

# Racial Inequalities and Public Policies: Debates in Latin America and Beyond

## Debating Race Policies in Latin America

by ANTONIO SÉRGIO A. GUIMARÃES  
Universidade de São Paulo  
aguimara@princeton.edu

The winter 2008 issue of the *LASA Forum* discusses the legitimacy, justice, and appropriateness of the use of race and affirmative action in public policies in Latin America. The historical background for this discussion is the decision taken by the Brazilian government at Durban during the 2001 United Nations Conference on Racism and Intolerance to adopt affirmative action policies to cope with the country's racial inequalities. A measure that could otherwise be read as a diplomatic maneuver to alleviate international pressure became a genuine policy concern as several federal universities across the country introduced racial quotas, ranging from 20% to 40%, for the admission of black students. At the same time, the Ministry of Health undertook national campaigns focusing on diseases prevalent in the African Brazilian population. These events provoked a nationwide debate in the media, as well as within intellectual and academic circles, on the moral, ethical, legal, and scientific meaning of race.

The Brazilian case is both emblematic and singular in Latin America. Like other Latin American countries, Brazil has been formed as a nation under the republican ideal of a polity that should not recognize color, race, or religion (gender was later included in this list), as an important characteristic of citizenship. Race or color should not matter, although in practical terms they were accepted as having class consequences. Elites throughout Latin America subscribed to the view that class inequalities were the central obstacle to democracy inherited from the colonial past and the era of slavery. The ideal of a racial and national formation

came from France; that our Indigenous, Africans, and Europeans would enter the melting pot as had the Celts, Gauls, and Franks to form a unique people and a sole nation. This myth absorbed the imagination of our founding intellectual fathers, from Valadares, to Marti and Freyre. Moreover this difference from the northern, Anglo-Saxon states was the pride and joy of Latin America. Brazil, however, unlike all other states in the region, maintained the color names of races in its census and in some of its official statistics. Under the pressure of Negro mobilization and the growing denunciation of racial discrimination at private and public institutions, the Brazilian Congress passed laws against racial prejudice (1951), thus guaranteeing Brazilian racial democracy's recent acquired status as an example of racial integration and harmony. But eventually sociologists and economists destabilized prevailing orthodoxies through their multivariate studies of inequalities. Race as well as class affect the poverty, disease, unemployment, and urban degradation of blacks in Latin America. That is real. But is race real, and are racial policies ethically or politically feasible?

We commissioned four papers from authors with diverse backgrounds and experiences in Latin America to reflect on these questions. All of them have done some work in Brazil as well as elsewhere in Latin America, the United States, Europe, or Africa so as to give us more than a provincial perspective. As someone with a decade-long involvement in the study of race relations in Brazil and a personal commitment to the defense of race-based affirmative action policies I will do my best to present the authors' arguments in the most neutral manner possible.

All the contributors recognize that racial inequalities are a scourge in the democracies of the region, but they all have a different answer to the question posed most clearly by

Peter Fry: can race politics and policies reproduce race as a category and, by doing so, reproduce discrimination and racism at the same time?

In fact, Peter Fry, a long time resident and student of Brazil and southern Africa, argues against affirmative action on the assumption that the use of race in public policies reproduces racism. In his view, race is itself a product of inequality and cannot be used to combat inequality. Fry advises that we shouldn't engage ourselves with racial justice if we can experiment with other remedies. Fry looks to France for examples of what would be sound non-racialist policies to combat racial inequalities. But is there in the real world of politics a vicious circle of categorical racism? Does the belief in the existence of race and human color perpetuate racism? Is the belief in God sufficient to make a religion? I am skeptical. The other half of Fry's argument, one that is particularly appealing, is that there are other, non-racial, policies and instruments that can do the job of racial justice. This is a pragmatic argument. I would like to see the practical policies of distributive justice in place to evaluate its racial effects.

João Feres, a young political scientist from Rio de Janeiro involved in the study of affirmative action worldwide, seems to agree with Fry's argument concerning the iron cage of categorical inequality, but completely disavows the dismissal of affirmative action. Promoting racial justice through affirmative action policies, Feres argues, has shortcomings that should be measured against its strengths. Pragmatism should offer the standards to evaluate politics and policies. How much would we gain in distributive justice and racial equality at the cost of bringing race consciousness to the forefront of the political scene? Both Feres and Fry should be read against the backdrop of the strenuous debates over affirmative

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action in present day Brazil, where both support different sides. As I said earlier, the cultivated distance Latin American nations took from engaging race in the past makes us intricate and sophisticated non-racialists. Fry voices our alter ego.

Anani Dzidzieyno and Suzanne Oboler speak from a different perspective. Dzidzieyno is a scholar born in colonial Africa and a long time student and critic of Latin America's racial democracy; Oboler is a Latina and feminist intellectual who has experienced and reflected on the various sides of inequality in the Americas. There is no non-racialism embedded within their discourse. The issues surrounding race are unambiguous and because of it Dzidzieyno and Oboler can directly address the vested interests in play. If Fry explored the cultural interests at stake and Feres the moral ones, from a sociological point of view, what are the material interests of people against, or in favor, of affirmative action in Latin America? What are the costs of redistribution for different people? Could racial equality ever be achieved without disturbing class hierarchies? What are the class challenges of affirmative action and quotas in Latin America today? The Latino experience in the United States is colored in white, black, Moreno or mestizo, yet we are all Latino. One could expect that racialization in the postcolonial center should reinforce the mestizo identity forged at the periphery. However, that is but one possibility among many. We are all racialized subjects of domination in postcolonialism, but the White dominant who becomes Latino in the United States has lost the power to maintain the mestizo myth intact. Blackness can survive the postcolonial experience masked and labeled as Afro-Latino. But would Latin American whiteness survive the feeling of being Latino? Should this postcolonial experience shed some light on the debate over the self-

racialization of politics in Latin America? If the point of arrival is the same—racialization through Blackness or Mestizaje—the process of becoming is the opposite: in Latin America self imposed categories of race make us fight the disguises of democracy by assuming a counter-hegemonic discourse of Blackness against Mestizo and White domination; at the metropolitan imperial center, racialization is imposed on us through the Latino label. That is why the way Blackness is defined becomes crucial to understanding the play of identities in decisive historical points of domination. The same can be said about the intertwined fabric of class and empire.

Michel Agier uses his experience in Brazil, Colombia, and western and southern Africa to discuss the republican model of his native France: a model he knows that in the absence of a strong working class mobilization (as in the 1960s) is neither accommodating nor integrating the current postcolonial wave of immigrants. He also registers the failure of French intellectual leadership over the new political activists of the *banlieus* and the postcolonial nostalgia that consumes part of the French intelligentsia. The recalcitrance of France to call its postcolonial citizens “Black” or “African,” thus avoiding naming the racial attributes by which they are discriminated against, is an example of the struggle France is undergoing to rescue its republicanism. It is at the same time an open door to political hypocrisy. In Latin America the enslaved became a Black, and now is struggling to be a Black citizen as in North America.

Some intellectuals in Brazil and in the United States have denounced affirmative action as the Americanization (and racialization) of social relations in Brazil, as Freyre long ago denounced negritude. Some intellectuals have pointed out that several of these policies are funded by international

organizations or philanthropic foundations reflecting postcolonial interests (imposing American cultural values, serving African American desires for leadership). The main problem with these arguments is that they treat these agencies *in prima facie*, as the agents of social change and not as part of the fabric of historical constraints for postcolonial politics. They also ignore that Brazil as a state, i.e. the Brazilian elite, has concentrated all its efforts in the last decades to play the role of the emergent economy and is trying to insert itself into the imagined emergent continent formed by Brazil, Russia, India, and China (BRIC). In this sense, racial and social inequalities have to be addressed directly and competently by these elites. Affirmative action in Brazil is therefore at the same time a Black conquest and a state prescribed remedy, both a progressive and conservative instrument, depending on the way it intermingles with other policies and is conditioned by ongoing structural changes.

