

**AFFIRMATIVE ACTION IN TERTIARY EDUCATION:
A Meta-Analysis of Global Policies and Practices**

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I. INTRODUCTION

Any country committed to promoting equity in their tertiary education system must make sure their tertiary education system is accessible to students from underrepresented and traditionally-excluded groups. Supporting the opportunity to seek these benefits in an equitable manner is fair and just based on the widespread evidence of the many public and private benefits of attaining a college degree. Individual, private benefits of attending higher education include improved health outcomes, increased earning potential and even greater life satisfaction. On a broader systemic level, the public, societal benefits accrued by having higher levels of education present in the workforce include low unemployment rates, increased tax revenues, greater civic and volunteer participation and lessened dependency on social services. Because of the known benefits, equity in access and success in tertiary education remains an area requiring deeper analysis.

While increased access to tertiary education has been documented across the world, those students least likely to enroll and succeed in tertiary education are overwhelmingly from low-income, minority, and first-generation college student backgrounds. The transition to higher education from secondary school requires interventions of many kinds, and students from different populations experience this transitional period differently across the world. Improving equitable access to higher education will require deliberate efforts to attract and enroll underrepresented and traditionally-excluded groups across the full array of institutions in any tertiary education system.

Affirmative action, an area of policy directed toward creating differential processes to promote equality of opportunity, is one such option. For disadvantaged groups, providing avenues to promote even considering tertiary education is the first step in a long journey toward

success in tertiary education. Providing them with processes and tools that provide points of access (in admission and funding, for instance) must follow. However, the history of affirmative action has been fraught with controversy and challenges. In-depth research into affirmative action across nations and cultures reveals diversity in the mechanisms and procedures that have made up country agendas.

This report seeks to provide a global illustration of the range of interventions and impacts of affirmative action by focusing on four key countries: India, Malaysia, South Africa, and Brazil. These countries have a diverse set of histories, barriers, and affirmative action policies. They also represent different regions of the world, from Asia to Africa to South America. Together they give a sense of the range of rationales, policy options, and effects of affirmative action.

II. BARRIERS IN THE TRANSITION TO TERTIARY EDUCATION

Before examining the uses and effects of affirmative action around the world, this section details the many barriers students face in the transition to tertiary education. First, many countries have a long history of discrimination against specific groups. Implicit and explicit policies have limited the opportunities of minority and low-income persons, and while many of these norms are changing, the repercussions of years of repression are still being felt. One implication has been in terms of the academic preparation of groups that have experienced discrimination. Given the limited number of places in tertiary schools and the competitive nature of admissions in many places, minority and low-income groups have been unable to meet the academic standards of colleges and universities. Lack of affordability is another barrier given the high cost of tertiary education. Table 1 summarizes the major barriers, which are then discussed.

Table 1: Barriers to Tertiary Education for Disadvantaged Groups

BARRIER	COUNTRY	EXAMPLE
Discriminatory Policies and Practices	South Africa	Apartheid – limited rights for non-White persons, especially Black Africans
	Brazil	Favoritism towards White persons in employment; Differences in educational access, health care, and safety
Academic	India	Differential access to primary and secondary schools for lower castes
	Malaysia, South Africa	The disadvantaged group only had access to low-quality schools
Admissions/ Limited Slots	South Africa, India, Malaysia	Not enough members of the disadvantaged meet university standards to qualify for admission
	Brazil	Black Brazils cannot afford to pay for preparatory courses for the university entrance exam and so score lower
Financial	South Africa	The historically White universities cost more than the historically disadvantaged institutions
	Brazil, India	Tuition prices are high and financial aid is not sufficient to help poor students

Social Barriers: Discrimination and Repression

South Africa is one example of a country that exercised a clear discrimination policy against part of its population. From 1948 to 1994, the country functioned under Apartheid, which limited the rights of non-white people in favor of the white minority. One educational example of this was the Bantu Education Act of 1953, which established separate systems of education by race. In the following Universities Amendment Act of 1959, Black students were prohibited from being admitted to historically White universities and separate universities were created. The fragmentation of the tertiary system in South African resulted in large inequalities along ethno-linguistic lines because race played an important role in the distribution of educational

opportunities (Mabokela, 2001). Discrimination was also practiced in the labor market as non-white persons had few training opportunities and were restricted to mainly unskilled jobs (Leonard, 2005).

