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2016

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### Recommended Citation

Toves, Taylor and Belk, Adolphus Ph.D. (2016) "The Case of Affirmative Action in Undergraduate Admissions: United States and Brazil," *The Winthrop McNair Research Bulletin*: Vol. 2, Article 12. Available at: <https://digitalcommons.winthrop.edu/wmrb/vol2/iss1/12>

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# The Case of Affirmative Action in Undergraduate Admissions: United States and Brazil

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## ABSTRACT

In the realm of higher education, Affirmative Action has been a matter of dispute amongst college administrations, state legislatures, and even the Supreme Court of the United States. Affirmative Action was created in order to help ensure that underrepresented groups have a fair chance at obtaining a college education. This has not only affected colleges and universities in the United States but also Brazil. This research did a cross-country comparative analysis of two nation states that possess a similar history when it comes to race relations and how that has affected the condition of equity in higher education. Though both countries have had similar histories, the story of affirmative action has played out in very different ways. This research showed that while affirmative action has been established as a proper way to address historical wrong-doings for certain groups of people, that notion has not yielded the same results in the United States. The United States chose to take a more conservative political and judicial approach when examining the use of affirmative action for college and university admissions. Affirmative action has gradually deteriorated over the years in the United States and will continue to deteriorate, while still progressing and continuing in Brazil.

## INTRODUCTION

Race and race relations vary among countries, but in some instances are very similar. In the case of Brazil and the United States, race has been a factor that has influenced and shaped both societies from their founding until present day. This is especially apparent when it comes to the affirmative action debate. The intent of affirmative action in both nations is to bring equity and opportunity. There are several ways in which affirmative action is defined but in essence, it is a program to aid racial and ethnic minorities that have been historically disadvantaged and oppressed.

Affirmative action in both Brazil and the United States is both innovative yet extremely controversial, particularly in the case of university or college admissions. These programs tend to aim at African Americans and minorities in the United States and Afro-Brazilians, indigenous, and other darker skinned peoples in Brazil. The ongoing issue remains in both countries: who should reap the benefits of affirmative action and is this type of program a step backward in remedying racial discrimination? These countries have

approached this program in different ways and the program has continued to both advance but also face some challenges. The purpose of this literature review is to acknowledge the research that has been done by various scholars in the area of affirmative action that use race in the determination of college admissions in Brazil and the United States. The research question this comparative analysis hopes to give some theoretical sustenance to is: Through the comparative analysis of affirmative action programs for undergraduate admissions in Brazil and the United States, what are the conditions or circumstances under which affirmative action can be successful or will become dismantled in both countries?

In order to examine these research questions further, a theoretical framework is helpful in understanding why these countries operate in the way that they do. When trying to understand affirmative action in both Brazil and the United States, it is important to get a better grasp on the historical significance of race relations and racism in their respective countries. There are a few theoretical frameworks that can be used as a lens in which

to look at race and how it developed in these countries comparatively and independently. Political Scientist Mack Jones explores the theory of dominant-subordinate. He explained that too often there are theories such as the “melting-pot” theory, which does not frame the conversation of black politics in a constructive and progressive way. Jones believes that the most effective way in which to understand and look at black politics is the dominant-subordinate theory. This theory comes from the idea of a power struggle between two groups. Jones theorizes that the arena of black politics is an addition to the universal struggle for power (Jones 2014). The way in which this power struggle typically works in politics is that one group is fighting for policies, which will enable them to keep their position of power, whereas the other group is fighting for policies that will enable them to move from the position in which they are in. Blacks in the United States are in the subordinate group because of their ancestry and the history of their people being treated as less than or not equal. Whites in the United States are put into the dominate group because of their European ancestry in which their ancestors have always held the position of privilege and taking away rights from others in order to maintain their privilege. Jones defines a pattern in which both dominant and subordinate groups go from moderate positions on policies that will affect blacks and other non-white groups, to extremely radical. These patterns are helpful in understanding why certain groups act the way they do. For example, when there were policies that were being proposed discussing integration, there were some white Americans who were for it, but there were a large majority who were very much against it. They were against it because if integration occurs that means African Americans and other non-white Americans, the subordinate group, are one-step closer to moving up from the subordinate position to an equal stature. Jones’ work is especially helpful in understanding why racism still plays a large role both socially and politically in every institution in society.