Let us read how this debate evolves. ■

RACIAL INEQUALITIES AND  
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continued...

Viewing the United States from a Brazilian  
Perspective and Vice-Versa

by PETER FRY

Institute of Philosophy and Social Sciences,  
Federal University of Rio de Janeiro  
peterfry@uol.com.br

In a ground breaking book on public attitudes to race and ethnicity in Britain and France Adrian Favell looked at Great Britain through French eyes, and vice-versa. In this way he was able to understand the amazement of the British at French reluctance to recognize race as a legal category, let alone as a target for public policy. In the opposite direction Favell was able to understand the French aversion for British multiculturalism.

In this short essay I attempt a similar exercise for Brazil and the United States. Looking at the recent Supreme Court decision in the case of *Parents involved in community schools v. Seattle School District No. 1 et al.*, from a Brazilian perspective I argue that it is possible to shed light on the dilemmas currently facing antiracists in favour and against the introduction of racial quotas and other race focussed legislation in Brazil.

On Thursday June 28<sup>th</sup>, 2007 the Supreme Court ruled against positive discrimination by race in certain American high schools by the narrow margin of five votes to four. The schools' case concerned two school districts, one in Seattle, Washington and the other in Louisville, Kentucky. The cases were brought by parents of white children excluded from certain schools by the positive-discrimination policy. The court decided that skin color should not be used as a basis on which to assign students to one school or another.

Liberal, or progressive, opinion in the United States was shocked by the court's ruling which was described as one more step of the Supreme Court down an increasingly conservative road (Dworkin 2007). And yet, the majority opinion (voiced through Justice Roberts) that policies which oblige individuals to identify themselves racially have the effect of perpetuating the salience of race in American public life, deserve to be taken seriously, especially in the light of the ongoing debate about racial quotas in Brazil, where critics have long maintained that racial quotas and a proposed Statute of Racial Equality will not so much consolidate racial categories as bring them effectively into being (Fry et al., eds. 2007).

Justice Roberts argued that "classifying and assigning schoolchildren according to a binary conception of race is an extreme approach in light of our precedents and our Nation's history of using race in public schools, and requires more than such an amorphous end to justify it." Citing previous judgements, he argued that "allowing racial balancing as a compelling end in itself would effectively assur[e] that race will always be relevant in American life, and that the 'ultimate goal' of 'eliminating entirely from governmental decision making such irrelevant factors as a human being's race' will never be achieved." An interest, he added, "linked to nothing other than proportional representation of various races . . . would support indefinite use of racial classifications, employed first to obtain the appropriate mixture of racial views and then to ensure that the [program] continues to reflect that mixture."

Justice Anthony Kennedy, "concurring in part and concurring in the judgement," endorsed the majority opinion that the use of racial classification could delay the ultimate irrelevance of race in public life: "To make race matter now so that it might

not matter later may entrench the very prejudices we seek to overcome." "The enduring hope," he exhorted, "is that race should not matter; the reality is that too often it does."

In the case in question, Kennedy went further, questioning the very use of "the crude racial categories of 'white' and 'non-white' as the basis for its assignment decisions in a district composed of a diversity of races, with fewer than half of the students classified as 'white'." Kennedy goes on to criticize what he calls the reduction of an individual to an assigned racial identity for differential treatment as being "among the most pernicious actions our government can undertake. The allocation of governmental burdens and benefits, contentious under any circumstances, is even more divisive when allocations are made on the basis of individual racial classifications."

But he went further still to question the very basis and legitimacy of racial classification *per se*:

When the government classifies an individual by race, it must first define what it means to be of a race. Who exactly is white and who is non white? To be forced to live under a state-mandated racial label is inconsistent with the dignity of individuals in our society. And it is a label that an individual is powerless to change. Governmental classifications that command people to march in different directions based on racial typologies can cause a new divisiveness. The practice can lead to corrosive discourse, where race serves not as an element of our diverse heritage but instead as a bargaining chip in the political process . . . The idea that if race is the problem, race is the instrument with which to solve it cannot be accepted as an analytical leap forward . . . Under

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our Constitution the individual, child or adult, can find his own identity, can define her own persona, without state intervention that classifies on the basis of his race or the color of her skin . . . Crude measures of this sort threaten to reduce children to racial chits valued and traded according to one school's supply and another's demand.

Kennedy's critique not only of the use of individual racial classification in public policy, but also the very legitimacy of "the crude racial categories of 'white' and 'non-white'," must appear extraordinary to most Brazilians, given the general assumption in Brazil that the bizarre "one drop rule" continues to appear natural to most North Americans. Strong as this system of racial classification continues to be, opposition grows apace, as G. Reginald Daniel has recently documented.

But the principle reason for Justice Kennedy's separate opinion was that he did not concur that race should be excised entirely from public policy concerns in the United States. He recognized that since racial discrimination continues to contribute to inequality, policy cannot simply ignore race altogether. The dangers presented by individual classifications, he claimed, "are not as pressing when the same ends are achieved by more indirect means." Accordingly he proposed alternative policies designed to affect situations of inequality without obliging citizens to define themselves in racial terms, nor, therefore, creating divisions between people of distinct racial identities: "Race-conscious measures that do not rely on differential treatment based on individual classifications present these problems to a lesser degree." Kennedy suggested that:

School boards may pursue the goal of bringing together students of diverse

backgrounds and races through other means, including strategic site selection of new schools; drawing attendance zones with general recognition of the demographics of neighborhoods; allocating resources for special programs; recruiting students and faculty in a targeted fashion; and tracking enrollments, performance, and other statistics by race. These mechanisms are race conscious but do not lead to different treatment based on a classification that tells each student he or she is to be defined by race.

These suggestions are similar in spirit to French attempts to redress racial inequalities through investment in public facilities in zones with high percentages of immigrants (after all, in Republican France to recognize race is still taboo) (Favell 1998). They recognize the significance of race in the generation of inequality but avoid having to classify individuals in racial terms. Such policies do not classify individuals, but are not racially neutral (Bowen and Bok 1998).

Brazil is a relative newcomer to affirmative action. The first racial quotas were introduced in 2001 in the state universities of the State of Rio de Janeiro by the State government in the wake of the III World United Nations Conference for the Combat of Racism, Racial Discrimination, Xenophobia and Correlate Intolerance in Durban. Since then, almost 40 institutions of higher learning have adopted one or another form of racial quotas. Separate health programs have been devised for Brazilians of African descent and a Statute for Racial Equality which would extend quotas to almost all areas of social life is ready to be voted by Congress. A Special Secretariat for Policies to Promote Racial Equality (SEPPIR) with the status of a ministry was created in 2003 and

coordinates federal government policy throughout the country.

It is difficult to overestimate the significance of these developments. Prior to 2001 concerns with racial inequality were confined to a number of relatively small black militant groups and a similarly small cohort of sociologists and anthropologists who occupied a pretty marginal position in their universities and academic associations. Now, racial inequality has become a topic of major public interest. The sudden passionate indignation over racial inequality on the part of many university students and a sizeable number of their professors, has almost supplanted their traditional concerns with inequality *tout court*. No meeting of the Brazil's Anthropological or Sociological Associations would be complete without at least one round table on affirmative action at which the academic community provides ritual evidence of its internal divisiveness over this issue.