The repercussions of these South African policies have persisted even after the end of apartheid in 1994. There are still large differences between historically-Black and historically-White universities. Moses (2010) finds that few Black students are in science, business, and engineering, and they are more likely to attend vocational training institutions than research-oriented universities. In the labor market, although the Black population made up 80 percent of the country in 1998, Black men held only six percent of the managerial positions (Msimang, 2001). Unemployment is also far higher among Black citizens in comparison to the White population (Moses, 2010).

In India, the system of discrimination is instead based on caste and ethnicity. The result has been substantial inequities in not only education, but also employment and income (Desai & Kulkarni, 2008). The caste system is a very old one, and because most of the country still does not pay an income tax, caste remains the main way of determining an individual's socioeconomic status (Gupta, 2006).

The inequalities evident in Malaysia are also the result of a long, though fairly more complicated, history. According to Agadjanian and Liew (2005), during British colonial rule, there were separate educational systems for different ethnic groups. Additionally, unrestricted immigration was permitted, although groups differed in where they settled. Chinese and Indian individuals were drawn to urban areas and had better access to schooling. Meanwhile, the Malays, the country's largest ethnic group, remained largely agrarian. They did not emphasize education to the extent of their Chinese and Indian counterparts and thus were underrepresented

in tertiary education Agadjanian & Liew, 2005). After the independence of Malaysia in 1957, the Malay majority became politically dominant but remained behind socially and economically (Abdullah, 1997). In contrast, the Chinese hold about 40 percent of Malaysia's wealth although they make up only about one-quarter of the population.

Discrimination in Brazil today is also less based on specific policies than pervasive practices that go unchallenged. These date back to at least the first half of the 20th century when “social engineering to whiten the population was major public policy” and ““cleansing the race” was promoted as a civic duty and a social responsibility” (Nascimento, 2007). These attitudes persist as advertising continues to portray Brazil as a country that is almost entirely white, although in reality about half of the population is non-white (Telles, 2009).

Surveys along with other forms of evidence suggest that racial discrimination is common in Brazil in many sectors, and as a result, inequality by race is high. For example, Black and mixed-race Brazilians earn only half as much as their White counterparts (Telles, 2009), a pattern that has remained largely unchanged for a century (Lloyd, 2009). Even when doing the same job and having the same qualification, non-white persons are often paid less (Momaya & Aguiar, 2010). Given these differences, half of the population of African descent lives below the poverty line, and Black Brazilians make up two-thirds the poor in the country (Frayssinet, 2010). Non-white citizens are also more likely to suffer human rights abuses, such as police violence (Telles, 2009), and they receive a lower quality of health care (Momaya & Aguiar, 2010).

Not surprisingly, these differences are also evident in education. According to Lloyd (2009), nearly one-quarter of Afro-Brazilians are illiterate while this is true of only one in ten White Brazilians. At the tertiary levels, a White student is three times more likely to attend than a Black student (Frayssinet, 2010). To summarize, Afro-Brazilians have much greater difficulty

entering higher education and the labor market, obtaining public goods and services, securing rights, and getting access to land, even when guaranteed by law (Frayssinet, 2010). Lighter-skinned children “have more opportunities to climb a social ladder associating prestige with proximity to whiteness” (Nascimento, 2007).

Academic Barriers

While overt racism and discrimination is one type of barrier to a tertiary education, lack of access to and/or poor quality primary and secondary education is another. Even as norms, perceptions, and laws have changed, persistent differences in academic preparation continue to hold back some groups. Some of these barriers are structural in that they relate to the availability of schools. Others are the result of differences in resources in the available schools.

