If we stopped

referring to it, the problem would go away. The Brazilian case has shown that this is no solution. The Brazilian state avoided any explicit race-based intervention, against or in favor of blacks, for nearly a century. Nevertheless, racial discrimination and racial inequality have persisted. Race has been consistently used to exclude nonwhites throughout Brazil's history, despite rhetoric about inclusion. States must continue to collect race data and use race-based indicators to monitor inequality and injustice and make the necessary correctives. Societies need to notice race so that their members can learn to live more humanely with others that they consider different. Brazil, like other societies that are multiracial but now seek to combat racism, must walk a tightrope between continuing to use race, which reifies its use, and ending its use, which would allow racial injustice to run amok. As unsavory as race thinking may seem, real gains may require consideration of race for a long time before we can achieve a true racial democracy.

## NOTES

### CHAPTER ONE INTRODUCTION

1. This conversation was reported in *Harper's* (June 2002) but otherwise ignored in the U.S. media.
2. Massey and Denton 1994.
3. Pettigrew 1979; Bobo 1989; Massey and Denton 1994.
4. Gore and Figueredo 1997, 11.
5. Hasenbalg 1985; Motta 2000; Guimarães 1999.
6. A notable exception, Sansone's (1996) work defies easy categorization into the two stages. He describes social spaces in which black persons face distinct disadvantages, the labor market, marriage, and relations with the police, or those where race makes little or no difference as in religion, leisure, and friendships.
7. In several published replies, including my own, Bourdieu and Wacquant are vigorously challenged for not understanding the Brazilian realities and the literature (French 2000; Hanchard 2003; Telles 2003).
8. In particular, see Gordon 1964. Also Massey and Denton 1994.
9. The large and growing Latino and Asian populations add another layer of complexity to race in the United States (as do Asians in Brazil), but I focus on black-white relations for the purpose of comparing race relations that evolved from the African slave trade.
10. Perhaps most important in the past twenty years is Carlos Hasenbalg. Although an Argentine national, he resided in Brazil in the years prior to his 1979 classic and has resided there ever since, producing pathbreaking texts on race until the mid-1990s.
11. Degler 1986. On the other hand, Andrews (1991) begins to describe United States-Brazil differences based on available quantitative indicators.
12. Bacha and Taylor 1976.
13. Based on personal interviews with Ivanir dos Santos and Romero Rodriguez.
14. This includes books in English by Lesser (1995, 1999) and Warren (2002).

### CHAPTER TWO FROM WHITE SUPREMACY TO RACIAL DEMOCRACY

1. Schwartz 1993, 11.
2. Curtin 1969.
3. Literally, Dom José, the King of Portugal, proclaimed "let it be known to those who hear my decree that considering its benefits that my subjects residing in America populate themselves and to this end join with the natives through

5. The total population of the seventy-four areas represented 42 percent of Brazil's total population and 62 percent of its urban population in 1980. Since the sample is a 25-percent sample of the census, the number of couples ranges from 107,992 couples living in São Paulo to 839 couples in Marília, averaging 10,055 couples per metropolitan area. See Telles 1993 for more details about this methodology.

6. Another possible explanation for such high rates of intermarriage might consider that many marriages in Brazil as recorded by the census are informal rather than state or church sanctioned. A separate analysis of 1991 Brazilian census data showed that endogamous marriages were most likely to be official, but most intermarriages were official as well. The largest racial differences were for white couples, where 19 percent of unofficial marriages with other whites were consensual compared to 33 percent of those with browns and 42 percent of those with blacks. On the other hand, only 28 percent of endogamous brown marriages were informal compared to 33 percent of brown marriages to whites and 45 percent of brown marriages to blacks. Thus, there is some support for this hypothesis.

7. I limit figure 7.3 to urban areas that are less than 20 percent brown or black because the black population of the seventy-four Brazilian urban areas never exceeds 17 percent.

8. Frazier 1942; Willems 1949.

9. Bastide and Van den Berghe 1957; Andrews 1991.

10. Telles 1993.

11. Skidmore 1974; Degler 1986; Burdick 1998.

12. This cult of the mulatta is also found in Freyre (1986, 14):

in our national lyricism there is no tendency more clearly revealed than one toward a glorification of the mulatto woman, the cabocla or Indian woman, the brown-skin or brunette type, celebrated for the beauty of her eyes, the whiteness of her teeth, for wiles and languishments and witching ways, far more than are the "pale virgins" and the "blond damsels."

13. Lazo (2001) shows that by age fifty, 8.5 percent of black women had never been in a union compared to 6.7 percent of whites and 5.5 percent of brown women.