Most of the proponents of racial quotas in Brazil argue that such measures would be but temporary and that they are necessary to correct the disadvantages of black citizens which continue due to persistent racial discrimination and which make laughing stock of Brazil's universalistic pretensions (Carvalho 2005). They are surely right when they point to the pernicious nature of discrimination, but from the point of view of their critics, they seem willing to embark on an equally if not more pernicious course of action, giving legal sanction to a racially bipolar Brazil; unless, of course, they would prefer their country to be organized in this way. It is not uncommon for defenders of racial quotas to remark that Brazil already is neatly divided along racial lines, pointing to the little doubt in the minds of those who discriminate. Critics ask whether racially based affirmative action might not simply consolidate such sentiments, rather than

challenge them. They argue, furthermore, that in the absence of a clear criterion such as the one drop rule dividing black from non-blacks and where racial identities are based more on appearance and situation than descent, and where there is no overall consensus on who is black and who is not, racial quotas which are based on the assumption that the country can or should be divided neatly into blacks and non-blacks would have the power of a self fulfilling prophecy, converting such an assumption into material reality. One Brazilian anthropologist used an inflammatory metaphor suggesting that quotas would be akin to trying to douse a fire with gasoline.

Whereas Justice Kennedy fears that racial labelling would perpetuate the U.S. system of racial classification, critics of such labelling in Brazil argue that they would have the effect of strengthening and legitimising definitively a bipolar racial taxonomy in their country. Most critics of racial quotas in Brazil would probably endorse Justice Kennedy's suggestion of alternative policies which take race into account when decisions are taken over the distribution of social services of all kinds, concentrating on providing quality educational and health care facilities in the poorer territories where darker skinned people are in the majority, rather than taking as the first and principle measure quotas in all spheres of social life; for it is this that the Statute of Racial Equality would bring into being. They would argue that it is not necessary to abandon Brazil's republican tradition and that policies similar to those suggested by Justice Kennedy would have the effect of boosting the social mobility of poorer and darker Brazilians without racial labelling. These, coupled to all manner of activities designed to challenge the negative stereotypes associated with blackness, would set Brazil on a course which would allow it to avoid the divisiveness of race.

These would be, of course, long-term solutions to a long-term problem. And they certainly do not appeal to the immediate demands of Afro-Brazilian activists and their allies, especially in the academic rank and file of the country's most prestigious universities. Recent student demonstrations in favour of quotas in Federal University of Rio Grande do Sul, which is situated in Brazil's whitest state, were as passionate as the demonstrations against the military dictatorship 40 years ago, for example. In this situation, the proponents of long-term solutions who base their arguments on a radical critique of the very notion of race find themselves classed as conservatives and even racists by the more exalted proponents of racially focussed public policy. But then, it seems, all is fair in love and war.

#### Bibliography

Bowen, W. G. and D. Bok. 1998. *The Shape of the River: Long-term Consequences of Considering Race in College and University Admissions*. Princeton: Princeton University Press.

Carvalho, J. J. d. 2005. *Inclusão étnica e racial no Brasil: a questão das cotas no ensino superior*. São Paulo: Attar.

Daniel, G. R. 2006. *Race and Multiraciality in Brazil and the United States: Converging Paths?* Pennsylvania: The Pennsylvania State University Press.

Dworkin, R. 2007. "The Supreme Court Phalanx." *The New York Review of Books* 54 (14).

Favell, A. 1998. *Philosophies of Integration: Immigration and the Idea of Citizenship in France and Britain*. London: MacMillan.

Fry et al., eds. 2007. *Divisões perigosas: políticas raciais no Brasil contemporâneo*. Rio de Janeiro: Civilização Brasileira.

Lewgoy, B. 2005. "Cotas raciais na UnB: as lições de um equívoco." *Horizontes Antropológicos* 11 (23): 218-221.

Nogueira, O. 1991. "Preconceito Racial de Marca e Preconceito Racial de Origem – sugestão de um Quadro de Referência para a Interpretação do Material sobre Relações Raciais no Brasil." In *Tanto Preto quanto Branco: Estudo de Relações Raciais*, 67-94. São Paulo: T.A. Queiroz. ■



RACIAL INEQUALITIES AND  
PUBLIC POLICIES: DEBATES IN  
LATIN AMERICA AND BEYOND  
continued...

Using Race and Skin Color in Public  
Policies: Justice in Context

by JOÃO FERES JÚNIOR

Instituto Universitário de Pesquisas do  
Rio de Janeiro – IUPERJ  
jferes@iuperj.br

The question of whether the use of race or skin color in public policies is legitimate is complex and must be examined in several of its dimensions. First of all, we should ask what is understood as legitimacy. The term belongs to the technical vocabulary of sociology and as such denotes an empirical assessment of what are the values and practices a person or a given social group consider right, just, or becoming. Thus, according to this sociological conception, the answer to the question above would be purely empirical: the use of race would be legitimate or not depending on the society's own criteria of legitimacy, values, belief, etc. At most, the sociologist could try to sort out the values and beliefs that support (or not) such legitimacy but not question their rational nature. In this short piece I want to examine this question from the perspective of moral theory, which entails delving into the rational arguments that support claims for or against the use of race in public policies. For such an endeavor it would be wise to replace the term legitimate with "just." The language of justice is not made of purely descriptive rationalizations but of rational arguments that deal with empirical facts and normative values rooted in a given social context. So the question should be rephrased in the following manner: Is the use of race or color in public policies just?

I shall analyze this question in two steps, first considering the use of those categories in general, that is, for any society, and second, discussing such use in the context of present-day Brazil and the United States. But before delving into the core section of

the essay, the ontological status of race must be examined. Does race really exist?

A negative answer to this question based on recent scientific findings by geneticists has been frequently used in Brazil to condemn affirmative action policies as a form of injustice. After all, the argument goes, if science has proved that race does not exist, adopting it as a policy criterion would be reactionary and irrational. But the answer to that question cannot be so naïve. The astounding development of molecular biology and genetics in the last decades has for the most part contributed to demolishing the possibility of a scientific concept of race. However, the recent racist statements of Nobel Prize winner James Watson and some of his supporters demonstrate that this subject is far from set, and that race is a concern that still dwells in the minds of some of the world's most prestigious and well funded scientists. The lesson to be learned from this is that the supporters of anti-racism should not assume that the existence of race has been definitely denied by science. Not long ago, from mid-nineteenth century to mid-twentieth century, science provided support for racist theories and it might do so again in the near future.

As social scientists we should be aware that the knowledge produced by the natural sciences do not exhaust the entire realm of reality, and that racial perceptions and discrimination might be real in social interaction even in the absence of a firm biological basis. Thus the naïve negative answer should be replaced by an informed "yes, race does exist." And it exists as a social construct and a lived reality for millions of people in the contemporary world who discriminate and are discriminated against. Furthermore, although one may consider the social reality of race morally condemnable, as I do, this

does not mean that its existence can simply be negated by an act of the will.

Once the question of justice and the meaning of race have been explained, we can delve into the question of whether the use of this socially constructed category in public policies is justified. There are two basic types of moral arguments that can be used to justify public policies, laws, as well as moral actions in general: the universal and the communitarian. Richard Rorty (1993) has called them Kantian and Hegelian, respectively. Kantian arguments recognize a moral worth residing in every human being that is independent of her or his belonging to a particular political community, thus these arguments tend to take very seriously ideas such as inalienable human rights, equal human dignity, and humanity as a whole. Hegelian arguments on the other hand, are based on the notion that the value and meaning of moral principles can only spring from the actual social interaction of individuals in a given community, thus recognizing humanity only as a biological unity.