In India, one main concern is the availability and quality of primary education. Many students from the lower castes do not have access to primary schools, and as noted by Moses (2010), “the education to which there is access, is often of poor quality in content, pedagogy, and treatment of students.” These are long-standing patterns (Basant and Sen, 2010). Analyzing census data from 1971 to 1991, Banerjee and Somanathan (2007) found that there were large disparities among different caste groups in India in terms of access to primary or secondary schools. Due to these differences at lower levels of education, reserving spots for traditionally-disadvantaged groups at the tertiary level will not do much to improve equity at the university level. As noted by Kripalani (2006), only 15 percent of the 202 million students enrolled in school in India make it to the high school level, and only half of those graduate (about 14 million). Even if all of those students from lower castes were well-prepared for the university level, there are so few of them to really make a difference in the overall numbers. Desai &

Kulkarni (2008) conclude that the government practice of reserving seats for dalit and adivasi students at university level do little good as the discriminatory practices at the primary level continue and prevent these students from taking full advantage of the spots reserved for them.

South Africa also has a long history of differential access to education. In 1905, the School Boards Act provided government schools for White students only. School attendance did not become mandatory for Black South African children until 1976, and by 1993, there were still large disparities in attendance by race. As summarized by Lindsay (1997), the “head start” given to White students “characterizes their present social, economic, and political position to this day.” There are also differences in the amount spent on the education of Black versus White students in South Africa. In 1989, five times more was spent on the education of White students in comparison to Black students; still, this was an improvement over difference in 1948, when 20 times more was spent on the education of White students. The low quality of public secondary schools for Black students in South Africa continues to hold back efforts to increase the number of Black professionals. Post-apartheid, which was abolished in the 1990s, there has been little success in improving schools in rural areas and black townships (Borough, 2008; Dugger, 2010).

A similar pattern is also evident in Malaysia in terms of the Malay masses. The British confined Malay students to four years of rudimentary education, and there were no secondary schools for Malays until 1959. Even thereafter, the majority of Malays received only an elementary vernacular education, which was considered terminal (Selvaratnam, 1988). In contrast, Chinese students had the opportunity to attend Chinese or English secondary schools, which made their educational mobility much better (Raman and Sua, 2010). In particular, the English and British-oriented education systems, as well as the selective secondary and tertiary schools, catered to the middle-class Chinese, Indians, and Eurasians who lived in the urban areas

where the schools were located. The Malays, except for a small feudal class, did not attend as they were concentrated in rural areas and somewhat distrustful of the restrictive, Christian English-language schools (Selvaratnam, 1988). These differences in education allowed the Chinese and Indians to achieve upward mobility, especially by associating with European trade and commerce due to their English-language instruction (Pong, 1993).

Raman and Sua (2010) suggest that Malaysia is currently attempting to provide a common system in order to “foster national integration among the various ethnic groups.” However, to fulfill divergent interests and needs, it also allows for alternative ways of delivering education at all levels, which has resulted in creating divisions along ethnic lines in terms of educational tracks. The result is differences in the quality of education available to Malays even today and their level of educational preparedness, especially in the sciences (Raman and Sua, 2010).

In Brazil, the difference in educational quality is split between the public and private schools. The upper-middle classes have access to private schools, which they can afford to pay for, while lower-class children of all ethnic backgrounds are relegated to poor quality public elementary or basic schools (Sousa and Nascimento, 2008). These public institutions are underfunded and neglected, resulting in worse outcomes for the poor families who cannot afford other options. Due to economic differences by race in Brazil, the majority of the poor in the country are Black, and thus “most light-skinned children attend private schools, and most dark-skinned children attend the substandard public ones” (Guillebeau, 1999). Estimates suggest that 40 percent of Brazilians age 18 to 24 have not completed secondary school (Schwartzman, 2009), with the percentage being much higher among Black students.