#### CHAPTER EIGHT RESIDENTIAL SEGREGATION

1. Veja 1992.

2. Pettigrew 1979; Bobo 1989; Massey and Denton 1994.

3. For a recent example, see Gans 1999.

4. Schnore 1965; Leeds 1974.

5. Caldeira 2000.

6. Ribeiro and Telles (2000) show that 70 percent of the population residing in Rio's favelas in 1991 are brown or black. L. Pinto (1953) showed a similar proportion in Rio with 1950 census data.

7. When I resided in Rio, the head of the drug traffic in Cantagallo was black while his counterpart in Pavão-Pavãozinho was a light colored *nordestino*. This example reveals one way in which poor communities are divided largely (but not strictly) by race. This information based on an interview with José Junior, January 2000.

8. In a separate article (Telles 1992), I calculated segregation indexes for the forty largest urban areas in Brazil.

9. Calculated by an average of 4.2 persons per urban household in 1980 and a range of 200 to 250 households per urban tract.

10. See Telles 1995 for a discussion of how these may have changed.

11. The formulas for computing both of these indexes are found in Massey and Denton 1994.

12. Incidentally, based on a preliminary analysis of the 1993 Survey of Employment and Unemployment in that city, I found several neighborhoods in Salvador, such as those in the Liberdade area, to be over 95 percent black and brown, a number that is unlikely to be found for other large metropolitan areas in Brazil.

13. L. Pinto 1953.

14. Cardoso and Ianni 1960.

15. Cardoso and Ianni 1960; Bastide and Van den Berghe 1957; Fernandes 1965.

16. Massey and Denton 1993.

17. Segregation scores for the lowest earning group (less than 75) are inconsistent with patterns observed for all other groups. This may be due to data errors in which a disproportionate number of respondents may have falsely reported that they had no or almost no income. See Telles 1992.

18. Agier 1992; Sansone 1997, 2003.

#### CHAPTER NINE RETHINKING BRAZILIAN RACE RELATIONS

1. Massey and Denton 1994.

2. Marx 1998.

3. On this point, I have no direct evidence but I rely on the findings of others, especially Sansone (1999).

4. Steinberg 1991.

5. Sansone 2003.

#### CHAPTER TEN DESIGNING APPROPRIATE POLICIES

1. See H. Silva 1998a for a description of these laws.

2. These definitions are from Resnick 1998.

3. See for example Barbosa 2000; Mitchell 2002; Sorj 2000; Rascussen 2000.

4. *O Dia*, July 22, 1998. Interestingly, this case reveals contrasts in black

political solidarity and the sensitivity of the records market to black consumers in the United States and Brazil. Tíririca's supporters throughout the court case included many black (negro) children and adults, including internationally known black musicians who testified on his behalf. Also, it is not likely that Sony Music, or any other reputable record producer, would have produced a song with such racist lyrics in the United States, and if they did it would certainly not raise such an ardent defense as it did in this case. Such actions would seem suicidal for any company's ability to compete in the U.S. market. The fact that Sony acted this way suggests that similar sanctions do not operate in the Brazilian market, and racial issues are remote to the interests of the huge North American record market, and to U.S. civil-rights groups, despite the rhetoric of Afro-diasporic brotherhood.

5. The well-known songs "O Teu Cabelo Não Nega" (Your Hair Doesn't Negate It) and "Nega de Cabelo Duro" (Hard-Haired Black Girl) were raised by the judge as prominent examples.

6. Estado do Rio de Janeiro, Poder Judiciario, 1a Vara Criminal de Jacarepaguá, Processo 11.257-Inquerito Policial. 1997.

7. *Folha de São Paulo*, July 9, 2001.

8. Winant 2001.

9. *Folha de São Paulo*, July 9, 2001.

10. Based on correspondence from James Cavallaro. Most cases against Brazil make use of an exception to domestic remedies that must be exhausted by claiming that cases against Brazil are generally unduly delayed.

11. "Violação de Direitos: Brasil é processado por violência policial e racismo," *Consultor Jurídico*, February 15, 2002.

12. Letter signed by representatives of the affected communities, the Global Justice Center, the Human Rights Society of Maranhão, the Center for Black Rural Quilombo Communities of Maranhão, the Federation of Agricultural Workers in Maranhão, and Global Exchange, to Ambassador Sergio A. Canton, Executive Director of the Interamerican Commission of Human Rights, August 16, 2002.