In fact, Kantian ideas such as equal protection under the law and universal human rights are pillars of modern liberal constitutionalism, even in countries with common law traditions such as England and the United States. Thus, the question to be posed here is whether affirmative action in general constitutes discrimination and violates the principle of equality—a common objection raised against such policies. Despite its currency, this argument suffers from a core defect: it overlooks the difference between negative and positive discrimination. The former debases its victims whereas the latter aims at promoting the greater well-being of its beneficiaries (Dworkin 1985). From a moral point of view these two types of discrimination are immensely different and I think that this is

the case even from a purely descriptive viewpoint. The claim that affirmative action violates the principle of equality is also misguided. There is a fundamental difference between formal equality before the law and substantive equality, either of opportunity or results. While the former is blind to the actual inequality produced through social intercourse, the latter aims at correcting such inequality. That is, the ultimate goal of affirmative action is to produce greater equality, correcting grave asymmetries in life opportunities produced by historical injustices and discriminatory practices. In order to produce greater equality, those policies do violate formal equality, but it is a regional and controlled form of violation that does not endanger the whole edifice of equal protection under the law.

It is important to stress the point that affirmative action is not at all an exception when it comes to regional and controlled violation of equality under the law. The controlled violation of universal law is the *modus operandi* of the welfare state and not an innovative legal quirk introduced by the “ultra-liberal” supporters of affirmative action. Since the British Poor Laws or the New Deal the state has been allocating resources, which formally belonged to all citizens, to groups of people who cannot guarantee themselves a minimum standard of living. This corresponds to granting special rights to targeted sectors of the population. Furthermore, the beneficiaries of such policies have not always been the poor. Several state policies aimed at promoting development and economic growth also work through the same principle, either allocating massive public resources to special branches of the service sector, industry, or agriculture or providing them with special tax reductions and other tariff and non-tariff barriers—the U.S. agricultural policy and the Brazilian

National Development Bank (BNDES) are good examples of such policies. This is all positive discrimination, all affirmative action in a sense. In sum, the pervasiveness of positive discrimination in contemporary liberal democratic states brings us to the following conclusion: discounting the radical advocates of the minimum state, which is in fact an utopia, or better said, a dystopia, affirmative action *per se* as a modality of public policy does not present an exceptional problem in relation to the principle of equal protection under law.

Although I have offered strong arguments to back up the position that affirmative action is not at odds with the Kantian moral argument, the question of employing racial categories as selection criteria in these policies still needs to be examined. For a policy might be just in general, and yet, a particular application of it may create some sort of injustice. Opponents of affirmative action have argued that the simple adoption of racial categories as selection criteria enhances racism and racial discrimination. According to this line of reasoning, which exemplifies that which Albert Hirshman (1991) has called the perversity thesis, affirmative action has the opposite effect from the one intended. But this is, in fact, a descriptive hypothesis open to empirical confirmation. While the experience in Brazil is too recent to allow for any definite diagnosis, the almost forty years of ethnic-based affirmative action policies in the United States have produced no reliable set of data to support this pessimistic hypothesis. On the contrary, these policies seem to have contributed to improving relations between whites and blacks by enhancing their mutual exposure to more symmetrical social interactions both at school and in the labor place (Holzer and Neumark 2000). Furthermore, the presence of blacks in social and professional positions from which they were almost entirely absent

in the past is in itself a victory against discrimination, and it also helps to demolish established negative stereotypes among whites and blacks, and enhance the self-esteem of blacks through the multiplication of role-models and examples of professional success and achievement.

But we still have to consider seriously the hypothesis that the use of the category of race in public policies might contribute to the perpetuation of race perceptions, that is, to the perpetuation of the social constructed reality of race. Nonetheless, this does not entail necessarily the perpetuation of the same degrees of racial (negative) discrimination. Historical evidence shows that racialized societies might vary according to their degree of discrimination and asymmetric treatment, from the practice of genocide, to enslavement, to high degrees of spatial and occupational segregation, to lower degrees of segregation and discrimination—the latter being the social utopia behind affirmative action policies based on essentialized racial categories.

That being said, it must be acknowledged that the use of racial criteria in public policies also runs the risk of contributing to the essentialization of racialized identities and thus to the perpetuation of the social stigma associated with those identities. Nancy Fraser (2001) takes on this topic in her debate with Axel Honneth about critical theory and transformative action. This is a perverse effect that should be weighted against the positive consequences of affirmative action on the target groups. First of all, one has to keep in mind that in liberal democratic societies the state has limited power and control over social relations and cultural values. Thus, policies that aim at promoting marginalized groups have only an indirect transformative cultural effect. If a given society continues to display similar patterns of racism and prejudice after the

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implementation of race-based policies, it still can be argued that marginalized groups are better-off if compared to the previous situation when these policies were not in place. Second, and most importantly, public policies always involve tragic choices about choosing greater goods and lesser evils. Pragmatism seems to be the only reasonable and the most progressive paradigm to deal with them, because it compels us to face social problems with action and not solely with objections that do not contribute to their actual solution. It also teaches us to judge principles and actions based on their practical consequences, and thus to take these consequences seriously. In sum, the responsible pragmatic position would be to face the problem of racism and racial discrimination in our societies with public policies and to evaluate their results in order to obtain greater social benefits.

It is also reasonable to assume that the racial criteria adopted in affirmative action policies should be chosen from among the most representative non-pejorative native categories in any given society. The actual perpetuation of race perceptions through affirmative action policies can only be assessed if we take into account the meanings and social functions of these perceptions in each societal context. In the present text I will limit myself to short analyses of the cases of the United States and Brazil.

Given the specificities of these cases, we should unpack the concept of racial perceptions into two categories: race and skin color. There is a long tradition of anthropological and sociological writings comparing race relations in Brazil and the United States, produced both by Brazilians and Americans (with the occasional collaboration of “foreigners”). It is almost consensual in this literature that while race perceptions in the United States tend to be

more clear-cut and discrete, in Brazil they vary according to a continuum of skin-color that goes from dark to fair. In the United States, racial identity for non-whites operates according to the one-drop rule, thus even persons with a single ancestor of African origin would have a high probability of considering themselves African American. In Brazil on the other hand, people identify themselves and others according to several categories usually related to the shade of their skin, and given that social status varies along the skin-color continuum, many people of mixed descent (Europeans with African or Indian heritage or both) do not identify themselves as black but as *pardos* (browns) or even as white according to their phenotype. In fact, there are other categories that, like *pardo*, express the idea of “neither white nor black.” However, despite the large number of racial categories appearing in surveys, the statistical relevance of most of them is very small. Moreover, the most relevant of those categories have meanings very similar to that of *pardo*, which is one of them (Osório 2003).

These comparative differences led the Brazilian sociologist Oracy Nogueira (1985, 1998) to coin the concepts of *preconceito de marca* and *preconceito de origem* to describe race relations in Brazil and the United States respectively. According to Nogueira, Brazilian racial prejudice operated mostly through the perception of physical traits (*marcas*) such as skin color, hair type, format of lips and nose, etc., whereas in the United States the origin of one’s ancestors was the determining factor, the one drop rule being the extreme case. Therefore, in Brazil the more physical traits associated with African descent people have, the greater the probability of them becoming the target of racial prejudice. However, in the United States, African ancestry, even when remote, determines a system of classification that has only two values: black or white.