The Supply of Tertiary Education and Admission Standards

Lower levels of preparation make succeeding in higher education more difficult for disadvantaged groups. However, with less preparation, it is more difficult for certain groups to even gain entry to a college or university. Furthermore, the fact that space is limited at the tertiary level necessitates selective admission policies, and with an emphasis on academic achievement and standards, few students from traditionally-excluded groups qualify of admittance. This has been the case in Malaysia. Darity (2005) notes that because of inadequate schooling, slots set aside for native Malay students have remained unfilled; there are not enough native Malay students to meet the minimum standards for admission. Meanwhile, capacity in the tertiary system is insufficient to meet overall demand by all groups (Selvaratnam, 1988).

In India, competition is especially fierce given the small supply of spaces at the university level. Each year, about 300,000 take the Joint Entrance Examination necessary to gain entrance to the IITs, which have only 3,000 open seats (Gupta, 2008). In total in 2006, only nine percent of individuals ages 17 to 23 were enrolled in tertiary education, regardless of background. With so few slots, there are intense disagreements over who should be given preference in admissions (Moses, 2010). With so few students from the lower castes have sufficient preparation for the university level, non-target groups in India are pressuring the government to allow their children to fill empty quota positions.

South Africa has also experienced these problems. Even though Apartheid restrictions are no longer in effect, admission to the University of Cape Town is still based on high school matriculation results; the fact that Black students have such poor preparation still excludes many of them from entry. In acknowledgement of the fact that the Black African students attended under-resourced primary and secondary schools, even in comparison to the schools of Colored,

Indian, and Asian students, the Alternative Admissions Research Project was started at the University of Cape Town (Mabokela, 1997). This project has looked for other ways to admit students beyond high school matriculation results.

In Brazil, the problem of having enough qualified Black students to attend tertiary institutions is due to multiple issues. According to Stillman (2010), Black students tend to attend state schools because they cannot afford private schools, and the quality of education at these state schools is so bad that many students do not even attempt the university entrance examination. In addition, Black families often cannot afford year-long preparatory courses to help them with the university admissions exams, and this further reduces their chances of admissions to a competitive public university (Lloyd, 2009). As Ferman and Assuncao (2005) conclude, due to attending lower-quality public schools, Black students in Brazil find it more difficult to get into a university and only a few are admitted. Within the Brazilian tertiary system, there is still further sorting. To gain entry to one of the more prestigious fields of study, such as medicine, dentistry, engineering, and law, one must complete a written exam. Only the more affluent students can afford to prepare and pay for these exams, and so few Black students do leaving students from richer, better-educated families to enter these careers. For students from other backgrounds, particularly Black students, the other options are less competitive careers and “soft” field (Schwartzman, 2009).

Financial Barriers

Financial concerns are also a barrier for certain groups. As noted above, the inability to pay for higher-quality private schools in Brazil is the root of some of the problems faced by Black students. However, the cost of universities is also a significant barrier. This has been seen

in the United States and as the U.K. begins to charge larger amounts, but the issue is particularly troublesome for disadvantaged groups in the focal countries of this report. In South Africa, reports by the Academy for Educational Development (1992) and the African National Congress (1994) have noted that rising costs and diminishing sources of financial aid have hurt Black South Africans. Moreover, the historically White universities have much higher tuition and fees than the historically-disadvantaged institutions, thereby causing another barrier to students trying to switch to the higher-quality schools (King, 2001). The cost of higher education is also quite inaccessible to the poor in India. Tuition and fees are high for training in professional education regardless of sector. Unfortunately, little is being done to improve the availability of scholarships or loans for poor students, thereby having cost remain a major barrier for disadvantaged groups (Agarwal, 2008).

The design of the Brazilian system results in traditionally-disadvantaged groups having to pay more than students from more affluent backgrounds. In the country, the more prestigious, public universities are tuition free. Given admissions are based on an entrance exam that White students are more likely to be able to prepare and take, these students are able to attend high-quality universities free of charge. Meanwhile, students from poor families have little chance of being accepted to the public universities and so much pay high tuition prices at private universities (Martins, Medeiros, & Nascimento, 2004). Even students accepted at the public universities under the quota system have trouble affording to stay in school. While quota students at the University of Rio received a small scholarship, it barely covered the cost of books and did not cover equipment (Lloyd, 2004). Moreover, many of the poor students live far from campus and so are reliant on “precarious” public transportation systems (Martins, Medeiros & Nascimento, 2004).