In Brazil, race and racism plays out in a slightly different way, yet remains similar in some ways. Scholars, such as Anthony Marx

(1998), who studies nations comparatively such as the United States and Brazil, explained that since Brazil ended slavery, the country has been established under a false sense of racial unity. Brazil’s main goal after slavery was abolished was to establish a sense of nationalism and unity. Brazilian government officials did not create laws that excluded other races besides the white Brazilians in order to avoid conflict. So while Brazil has never had any formal laws that explicitly discriminated against other races; the culture itself is full of discrimination. Brazil’s racism has never been as transparent as the United States.

These various frameworks draw attention to the main themes that are used to describe racism and the conditions of race in both the United States and Brazil. Each of these theories can only help us understand some parts of affirmative action in both countries. In order to have a well-rounded perspective of how racism affects institutions and the people apart of these institutions, through programs such as affirmative action, the use all of these theories collectively is necessary. Race is a systemic and institutional construct and has continued to shape institutions in both countries presently. Ultimately, racism is a continuous power struggle between races that believe they are superior and want to remain dominant, while other races are suffering due to the other race’s quest for domination and power.

## METHODS

This project uses a qualitative comparative in-case analysis. This type of analysis enables analysts to provide a certain thickness or depth that quantitative research cannot fully grasp. There is a lot of value in studying a small number of cases. A thick description of the material for a small number of cases, rather than large, allows for more detail about why a certain phenomenon is happening, how that phenomenon came to be, and allows for predictions about what may happen in the future. This method is especially useful for my particular case.

The cases that I chose were the United States and Brazil. The United States and Brazil are usually studied together in comparative

politics because they are large multi-racial societies that have long standing issues with racism. They are very similar in the context that both nations struggle with racial domination; however they are different due to the way they have been handling this issue politically. It is hard to understand how two countries who had very similar historical beginnings with racism end up with different outcomes; in this instance affirmative action. That is why using qualitative comparative in-case methodology is the best fit for this project. Again, by really getting the details and tracing the history of race relations in each country, it helps piece together why things are playing out the way that they are.

This study focuses on affirmative action within higher education in Brazil and the United States, more specifically, undergraduate admissions. Affirmative Action is a policy that was developed to provide equality through institutions such as employment and education. Affirmative Action is something that both nations use in each of their countries, but they have taken different directions in the way that it operates. In the United States there has been a wave of support and opposition to it and has always been strongly against quotas. Whereas Brazil has opted for using quotas in their affirmative action policy. This study hopes to provide some insight as to why these countries have taken very different approaches towards affirmative action and what affirmative action may look like in the future for each country.

Even though this study is using a qualitative approach, there are a few disadvantages. One of the disadvantages of using this approach is that it cannot necessarily be generalized to other cases. However for the purpose of this project a qualitative route is more beneficial. The limits of a quantitative approach for this project is that it is difficult to quantify thoughts and thought processes. It would be hard to put into numbers why individuals think the way that they do. Qualitative methods allows room for exploration into those things that cannot be really explained numerically. That is why the methodology for this particular case is the best fit.

Affirmative action first began in the United States as an initiative to provide equal opportunity when it came to employment: Executive Order 10925 in 1961. Executive Order 10925 was enacted by President John F. Kennedy to enhance the equality of job employment that did not discriminate based on race. Eventually affirmative action policies started being implemented in university admissions, and there were a number of Supreme Court cases in the United States that challenged the fairness and constitutionality of race-based affirmative action. One of the highlighted cases that set precedence for all other affirmative action cases was *Baake v. Board of Regents* in which the Supreme Court essentially found that universities can use race in the admissions process but it must be used in conjunction with other factors. One of the challenges that the United States has faced when it comes to the use of affirmative action is it seems as though through various affirmative action cases that a consensus could never be drawn on the conditions in which race should or should not be used in college admissions. The Court decided that either strict scrutiny had not been applied or the right level of strict scrutiny had not been used appropriately. This continues to be a problem between the Supreme Court and the lower courts.