Since Nogueira wrote in the 1950s, race relations in both countries have evolved, and even then they were probably not as simple as the scheme he proposed. Practices such as racial profiling and passing denote that race perceptions in the United States are not as clear cut and discrete as his model indicates. On the other hand, in Brazil, physical traits that are looked down upon are usually, but not exclusively, associated with African ancestry, which in turn, works as a rationale for discrimination. Nonetheless, despite changes in the patterns of race relations in both countries, Nogueira’s conceptual scheme is still a valid heuristic tool, particularly if we reinterpret it through the use of new historical information and theoretical insight.

Human groups are discriminated according to two chief categories: culture and race. Cultural perceptions define the other in terms of different habits, institutions, and values, whereas race perceptions construe them as physically and often psychologically and intellectually distinct (Feres Júnior 2006). In social interactions these perceptions are often intertwined. Let’s first focus on the term “ethnicity,” which has great currency in contemporary debates regarding minority rights and multiculturalism in the United States. It functions as a powerful synthesis between cultural and racial perceptions, conveying both at the same time. The language of ethnicity teaches the following: when cultural difference is perceived, expect racial difference, and vice-versa. Therefore, in the United States it is common to find references to the Latin or Hispanic race, and also to African Americans as constituting a distinct culture. In Brazil the pattern of perceptions is quite different as there seems to be no strong correlation between the perception of racial and cultural differences. Compared to the United States, Brazilian society seems to practice a purer form of racism, one that



does not depend on ascribing cultural elements of difference to justify discrimination. It is not a coincidence that the most representative racial categories in the country are related to the shade of the skin and not to cultural belonging. The phrase “Brazilian blacks have a distinct culture” can hardly be taken seriously and the same claim applied to pardos is truly absurd. This does not mean, however, that practices associated with African or black-Brazilian ancestry, such as *capoeira* and *Candomblé*, are not looked down upon by mainstream Brazilian society.

Given the different pattern of race perception in Brazil and the United States the categories used by affirmative action policies in each country should also differ for the sake of achieving greater expedience and justice. While in the United States the use of the category African American or black does not seem to be very problematic, at least when it comes to the self-identification of this group of people, the adoption of categories such as *Afrodescendente* (Afro-Brazilian) or *negro* (black) in Brazil is a potential source of trouble. According to demographic data based on self-identification only 6.2% of the population identify themselves as *preto* (black) and 38.5% as *pardo*. Thus policies directed exclusively for Afrodescendentes or negros will tend to exclude pardos, who are the vast majority of the non-white poor in the country.

Thus the question should not be whether race or skin color criteria should be used in public policies in Brazil, but what categories to choose in order to design fairer and more efficient policies aimed at producing more equality in a country in dire need of it. And the soundest categories to start with are exactly those that best capture Brazil's own pattern of pure racism: *preto* and *pardo*. There are several reasons to support this

position. First, there is a solid historical series of demographic data showing the consistent socioeconomic inequality between whites, on the one side, and *pretos* and *pardos* on the other, with the latter displaying similar socioeconomic conditions. Second, there are analyses showing these categories synthesize well the diversity of racial categories employed in the country. Third, *preto* and *pardo* are not associated with one or two particular ethnicities in Brazil, and thus can benefit people who suffer from racial discrimination living in diverse regions and cultural settings of the country. And finally, the adoption of those categories do not require the mass conversion of *pardos* into *negros* through their recognition of their own African descent—something that might take centuries to happen if it ever will.

Justice is indeed a chief virtue of social institutions, as Rawls once wrote. As we have seen above, it requires courage to act and wisdom to plan the action and evaluate its results—all of them classic virtues. Conservatives just don't have them.

#### Bibliography

Rorty, Richard. 1993. “Postmodernist Bourgeois Liberalism.” In *Postmodernism: A Reader*, ed. T. Docherty. New York: Columbia University Press.

Dworkin, Ronald. 1985. *A Matter of Principle*. Cambridge, Massachusetts: Harvard University Press.

Taylor, Charles. 1992. “The Politics of Recognition.” In *Multiculturalism: Examining the Politics of Recognition*, eds. C. Taylor and A. Gutmann. Princeton, N.J.: Princeton University Press.

Honneth, Axel. 1995. *The Struggle for Recognition: The Moral Grammar of Social Conflicts*. Cambridge, MA: Polity Press - Blackwell.

Hirschman, Albert O. 1991. *The Rhetoric of Reaction: Perversity, Futility, Jeopardy*. Cambridge, Massachusetts: Belknap Press of Harvard University Press.

Holzer, Harry and David Neumark. 2000. “What does affirmative action do?” *Industrial and Labor Relations Review* 53 (2): 240-271.

Fraser, Nancy. 2001. “Social Justice in the Age of Identity Politics: Redistribution, Recognition, and Participation.” In *Redistribution or Recognition?: A Philosophical Exchange*, eds. N. Fraser and A. Honneth. London: Verso.

Osório, Rafael Guerreiro. 2003. O sistema classificatório de “cor ou raça” do IBGE. *Texto para discussão* (no. 996).

Nogueira, Oracy. 1985. *Tanto preto quanto branco: estudos de relações raciais. Estudos Brasileiros*. São Paulo: Biblioteca Básica de Ciências Sociais.

Nogueira, Oracy. 1998. *Preconceito de marca: as relações raciais em Itapetininga*. São Paulo: EDUSP.

Feres Júnior, João. 2006. “Building a Typology of Forms of Misrecognition: Beyond the Republican-Hegelian Paradigm.” *Contemporary Political Theory* 5 (3): 259-277. ■

RACIAL INEQUALITIES AND  
PUBLIC POLICIES: DEBATES IN  
LATIN AMERICA AND BEYOND  
continued...

**Race, Social Justice, and the Law in the  
Americas: Redefining the Terms of the  
Debate**

by ANANI DZIDZIENYO

Brown University  
anani\_dzidzienyo@brown.edu

and SUZANNE OBOLER

John Jay College, City University  
of New York  
soboler@jjay.cuny.edu

*Is there a need to have laws that guarantee  
the implementation of equal opportunities in  
Latin America? Isn't the continent known  
for its flexible and tolerant race relations?  
Why then should it borrow the more rigid  
multiculturalist system from the North?*

These are some of the questions we have been asked to address in this essay. While the questions themselves are provocative, they fail to frame the discussion in ways that take into account the extent to which the perception of the vast divide between the laws and customs of the United States and Latin America continues to divert attention from the fundamental issue guiding the discussion on race relations today: i.e. how to achieve social justice and equity for all—not in spite of race and color, but rather grounded in the historical realities of the hemisphere as whole.

From this perspective, our point of departure is that the extent of the relevance of the law to race relations management in the Americas is *not* what is in question. It is true that in some societies, such as Brazil and the United States, the relationship between law and race relations management has become more contentious as the debates over Affirmative Action have spilled into the public spheres of both nations. After all, laws have always framed race relations from the very beginning of the encounter of the three races in the

Americas as a whole. They have influenced and been influenced throughout the hemisphere by customary practices which have varied in their impact on dominant and subaltern groups alike, dictating such issues as access to positions of influence within the various societies and polities, as well as to ecclesiastical offices, educational facilities, and positions of power and influence.

Why, then, the recent intellectual and political contortions over applying the laws and practices of the United States to the management of race relations, whether in institutions of higher learning or in other arenas in Latin American societies where non-whites have traditionally or customarily been excluded, intentionally or not? Why is the suggestion of a more activist role for the state and its laws perceived as a major threat to the very existence and integrity of the edifice of higher education and other institutions of society?