III. POLICY CHOICES

The above section starts to make clear the numerous barriers some groups face in trying to access tertiary education. While deliberate interventions are necessary to counteract those forces, as was foreshadowed in some of the discussion, many of the problems are deeply rooted in historical and societal norms, and so simple policy solutions may not be terribly effective. Still, many have made the case for affirmative action policies to help improve access to higher education for certain groups. This section discusses the major justifications for affirmative action and the policy decisions countries have to make when designing affirmative action policies. Although the forms of affirmative action can vary substantially from one country to the next, nearly all focus on groups that “are economically and socially disadvantaged and politically subordinate” (Guan, 2005). Therefore, goal of affirmative action is to introduce policies and practices to improve the outcomes of the historically-excluded or underrepresented group. While this report focuses on educational remedies, affirmative action policies can also incorporate employment and business policies.

Major Justifications for Affirmative Action Policies

There are four main justifications for the use of affirmative action at the tertiary level. They are summarized in Table 2, along with the countries that use them as the primary or secondary rationales for their affirmative action policies. The first justification focuses on compensating for past discrimination. This is sometimes labeled as affirmative action for remediation purposes (Moses, 2010). The policies in India and South Africa are largely based on this rationale of remediation or compensating for past wrongs. However, this position has been criticized for assigning benefits to individuals who may not have suffered directly from the

injustices (Lindsay, 1997; Mabokela, 2000). In fact, most criticisms of affirmative action focus on this argument even though the majority of affirmative action policies are mainly based on other justifications (Tierney, 1997). The compensatory framing also characterizes the beneficiaries of affirmative action as victims, which can have the indirect effect of putting substantial pressure on the disadvantaged group (Lindsay, 1997).

Table 2: Major Affirmative Action Policy Justifications

	EXAMPLE COUNTRIES	
	Primary Rational	Secondary Rational
Remediation or Compensatory	India, South Africa	
Social Justice or Corrective	Brazil	India, South Africa
Diversity	United States	India, Brazil
Economics	France	India, South Africa

A second justification for affirmative action revolves around arguments of social justice. This rationale argues for “racial integration, the elimination of institutionalized inequalities, and equity in democratic participation.” Furthermore, it suggests that racial integration is important in fostering a civil and democratic society (Moses, 2010). An alternative way to frame this justification is as a corrective tool designed to address current discrimination. In contrast to the first justification of compensation, Tierney (1997) describes the corrective argument in the following way: “We do not compensate someone today for an injustice visited on someone else a century ago. We compensate someone today because the after-effects of injustice still exist.” (p. 192). Tierney goes on to suggest focusing on corrective measures helps improve the system while also acknowledging current injustice. Much of the discourse in Brazil focuses on this social justice argument in acknowledgement of current discriminatory practices.

An emphasis on the importance of diversity is a third rationale. Under this view, affirmative action is seen as a policies designed “to promote a multiculturally diverse and equal

society” (Lindsay, 1997). Such policies suggest that diversity has educational benefits, and in order to prepare the workforce of the future, one must expose students to diversity. Diversity is encouraged at multiple levels, including students, faculty, and staff. The use of this justification has varied. In South African, for example, diversity has a negative connotation and so “appealing to the diversity rationale and educational benefits of diversity would be unlikely to be compelling there” (Moses, 2010). However, arguments for greater diversity are gaining traction in India and Brazil. According to Jenkins (2008), there has been a gradual shift in India towards more discussion of the concept of diversity and fewer concerning castes and ethnicity.

A fourth justification for affirmative action relates to economics. As noted by Moses (2010), this argument suggests that helping disadvantaged people will contribute to the economic efficiency of a country. More specifically, the rationale is that society needs more of the disadvantaged group to join the workforce and contribute to the economy. Moreover, by developing more role models for youth from the disadvantaged group, supporters of this justification hypothesize that there will be a feedback mechanism so that the youth will learn how to become contributing members of the country. Part of this contribution is to not use welfare services, which are seen as a drain to the economy (Moses, 2010). This rationale has been used as a secondary explanation in India and South Africa.