Affirmative action did not take effect until much later in Brazil. Before affirmative action, Brazil did not have any formal laws set in place that addressed race. Affirmative Action in Brazil has taken a slightly different route that the United States remains strongly against: quota systems. After decades of black Brazilian movements that had been pushing for equality and trying to gain the government's attention about the inequalities that afro-Brazilians and indigenous people still face on an everyday basis, affirmative action was introduced as a catalyst for change. The push from the black Brazilian movements made the Brazilian government finally assess the race situation that they had long been avoiding. Affirmative action policies in regards to higher education did not come into effect until 2003 when President Luiz Ignacio "lula" da Silva took office. Affirmative action policies were not implanted until

President Lula's presidency in 2001. One of the first initiatives that Lula created in the early wake of his presidency was form the Special Secretariat of Policy and Promotion of Racial Equality (Contesting Dev. Chp 13). This new asset to the Brazilian government was created to promote racial equality in Brazil, something that Brazil lacks much of.

A program which stemmed from the new Secretariat was ProUni. ProUni, also known as University for All, is a scholarship program created to serve those students which come from low income and impoverished areas. The program helps prepare them to become more ready and prepared to enter the highly competitive higher education arena. In conjunction with ProUni, a formalized affirmative action policy was set in place. The Rio de Janeiro State Legislative Assembly passed a quota law that required that forty percent of the applicants at public universities and colleges be Afro-Brazilian or indigenous descent. A large reason for the quota system was the disparity in numbers of Afro-Brazilian and indigenous students in higher education and the balance between public/private school students (Grammar Identity). The percentage in the amount needed to increase Afro-Brazilian and indigenous students would vary on the state due to the racial makeup of that state. The first university that implemented affirmative action policy was the University of Brasileria. Slowly other universities in Brazil started adopting these policies as well.

Another policy that universities that began to include along with quotas was giving bonus points on the competitive entrance exam in Brazil called the *vestibular* (Race-Based). This test would be the American version of college entrance exams such as the GRE. The vestibular is extremely competitive. Students coming from the private schools are usually more prepared due to the curriculum taught there and their families tend to have the financial means to pay for preparatory classes (Race-Based). The curriculum of the public schools in Brazil sometimes does not prepare the students for the vestibular effectively and many of the students cannot afford to take those extra classes to help them. The extra

points on the test would allow more of the public school students to be admitted into universities. The argument that was made against this system by many, is that giving these students extra points to get them into a university does not mean they will necessarily be able to sustain their studies once they arrive and may eventually drop out. That is a valid assumption but there is also the possibility that the student may exceed expectation and be successful in their studies. The quota system and point system gives those students who may not have the best scores, socio-economic situation, and those that remain underrepresented, at least a chance of gaining a higher education in order to improve their situations.

President Dilma Rouseff took office after Lula da Silva and she continued the former president's work with affirmative action by signing a law in 2012 called the Law of Social Quotas (Telles 2013). The law stated that universities must accept fifty percent or half of their students from public schools. Afro-Brazilian and low-income students would greatly benefit from this law because most of the students coming from the public school are Afro-Brazilian, indigenous, and low-income students who cannot afford to go the prestigious private schools. The law requires that all the federal universities needed to be actively implementing this policy at their institutions by 2016.

A large challenge that affirmative action continues to face is identifying the students that will qualify to benefit from the quotas. In Brazil there are a various amount of ways to identify oneself. Some identities are by colors of skin and some are through ancestry. Negro, pardo, preto, Afro-Brazilian, and Afro-Descendent are a few ways to identify those that would be considered black by United States standards (Long 2013). Many students either do not want to identify as a darker colored person or black person because of the stigmas that come with identifying as such. To be black in Brazil is not seen as desirable to many. Black Brazilians are much lower in terms of income and also have an issue with being targets of police brutality. There lies the problem of some students

wanting to identify themselves to be black. A problem that has also transpired since affirmative action policies is that some students that are considered white that have mixed race ancestry or African ancestry, have started to take advantage and identify as Negro or black in order to receive the benefits of quotas. Many universities have incorporated using “photographs or interviews” to help in the admissions process when determining which individuals will meet the quota qualifications (Long 2013). This aspect of affirmative action is what makes things even more complex because of the many different ways that a student can identify themselves.