It is difficult to contemplate that there is serious disagreement over the gross inequalities which have characterized both race relations and the specific predicament of Indigenous peoples and Blacks since the early founding of the various countries in the region. Certainly, like the genocide of Indigenous peoples, which effectively cleared the terrain for the conquered, slavery, together with other forms of servitude and coerced labor of Indigenous and Black populations, has been a cornerstone in the historical process of nation building throughout the hemisphere. It has long been acknowledged to be the “original sin” which gave birth to racism as we have come to know it in the Americas today. At the same time, scholars have long accepted the reality of U.S. dominance and ideological influence in shaping the political economy and cultural developments of the entire hemisphere. Yet, there is resistance to the notion of a shared ideology rooted in racial and social

differences in the two Americas. As a result, studies of the varied societies and national realities continue for the most part to reinforce the commonly held assumption that race, rather than class or wealth, is the fundamental American (i.e. United States) dilemma. This questionable assumption has in turn served to reinforced the corollary belief that issues of class and poverty—rather than race—are the “real” problems in Latin America.

Indeed, in addressing the questions raised above, it is important to note that, unlike the United States, Latin American societies rarely acknowledge race *per se* as an important historical signifier of experience (Guimarães 2001, 157-185). The fact that in their founding documents Latin American governments invariably declared that everyone was equal and that no special provisions of a corrective or compensatory nature had to be taken by either state or society, effectively has meant that both Indigenous peoples and the descendants of slaves were left in a socio-political, educational, and economic dead end. In effect, throughout the continent, the discourse of equality without meaningful action took away any responsibility from the state and society for the condition of Indians or Blacks. Hence, in spite of glaring prejudices based on color and phenotype in all the Latin American countries, there is still a distinct preference for focusing on social, cultural, and class considerations. At the same time, the steadfast adherence to ideologies of progressive whitening (*blanqueamiento*) continues to be difficult to overcome. Class-based considerations embedded in such popular euphemisms as “money whitens” have tended to subsume racial considerations in debates on social and political equality and justice in Latin America.

Part of the problem in discussing the issue of racial inequality within a Latin American context is the lack of consensus about the meaning of blackness and whiteness. Arguably, the ideologies of the various nations of the hemisphere have generally dictated that whiteness, the polar opposite of blackness, should be the destination to be aimed at, for those who are not white. The result seems to have been that unlike the United States, where race has had a long and complicated history of uncompromising belligerence in structuring public identities and private destinies, in Latin America—and with the exception perhaps of the Southern Cone, where the celebration of whiteness has been much more prevalent—the ratification of the official ideologies of *mestizaje* has led to the neglect of racial difference as a significant aspect of social experience. Instead, most of the Latin American societies have emphasized class and gender as the principal and often sole explanatory and analytical categories. Undoubtedly, these categories are important to consider. However, the neglect of the significance of racial difference has tended to put the burden of upholding national myths of racial harmony on individuals' efforts to whiten and hence "improve" the race, whether through intermarriage or informal interracial sexual unions (Callirgos 1993)—thus justifying the ongoing political and social marginality of non-white populations in the varied national contexts of that continent. Indeed, the discourse of "racial democracy" has long been dominant in countries as different as Brazil, Cuba, Puerto Rico, and Venezuela.

Whether it was the colonial days' "gracias al sacar" trope or the subtle and not-so subtle official rhetoric in support of color "flexibilities" in Latin America, which for the most part aimed to suggest reasonable opportunities for individual mobility with respect to race and color, it is difficult to find

substantial evidence that the existing possibilities radically transformed the position of the majority of Indigenous and Black people in Latin American societies. To a certain extent their predicament has been even more complicated because of the absence of laws addressing racial inequities until the recent passage of legislation in several countries, both before and after Durban 2001. Thus, race, color, and ethnicity have now entered the public discourse in ways that could not have been imagined at the beginning of the 1980s.

The challenge today is not so much to apply or not to apply race and color considerations in public policies, but rather how to apply them in ways which seek to sufficiently reconcile old customary practices which are anchored in "understood" structures of inequality that have in turn long been in existence to the detriment of non-whites. This is not exclusively a matter of intellectual preferences but also one of coming to terms with a changing political and cultural environment.

Despite each country's historical and socio-political specificities, the changing contemporary racial context in no way undermines the extent to which the post-colonial racial hierarchy of the Americas continues to contribute toward structuring and limiting access to full citizenship rights of Blacks and Indigenous populations throughout the region. Important commonalities in the experience of non-whites in the hemisphere as a whole have tended to be obscured by a continuing over-emphasis on the race-versus-class binary and by such persistent myths as Latin America's supposedly more "benign" slavery and its consequences. In spite of historical and contemporary evidence to the contrary, these notions have served, explicitly or otherwise, to frame the debate on the relationship

between racial equity and the law and the future of race relations in Latin America.

Indeed, what has always appeared to rankle in any discussion on comparative U.S.-Latin American race relations is the slightest suggestion that the point of national pride, that is, the exceptional nature of Latin America's race relations order, could be contemplated within a broader transnational framework—a framework that would recognize that, throughout the Americas, "freedom" has always had a different meaning for Indigenous peoples, for Blacks, and for other "people of color," when they censure their movements on streets and in areas where people of white-European descent live; when the hemisphere's indigenous populations know they are taking a chance by leaving their towns, villages, or reservations; or when African Americans, Blacks, Afro-Latinos, Afro-Latin Americans, dark-skinned mestizos, and people of Asian descent are discriminated against in terms of employment and denied access to political and other institutions in all the societies of the American hemisphere.

Racism is an ideology that posits the inherent superiority of one population group over another. Hence, it is our position that regardless of the triumph of ideologies of national unity (e.g. "We are all Mexican," "We are all Brazilian," etc.) and of *mestizaje*, racism continues to be a major obstacle in the quest for and attainment of social justice and political inclusion throughout the continent. As Ariel Dulitzky (2005) has noted, "the official notion of mixed race (*mestizaje*) camouflages diversity, denies non-whites the right to dissent, while making conditions ripe for excluding anyone who falls outside the 'norm' of *mestizo* or mixed."

Herein enters the role of the law, albeit unobtrusively. Insofar as laws framed the most negatively perceived and universally-

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excoriated race relations order in the shape of the segregationist societies of South Africa and of the United States, throughout much of the 20<sup>th</sup> century, the thought of inserting Latin America into such company was seen to be tantamount to a demonstration of bad faith. On a superficial level, this was not unreasonable. The problem is that certain dimensions of the existence of such legal impediments in the negative example offered by the historical race relations of the United States, for example, also produced consequences that cannot be ignored. The existence of Black institutions of higher learning and the consequent production of generations of Black graduates who could, admittedly, cater to a segregated community in U.S. society, initially had no counterpart either in Brazil or anywhere else in Latin America. With political changes and, even more importantly, with the possibility of challenging specific parts of the segregationist and discriminatory laws in the courts of the United States, the post-World War II period witnessed important changes in race relations, with far-ranging impacts for the nation's polity and society. Such changes affected customary structures of privileges whose traditional beneficiaries did not delay in mounting counter-legal and political initiatives to reclaim their lost terrain.

Not surprisingly, the remedies implemented through such policies as Affirmative Action over the past 40 years in the United States in an effort to counter the noxious effects of long years of racial discrimination have been less than fail-proof. After all, Affirmative Action was not enacted as a "law of the land"; rather, the policy came about by fits and starts, as a result of the long struggle and the moral imperative resulting from the Civil Rights movements of the 1960s, which were the motivating force that created, at least initially, a societal agreement concerning the need to remedy past racial inequities.