Policy Choices

Affirmative action can take many possible forms, and so countries have had to decide which policy design is most appropriate for their context. One decision that must be made is about the approach, or how the country will designate the beneficiaries. At one end of the spectrum, the country could choose “accommodation” with “denial” being at the other end. Accommodation, or multiculturalism, “designates beneficiaries of redistributive policies

according to membership in established or taken for granted groups” (Zwart, 2005). For example, a particular racial group might be chosen to receive special treatment. At the other end of the spectrum, a country could refuse to design redistribution policies that are meant to benefit any particular group and “not recognize any preexisting, organic, or transcendent structure to society” (Zwart, 2005). India is an example of country trying to strike a balance between these two extremes. They are exercising what Zwart (2005) would label “Replacement.” In this case, the government “pursues redistribution that benefits caste, ethnic, or racial groups, but constructs its own social categories, different in name and usually more inclusive than the folk categories they replace.” In this way, the country avoids recognizing the social divisions related to the problem yet allows the redistribution of benefits to the traditionally-disadvantaged group (Zwart, 2005).

Table 3: Choices in the Design of Affirmative Action Policies

DECISION	CHOICES	DEFINITION	EXAMPLE
Approach	Accommodation	Designates beneficiaries of redistributive policies according to membership in established or taken for granted groups	South Africa
	Replacement	Constructs its own social categories to designate beneficiaries	India
	Denial	Does not design redistribution policies to benefit any particular group	
Forms of Affirmative Action	Preferential Boost	Adds points, either explicitly or implicitly, to members of the target group	South Africa
	Quota	Allots a certain number of slots to members of the target group	India Malaysia Brazil
Strength of the Policy	Strong	Disadvantaged group members are chosen over other candidates regardless of qualifications	
	Weak	Preference is given to disadvantaged students among equally-qualified candidates	

Once deciding how to categorize (or not categorize) to whom to give preferences, affirmative action most often takes one of two major forms. As characterized by Weisskopf (2004), countries can give “preferential boosts” to certain individuals or they can create quota systems. Preferential boosts add points, either explicitly or implicitly, to members of the target group. South Africa uses this practice. In contrast, quota systems allot a certain number of slots to members of the target group. India, Malaysia, and Brazil use this system instead. However, preferential boosts and quotas are not necessarily mutually exclusive. While one approach tends to dominate, affirmative action systems may use elements of each approach (Darity, 2005).

Countries can also differ in the strength of their affirmative action efforts. As noted by Dupper (2004), some choose to follow a “strong” affirmative action policy. In this instance, members of a disadvantaged group would be chosen over other candidates even if those other candidates have stronger qualifications. A weaker form of affirmative action would be to only give preference to disadvantaged students when they are among equally-qualified candidates. Not surprisingly, strong affirmative action policies are much more controversial than weak policies (Dupper, 2004).

IV. COUNTRY CASE STUDIES: AFFIRMATIVE ACTION POLICIES AND THEIR IMPACTS

This section focuses on each of the four countries individually to briefly summarize their particular affirmative action efforts. Given the diverse set of histories, barriers, and affirmative action policies, these short case studies give one a sense of the range of experiences with

affirmative action across different regions of the world, from Asia to Africa to South America.

Table 4 summarizes the major policy in each country and special considerations.