13. J. Barbosa Gomes 2001.

14. See, for example, Ventura 2000.

15. Oliveira 1999. Incidentally, the advertising company denied being racist, alleging that it represented a reality in which nearly half of the prison population in the state was black. They also claimed that it was not depicting a black person since the photograph was of a Brazilian model whose birth certificate classifies him as white.

16. Schuman et al. 1997.

17. For an explanation of Colombia's experience, see Gutierrez and Ortega 2002.

18. Exceptionally, Brazil's economic stabilization in the mid-1990s significantly reduced poverty rates, but since then, poverty rates have remained at 35 percent of the national population. See Pães de Barros, Henriques, and Mendonça 2001; Baer 1995.

19. Marques 2002.

20. Wilson 1996.

21. Queiroz (2000) shows that 40 percent of browns and 48 percent of blacks in 2000 at the Federal University of Bahia graduated from public secondary schools, compared to 19 percent of whites. See also [www.ufba.br/~acordaba](http://www.ufba.br/~acordaba).

22. There is also a political dimension built into such plans. By providing greater opportunities to students in poorer schools, it also holds the public system more accountable for providing quality education. If universities find that students from particular schools have particular problems, then the government should look to improve those schools.

23. Much of this diversity was created by the admission of students from schools that had rarely or never sent students to the University of Texas. For a review of this case, see Tienda et al. 2002.

24. Responding to critics of his strict universalist stance, Souza's ministry recently announced a program "to investigate access to higher education for afro-descendants and Brazilian Indians."

25. *Folha de São Paulo*, August 31, 2001.

26. Bowen and Bok 1998.

27. Figure 10.1 includes all persons declaring occupations and inequality is measured with odds ratios as described in chapter 5. Professional occupations in Brazil refer to the occupations described in chapter 5 and data are from the 1996 PNAD.

28. See E. Reis 2002 for empirical support of this argument.

29. *Gazeta Mercantil*, June 25, 2001.

30. Certainly, an increasing affirmation of blackness in Brazil may have occurred among a few college-educated nonwhites, who are especially aware of racism and the isolation that being black and middle class produces, but this has not necessarily translated into social polarization.

31. Barbosa Gomes 2001.

32. Instituto Sindical Interamericano 2002.

33. Guimarães 1999.

34. This denial of the role of racism by the left was a major factor in the dismantling of the Municipal Secretariat of Black Community Affairs in Belo Horizonte, according to Moreira 2002.

35. Telles 1996.

36. Young 1958.

37. Hauser 2001.

38. Gurnier and Sturm 2001.

39. Telles and Bailey 2002.

40. This represents about half of Brazil's black and brown population.

41. Ricupero 1993, 1998.

42. The ICERD also requires race to be based on self-classification, maintaining that this is an individual's right.

43. Presidential speech, December 20, 2001.

44. Bruce 1998; *Boston Globe* 1999.

45. Another 7.5 percent changed other stated characteristics, particularly veteran status and disability, that would have given them an affirmative-action preference.

46. Escóssia 2001a. Benedita da Silva had proposed a similar solution in the mid-1990s.



47. *Correio Brasiliense* 2002.
48. *O Globo* 2002.
49. The Brazilian law defining who is disabled more clearly defines qualifying disabilities.
50. At [www.usdoj.gov/ert/oda/ada.hom1.htm](http://www.usdoj.gov/ert/oda/ada.hom1.htm).
51. Figures by Queiroz (2000), also available at [www.ufba.br/~acordaba](http://www.ufba.br/~acordaba). It is important to note that prior to quotas many students at universities, including those that are fairly elite, are black or brown. However, representation varies widely by the competitiveness of the field of study. For example, 20 percent of undergraduate students in the Federal University of Rio de Janeiro are negros; and 32 percent at the University of Brasilia is negro, but they represent only a handful of medicine and engineering students. However, these numbers, which are surprising to many, raise the issue of whether darkening, for the first time, is desirable and occurring in the university context. Although we do not know for sure, these numbers could therefore be overestimating the number of negros, compared to those that are categorized as such in most other social contexts.
52. There are currently two bills being considered in Congress: one by Senator José Sarney, which proposes that 20 percent of university slots in all Brazilian universities and 20 percent of all civil-service posts go to blacks and browns; and Paulo Paim's Statute of Racial Equality which establishes more ambitious quotas for university, civil service, political parties, films, advertising, and TV programs, as well as reparations of about 102,000 Reais for all "afrodescendants," an obligatory course in the school curriculum on Africans and blacks in Brazil, an ombudsman for race in Congress, and land grants to descendants of *quilombos*.
53. Galap 1991.
54. For an example, see Gilroy 2000.

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