In this respect, it is interesting to note that the Brazilian discussion about Affirmative Action and quotas has focused attention on certain difficulties such as the different classification of twins—one black, the other white. Hopefully such an issue does not become a diversion from the more general and fundamental problem of attempting to transform the country and society into much more than a country with an exceptional race relations order. Certainly, in the United States, there is ample evidence today of the peaceful co-existence of extensive racial mixture and the concomitant maintenance of rank orders of racial/color preferences in the national society and polity. Hence, it would be equally disingenuous to argue that the mere existence of a rainbow in familial and societal orders whether in the United States or in the rest of the Americas automatically obviates practices of preferential treatment, which ultimately are prejudicial to darker people.

The need to continue such policies as Affirmative Action, in spite of their shortcomings, is patently evident in the case of the United States, in light of the lack of any alternative measures or, perhaps more importantly, of any political and societal will to address the society's ongoing racial inequities. Indeed, it would be disingenuous to argue that the recent defeats in the arena of racial equity created by the backlash against race-based policies in the U.S. context provide the hemisphere with compelling evidence against the introduction of policy measures, or the use of the agency of the law aimed at ensuring racial equity and social justice.

The issue at hand, then, is not about the value of one society's race relations paradigms or responses over any other. Instead, it is about the collision of two visions or versions of how societies and polities, which have long been characterized

by racial discrimination and inequality, go about managing the relationship between the "activist" and "passive" roles of the state in an effort to correct historical and continuing discriminatory practices. The perception that any form of legal tinkering is tantamount to the introduction of divisions among a heretofore united people who have been spared the racial conflicts which have constituted the bane of other multiracial polities, invariably causes the preservation of the status quo to take precedence over every other issue. What is indisputable as an argument is that the societies of the Americas continue to be just as committed to the idea that harmonious race relations belong much more in the realm of the desired objective rather than the description of reality.

It has been noted both in the United States and elsewhere in the hemisphere that whenever advantages have begun to accrue to blackness in contradiction to the historical and ongoing practices, some individuals suddenly "discover" hitherto unacknowledged black ancestors in order to claim newly designated privileges for Blacks. Undoubtedly, the sheer size and complexities of countries such as Brazil or even the United States for that matter, problematizes any simplistic, one-size-fits-all solution in terms of unambiguously designating potential beneficiaries. Similarly, the old and often repeated trope of the "one drop rule" does not function effectively as a certain line of distinction between the United States and the rest of the Americas. Geography and local knowledge have to be factored into individual cases.

Finally, it bears emphasizing that class considerations are never far removed from this discussion. The visible consequences of neo-liberalism—together with the concomitant implosion of the nation-state—unambiguously signify the demolition of the social contract on which, according to Locke,

the security of the commonwealth depends. The growing unemployment, reduced social services, and rampant poverty of significant segments of the populations throughout the Americas, and the concomitant rise in crime and drug and human trafficking, exemplify this phenomenon. The cumulative effect of these realities leaves little if any doubt as to the existence today of a widening chasm which Carlos Fuentes (1996) has described as “a third world within the first world, and a first world within the third world.” Indeed, the lives of the growing numbers of poor and disenfranchised people in the hemisphere—many of them non-white—provide a sharp and painful contrast to the wealth, sophisticated technology, and high standards of living of a relatively small segment of the population, comprising a semi-anonymous transnational economic caste emerging from the elites of the hemisphere’s nations. This is not to say, of course, that the majority of the Latin American elites are anywhere near having the wealth and power of those in the United States; nor that the standards of living of the poorer sectors in the United States match the manifold misery in which large sectors of the Latin American people live. Nevertheless, it is significant that many of the Latin American elites are lighter-skinned than most of their compatriots.

Whether in the United States or in the societies of Latin America, equality of opportunity, like access to the rule of law, differ according to social class (Guimarães 2001). In Latin America, and increasingly in the United States, the rich are above the law, while the poor are victims of the law (Mendez, O’Donnell, and Pinheiro 1999)—a situation that is not entirely foreign to poor racial minorities in the U.S. context as well. Indeed, whether in the United States or in Latin America, it is increasingly difficult to ignore the now common recourse to what William Greider (1992) has called “hollow laws,” the implications of the spiraling

numbers of socially and politically excluded populations, the abrupt ossification of channels of political participation, and the disappearance of viable alternative policy solutions. Together, they raise serious and complex questions about the consequences for the future of relations between and among racial, ethnic and other social groups, of the decline of traditional representative institutions, and the strangulation of the public sphere.

This is the hemispheric reality that must be taken into account in future discussions on race relations and the struggle for social justice and equity in the Americas. It is always easier to point to the differences that separate one society from another—albeit, undoubtedly, these must also be taken into consideration in any local discussions of our respective national realities.

Introducing the North American race dualism and corresponding legal panaceas may be, and often is, a demagogic maneuvering of ambitious politicians and public personas in Latin America. But it is also a political leaven for indispensable social policy and discussion in this, our globalized post-utopian neo-liberal world. For, the simple introduction and efforts at implementing “foreign-grown” or “imported” solutions to local problems of inequality will, inevitably, bring about the indispensable broadening of the understanding and experience of racism as well as of the conditions for the elaboration of the new social consensus, both North and South of the Rio Grande. After all, why should it be more legitimate to speak of and to have struggled to implement the ideals of the French Revolution with respect to modern politics, than to face the problematics of race relations and affirmative action? The growing importance of “Latino/as” for the political lexicon of the entire hemisphere is an eloquent case in point.

At the same time, the rising numbers of immigrants within Latin America and throughout the United States, all of whom carry with them an understanding of race which is nationally grounded and experiential, also points to the need for all of us to reconsider the import of the transnational flow and counter flow of racial ideologies in the hemisphere, and its implications both for the respective national laws and customs of each nation and for the ongoing struggle for social and racial justice throughout the Americas.

#### Bibliography

- Callirgos, Juan Carlos. 1993. *El racismo: La cuestión del otro (y de uno)*. Lima: Desco.
- Dulitzky, Ariel. 2005. “A Region in Denial: Racial Discrimination and Racism in Latin America.” In *Neither Enemies nor Friends: Latinos, Blacks, Afro Latinos*, eds. Anani Dzidzienyo and Suzanne Oboler, 39-60. New York: Palgrave Press.
- Fuentes, Carlos. 1996. *Latinoamerica en la cumbre de copenhagen*. Mimeo.
- Greider, William. 1992. *Who Will Tell the People*. New York: Simon and Schuster.
- Guimarães, Antonio Sérgio. 1999. *Racismo e Anti-Racismo no Brasil*. São Paulo, Brazil: Editora 34.
- Guimarães, Antonio Sérgio. 2001. “The Misadventures of Non-Racialism in Brazil.” In *Beyond Racism: Race and Inequality in Brazil, South Africa, and the United States*, eds. Charles V. Hamilton et al., 157-185. Boulder: Lynne Rienner Publishers.
- Mendez, Juan E., Guillermo A. O’Donnell, and Paulo Sergio Pinheiro, eds. 1999. *The (Un)Rule of Law and the Underprivileged in Latin America*. South Bend: University of Notre Dame Press. ■



RACIAL INEQUALITIES AND  
PUBLIC POLICIES: DEBATES IN  
LATIN AMERICA AND BEYOND  
continued...

Is the Use of Race or Color Legitimate in  
Public Policies?

by MICHEL AGIER

Professor École des Hautes Études en  
Sciences Sociales and Director of the  
Centre d'études africaines  
agier@ehess.fr

I will respond to this question within a French context, but from my distinct perspective as an anthropologist who has worked for many years in Brazil, Colombia, and Black Africa. In France, two recent events profoundly influence the representation of race and color in both society and public policies: the suburban riots of November 2005 and the election of Nicolas Sarkozy in May 2007.