Table 4: Policy Summary

COUNTRY	POLICY DESCRIPTION	CONSIDERATIONS
India (<i>Quota</i>)	Nationally mandated that 49.5% of seats be reserved for students and faculty members of scheduled castes, scheduled tribes and other backward classes.	Admission is a function of one's exam score and caste group. Within each caste group, only those who have scored above a given threshold for their caste group are admitted
Brazil (<i>Quota</i>)	As of yet, no national policy exists. Several bills are currently under debate in the Brazilian National Congress and a case against the constitutionality of quotas awaits the Supreme Court. Currently, quotas are established individually by different states and different universities based on race, type of schooling (public vs. private) and disability status.	Given the large numbers of mixed students, it is hard to distinguish Black students from White students, making it difficult to decide who qualifies for quotas.
Malaysia (<i>Quota</i>)	In 2003, the government formally abandoned its 31-year system of positive discrimination in favor of Malays. Previously, it was nationally mandated through the NEP that 55% of places be set-aside for native Malays at tertiary institutions, for both students and faculty members.	Students were selected from the top scorers from each ethnic pool of applicants, with the Malay pool being by far the deepest.
South Africa (<i>Preferential Policies</i>)	Section 9 of the Constitution permits policies to protect or advance those who are disadvantaged by unfair discrimination. In 2006, the parliament amended the Higher Education Act of 1997 to require universities to increase the numbers of black and other underrepresented students admitted. Historically White Universities responded with varying interest and enthusiasm to this legislation. Some universities have established preferential policies for blacks and women while other schools do not.	The Alternative Admissions Research Project (AARP) at UCT sets aside a number of places for applicants whose potential can be identified but who would not ordinarily win a place judged solely on the school-leaving examination results.

Case Study: India

India first established affirmative action during its the creation as a sovereign nation. The Constitution guarantees affirmative action for “Backward Classes” in the country and empowered the President to appoint a commission with the purpose of developing criteria and selecting the specific groups to benefit (De Zwart, 2005). The overarching goal of the reservations has been to improve the welfare of groups who have historically been economically and social depressed (Gupta, 2006). The policy in India focuses on giving reservations, or quotas, to specific groups. In fact, it is nationally mandated that 49.5 percent of seats be reserved for students and faculty members of scheduled castes, scheduled tribes and other backward classes. The designation of groups started in 1948 with a clause written into the Constitution to have reservations for untouchables (or Dalits) and tribals (or Adivasis) (Darity, 2005). It is also interesting to note that the Indian Constitution ensured political representation for groups in the form of government seats, leading to the fact that several important leaders have been Dalit (Deshpande, 2006).

While affirmative action is part of the Constitution, this does not mean that it is free from legal challenges due to disagreements about implementation (Deshpande, 2006). For example, the Supreme Court judged against caste-based admissions in private higher educational and professional institutions, which are not funded by the government. However, in 2005, the government passed an Amendment rolling back this decision and inserting a clause into the Constitution guaranteeing the “right to equality” and “equal protection before law” to all citizens without discrimination. These changes enable the government to target the Scheduled Castes, Scheduled Tribes and Other Backward Classes in private, as well as all central and professional colleges (Gutpa, 2006).

Determining which groups should have access to these reservations has been a contentious issue. The country originally tried to avoid the recognition of castes by designating “backward classes” as eligible, but it was not clear who would qualify as the category is purely an administrative construct (De Zwart, 2005). This has triggered an ongoing process in which groups have attempted to claim part of the reservations for themselves. In particular, “caste consciousness, caste loyalties and caste aspirations increased throughout India” (Zwart, 2005). In the current system, individuals must register and be officially recognized as membership in a specific social category to get benefits. This has increased interest in affiliating by caste, given they are now tied to important advantages not only in education but also jobs. Therefore, while attempting to replace the established social categories, the country ended up reinforcing the caste system (De Zwart, 2000).

There have also been calls to have “quotas within quotas” within the lower castes. In other words, the “most backward” of the “backward classes” have asked to receive more help and reservation spots than the relatively more forward within their group. For example, on caste cluster in Karnataka, the Vokkalingas, make a large share of the “Socially and Educationally Backward Classes.” Lower sub-castes within the group claim that higher-ranking Vokkalinga sub-castes, the Gangadikar and Morasu, receive nearly all of the benefits (De Zwart, 2000). Such groups continue to pressure the courts to create quotas for the smaller groups.