## DISCUSSION AND CONCLUSION

So far this paper has examined how affirmative action works in each nation, but more importantly to understand the direction that it may take for each nation, it is necessary to explain why the world has seen affirmative action take the course that it has through the political arena. To begin, in the United States, white conservative political interest have dominated the political arena. In the case of affirmative action the conservative viewpoint is especially interesting to analyze in relation to understanding why affirmative action has not played out in the most constructive way. The main argument of why race should not be included in affirmative action, or why affirmative action should not exist at all for those against it, is if the United States as a whole is trying to get beyond racism and discrimination, why use the very thing that causes so much disconnect as the basis towards equality for all? Minorities, especially African Americans in the United States continue to suffer from the political decisions of the past. The Jim Crow era in many respects caused more detriment to African Americans than slavery did. Jim Crow was two steps back since the abolition of slavery. Jim Crow created the environment that put African Americans at a great disadvantage that has resonated from generation to generation. Jim Crow not only caused physical separation among the races but also a separation that caused African Americans to fall into a place of mental slavery. Federal

laws were set in place to ensure inequality and keep some races at the bottom of the socio-economic ladder while white Americans had free reign to do as they pleased without fear. During the Crow era, African Americans were continually told that they were inferior and also shown that they did not deserve the same opportunities as white Americans had. That is still very relevant and apparent now. It cannot be denied that despite all of those obstacles there are some African Americans who have been able to reach those high goals and be successful, but collectively as a people there is still so much inequality that exists.

A famous quote that the conservatives use to guide their campaign for equality is through Martin Luther King Jr’s I Have a Dream speech, “...to not judge them by color of their skin, but by the content of their character (I Have a Dream).” They use this quote as a mechanism to show the country that affirmative action is counteracting what King believed in and dreamed for this country. He did dream and hope for the United States to reach a place where this idea exists, but unfortunately it has not happened yet. Dr. King and many others knew that dream would not happen within a few years. It has been fifty one years since the Civil Rights Act of 1964 and fifty five years since King’s speech; the work is far from being over. Since the conservative Reagan administration, the notion was that the United States would be a color-blind society if they took out affirmative action. Then race would not matter and everyone would be equal. That is something that the United States can strive towards but many doors need to be opened in order for that to happen. The only way for any situation to turn around and become better, is to attack it full on. The United States continues to have an issue with race because most of the American people are tired of talking about race and have settled to accept that things are the way they are. More conversation, interaction, and education between and within races is what can make policies like affirmative action successful. There is too much talking at each other rather than with each other. Regardless of race, when discussing race and racism it is so much easier to tell someone that they are wrong

and continue to remain in ignorance than working together to learn to value those differences in perspectives and use those as tools of empowerment. For example in the civil rights movement, it was not just black Americans that were protesting and fighting for equality—it included white Americans as well as other minorities. It was a collective effort.

Alternatives to affirmative action connects with Ronald Walters's theory of white nationalism of how racism discretely transpires through public policy. The Bush brother's percent plans are a perfect example. Their plans centered on the idea of removing race from the equation by "playing it safe" and remaining neutral on the subject. White nationalists appear as though they are fighting for policies that fight for equality for everyone, but when a policy leans a little more towards people of color, they detract. They want to foster the idea of equality without having to bring race into the picture. The point is you cannot bring about equality without understanding the decades of oppression that a race went through and the long term consequences that remain with them. The political leaders that have the power to bring about meaningful change are too skeptical and apprehensive about seeming partial or giving preferential treatment to people of color. Affirmative action is not about "preferential treatment;" it is about justice. Justice has been served in small capacities but affirmative action, especially in higher education, is one of the keys that can build a foundation for equality in all institutions of society. The things that are taught in college are not only what lead people to success but to remain successful, and if they fail, they have learned those necessary tools to build themselves back up. Higher education is one of the most valuable opportunities. It opens up endless possibilities that many people of color would never have aspired to dream of because society has instilled in their minds that they are set up to fail before they even get the chance to try. When they achieve success and know how to manage it they can take what they have learned and take it back to their communities. The more minority students that are able to enter college and going on to establish a

successful life, it will become a chain reaction and break the generational curses of oppression.