The new context in France emerging from the riots of November 2005 in the suburbs of large cities, principally around Paris, is marked by the presence—or rather by the visibility—of young immigrants and descendants of immigrants from Black Africa and the Maghreb. There increasingly have emerged the more or less euphemistic notions of “visible minorities,” “people coming from immigration,” and even “people coming from diversity” (sic). These labels have arisen alongside public polemics about positive discrimination or ethnic statistics. This new context is part of a renewal in political action which has its roots in the crisis of political representation of inequalities in the 1970s-1980s. This renewal has resulted in the presence of “ethnic” candidates, mainly Caribbean, in national elections. One example is Christine Taubira, a Presidential aspirant in 2002 who later become involved in Ségolène Royal’s campaign committee when the latter was a candidate for the Socialist Party in the Presidential elections of 2007. Another example is George Paul-Langevin, a lawyer and national human rights secretary of the

Socialist Party, elected as a Parliamentary deputy from the 20<sup>th</sup> arrondissement of Paris in 2007, and the only Black deputy in France.<sup>1</sup> This new context is also characterized by the formation of the Representative Council of Black Organizations (Conseil Représentatif des Associations Noires- CRAN), founded on November 26, 2005, in the midst of the suburban riots.

Over the past few years, France has discovered through the sporadic, violent expression of dissonant minority voices, that it has a *racial question*. Other countries, such as the United States, South Africa, and Brazil, have experienced this issue in the personal lives of their citizens, have recognized it as a national problem, and have attempted to resolve it at different times in history. The United States has confronted the riots and demonstrations for African American’s civil rights in the 1960s; South Africa has *known* it with the Soweto riots and the multiracial opposition to apartheid in the mid-1970s and the 1990s. Brazil has also experienced it, although somewhat diffusely, starting with Black cultural and political movements under the military dictatorship of the 1970s, and continuing to the present through the official but contested affirmative action policies undertaken since the beginning of 2000. All these experiences put in perspective the panic-stricken comments expressed about the suburban riots. In these events, one have identified a protest qualified as “afro-french” or “franco-maghrebian.” It is interesting to note that those terms are somehow scandalous in France, whereas they are common parlance in English, Portuguese or Spanish! This does not mean that other countries have found better ways to resolve the discord that France has so newly recognized. Besides, each country has its own history of racial thought and racism,

and it would be fruitless to look for any single correct model to follow.

France is proud of its supposedly non-racial model, akin to that which other movements, such as Mandela’s African National Congress, defended in the 1980s. Yet, the country is stuck in its colonial history, without having taken stock of its racial action and thought defined by its colonial context. Colonization was both a repressive and “civilizing” period that entailed a two-fold violence, physical and symbolic, socio-political and cultural, meant to integrate into the French Empire the peoples of West and North Africa, who were defined in terms of colonial categories. This double violence is still the reference for the French way of representing the “others” France had to deal with in its history. The most proximate “others” are those who moved to the metropolis in the 1960s, attracted by the calls for immigration in those years, or their descendants who today find themselves French and African, or “African of France.” The expression “African of France” is not as scandalous as could claim the defenders of an African identity defined as a fixed, immutable, and localized reality.

The inventory of the post-colonial situation would be incomplete if we failed to consider, in this same theoretical framework, the integrative reach of French egalitarian ideology. It had effects on African political culture in the period between the Second World War and the independence of the colonies, among the intellectual world of both the “Africanists” and the African political elites of France. In the 1940s and 1950s, solidarities were formed between French and African intellectuals within the framework of French Republican ideals. This is what has been lost: strong personal relations, social solidarities and political networks, even if hierarchical differences ran through them. A militant, rank-and-file

French Left, the one of the Communist and Socialist Parties and the Communist-affiliated General Confederation of Labor (CGT), had close relations to, helped the emergence of, and supported and influenced African political leaders (such as Senghor, Houphouët-Boigny, etc.), who in turn became deputies or ministers in the French government in the 1950s. At the same time, social scientists (sociologists, economists, anthropologists) have developed research and analysis of African colonial realities and their dynamics (the “colonial situation” of G. Balandier), and have transferred their commitment into the formation of critical and politicized intellectuals. It is this relation, ambiguous yet based on solidarity, which has been lost in the recent period, with the transformation of the relations between Africa and France. A certain “postcolonial melancholia” (to use Gilroy’s expression) is noted in the crisis of French-African relations and in today’s representations of Africans in France.

Therefore, no model exists, but many examples can illuminate the French situation and help us to understand it. For example, Brazil is still struggling to move away from a social and racial thought based mainly on slavery (which was abolished in 1888). Questions of reparations and affirmative action are often raised in the debate. Racial quotas (or “facial features” quotas, as we say in French) have not radically changed the conditions of young Black people in universities or in terms of employment. Moreover, quotas have created confusion in the modes of identification; one’s identity becoming more strategic than ever, and expressing itself as an essence or even as a pure origin. However, measures such as quotas have provoked a debate in the public arena, a debate on Brazilian racism that is pointless for some and embarrassing for others. In France, discussions of positive discrimination and ethnic statistics have

started, with similar effects. However, strong belief in the egalitarian principles of the French Republic has muzzled the debate. This belief requires that one forget the ethno-nationalist effects of such principles such as the exclusion of a part of the nation in its imperialistic times. It is not uncommon for liberating movements to emerge when egalitarian models permit discourse about injustice rather than when the people are in actual crisis. Certain public policies can allow this to happen as long as they are based on political pragmatism.

On the other hand, the affirmation of the universal value of the *res publica*, might not play the same revolutionary role in France as it did in other historical circumstances. This affirmation has responded in an authoritarian manner to dissonant voices claiming that the Republic is unjust. In the current French context, the emphasis on the Republic’s values expresses exclusively the repression of a political voice, and is synonymous with cultural censorship. This cultural repression is even stronger when the expression of a dissonant voice takes a different form—and this is not a novelty in the history of popular mobilizations. The rejection of difference in the name of “origins” or lifestyles, works in fact against even the possibility of a dissonant voice. In other words, we cannot express racism and at the same time defend democracy; there is a contradiction between the two.

However, this is what the commentators on the suburban riots of November 2005 attempted. For many years, but more obviously after the riots, a question has been raised in France, “Do we still need to learn to talk without an accent to fit into the landscape of a democratic society?” Nowadays, we do not imagine that cultural uniformity is necessary in order to part of a “community of equals.” This is not a social or a cultural question; it is a question that is

particular to democracy. The right wing philosopher Alain Finkielkraut, condemning the “mumbo-jumbo of the suburbs” is articulating nothing less than the rejection of democracy as a voice for the people. According to this philosophy, only authentic citizens, the ones with good lineage or the right knowledge, would have access to politics.

What happened in France in November 2005 demonstrates that this elitist democracy imagined by a few does not correspond to the political situation. One of the reasons is certainly that the French conjuncture is more dependent than we think upon what is happening elsewhere. The French social movements are aware of cultural and political ways of mobilizing that are being tested all over the world, taking spectacular forms, or new and diverse communitarian bases.

#### Endnote

<sup>1</sup> Paris’s 20<sup>th</sup> arrondissement is one of the most multicultural areas of the French capital. It is also going through an important social change, with a new middle-class called ‘bobo’ (which stands for bohemian bourgeoisie) now arriving in the traditionally popular classes of the neighbourhood. ■