Laws intended to foster discrimination, such as Jim Crow, have long been removed; however that does not mean that the legacy of those laws have died. It is hard to understand how a nation who has suffered from an extensive history of racial domination and discrimination would not want adopt policies that would give people of color chances at a more successful life through things such as the importance of higher education. Slavery and more importantly the era of Jim Crow has stripped away at the minds and well-being of African Americans. There are different kinds of privilege and that is something that needs to be understood when examining why affirmative action is so important. Those that are strongly against affirmative action do not always take the time to bring those small details into consideration. African Americans and minorities do not have the same level of privilege when it comes to race. This is largely due to the stigmas and stereotypes that were given from the start of slavery throughout the years and have since stuck with them.

The discrimination that effects Afro-Brazilians and others of color in Brazil is very similar to the discrimination that African-Americans and people of color experience in the United States. However there was not a formal period of discrimination like Jim Crow in the United States. Some Brazilians are starting to realize that the nation has in fact been discriminating against an entire group of people because of their ancestry and skin color more than anything through everyday racism. Through the literature it has been continuously found that Brazilians believe that they do not discriminate because they encouraged the races to mix and marry and there has never been formal separation. However Brazilians have practiced systematic racism through encouragement of racial mixing. Interracial mixing was systematically intended to remove an identity of a whole race of people in order to achieve, in their minds, a completely European, white Brazilian society. Their thought process was that if the races continued to mix for a certain amount of time, all of Brazil would be

one race and have the physical European aesthetics, which would bring the nation together as a unified body. It was even made known to the world more than a century ago at the Universal Races Congress that by 2012 that not just the black race, but the mixed race as well would become obsolete (Nascimento 2006). This was quite the opposite from the United States which at one time prohibited interracial marriage. The United States' goal was to keep the races completely separate; Brazil's goal was to unify the country through robbing an entire group of people of an identity as if they had never existed. Brazil has prided itself on being very different from the United States on the issue of race and racism. However, as a nation they do not realize that they have been guilty of the same thing. The distinction and value of skin color is something that Brazilians feel very strongly about. The lighter the skin, the more "Brazilian" one is. It has been engrained in all the races' minds that white and lighter skin is what makes you a true Brazilian. Medium skin tones, or brown, are viewed as closer to white but still not white enough. The darker skin tones are undesirable and seen as less Brazilian. More importantly not many people want to claim that they are black.

Returning back to the heavy question of what are the conditions under which affirmative action may succeed or fail in each nation, it comes down to social movement efforts, particularly these college students are being discriminated against. Social movements focus on breaking down racial micro-aggression and racist stereotypes. Students who started the I too am Harvard campaign, inspired by Langston Hughes I too am America, uses micro-aggressions that have been said about them or to them to show the impact it has on society. This relates back to using race in affirmative action because if race was taken out of affirmative action, that does not remove the micro-aggressions or preconceptions that the individuals who determine who the college accepts when they are considering the students. Educating each other on differences of culture, perspective, and history seems like a redundant solution that has not seemed to work, but the work must continue until there is a

breakthrough. The same scenario is in Brazil, but their focus is more on reclaiming and finding empowerment through the Afro, black identity. In Brazil it is not just about claiming their blackness just to benefit from affirmative action, it is much deeper than that. Black Brazilians have felt ashamed and confused as to who they are and what it means to be black in Brazil. By claiming their identity' they are being empowered and embracing.

Affirmative action does not mean schools are just letting in people of color because they are people of color. Affirmative action creates opportunity. It's not about letting in less qualified. There are many qualified people of color that have just as good of scores and academic achievements of white people but they aren't represented at the university level. It's not just about getting minorities there and saying that that has met the need for diversity. More importantly it is about bringing attention, value, and knowledge into the classroom. The professors play an important role because they are helping feed knowledge into these young minds and preparing them about what will face them when they leave school. It's about diversifying perspectives more than anything. Affirmative action is very intersectional and there are a lot of components that go along with it. Race, class, gender are intersectional factors within themselves and when you decide to take race out, you take away from an even larger picture.

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