Enforcement of the reservations policy is problematic in India. Although there is a Ministry for Social Justice, this is neither a national enforcement mechanism nor a monitoring agency. Institutions can simply stipulate quotas, but there are no penalties for circumventing the rules. As Deshpande (2006) summarizes, “mandating the requisite number of seats is often the

beginning and end of the implementation of the Indian affirmative action program.” There are also few support programs to help students under the quota to perform well at the universities.

Case Study: South Africa

The beginning of affirmative action in South Africa came with the end of Apartheid and the election of the African National Congress (ANC) in 1994. The Reconstruction and Development Programme (RDP) was a policy guide, which had been written by the ANC, the Congress of South African Trade Unions (Cosatu), and other organizations, that suggested strategies and targets to redress economic and social inequalities. It stated that affirmative action “must incorporate (i) education and training programmes; (ii) empowerment of individuals and communities to promote collective rights and workplace issues; (iii) principles for hiring and promotion which prevent discrimination against those previously disadvantaged by apartheid; and (iv) monitoring mechanisms that should be enforced by legislation” (Adam, 1997). Moreover, the new South African Constitution of 1996 allowed for policy and legislation to be formulated to redress the inequalities of the past. As noted by Burger and Jafta (2010), this provision was “an exception to the Constitution’s otherwise staunch commitment to equality.”

However, early affirmative action initiatives in South Africa were enforced, and Mabokela (2000) emphasizes that Black citizens did not have legislation to invoke in the case of a violation. Therefore, in 2006, Parliament amended the Higher Education Act of 1997, thereby requiring universities to increase the numbers of Black and other underrepresented students admitted (Moses, 2010). However, some English-speaking, Historically White Institutions (HWIs) had long since protested against Apartheid policies, and once it ended, these schools were no longer restrained from pushing forward the affirmative action agenda. These schools

included the University Cape Town (UCT), Witwatersrand (Wits), Rhodes, and Natal (Herbstein, 1993).

In South African, the most salient justification for affirmative action was remediation. As described by Nelson Mandela, affirmative action was thought to be a “corrective action to bring previously disadvantaged people to the same competitive levels as those who have been advantaged” (Adam, 1997). However, unlike most other countries in which minorities are the targets of discrimination, in South Africa it was the majority population that was previously disenfranchised (similar to the experience in Malaysia). Therefore, unlike the experience of the United States, the South African programs could not merely attempt to integrate Black citizens into the minority White value system and culture (Mabokela, 2000). Moreover, there was some contention regarding who should be included in affirmative action programs. As explained by Mabokela (2000), the term “Black” could include Africans, Coloreds and Indians, but because each of these groups received different treatment under Apartheid, there were disagreements about how much each group should benefit from affirmative action policies. Many argued that the needs of Africans should be addressed first.

King (2001) summarizes the multiple steps that had to be taken in South Africa’s affirmative action policy. First, the universities needed to adopt selection criteria that attempted to identify a student's potential for academic success but did not rely heavily on prior academic preparation. The country also had to restructure financial aid so that it would help the most economically-disadvantaged students. Finally, schools needed to be sensitive to the needs of newly-included students by awarding residential accommodations. Still, the country was cautious in its approach due to the fear that “positive discrimination” in favor of Black students could be construed as apartheid in reverse (Adam, 2000).

Case Study: Malaysia

In Malaysia, affirmative action was born out of race riots in which ethnic Malays attacked Chinese Malaysians, referred to as the 13th May 1969 incident. The riots, which resulted in 196 fatalities and 439 injuries, conveyed a clear message about the need for affirmative action to address economic imbalances between the Malays and other races (Abdullah, 1997; Hamid, 2005). Afterwards, the government decided to establish the New Economic Policy (NEP), the goal of which was to “restructure Malaysian society in order to do away with the association of race and economic activity” Malays as rice paddy cultivators, Indians as rubber tappers, and Chinese as businessman” (Wydick, 2008). Of special note is the fact that Article 152 of the Malaysian Constitution authorized a mechanism “to safeguard the special position of the Malays through a system of quotas” (Agadjanian & Liew, 2005). In other words, as noted by Guan (2005), “affirmative action in Malaysia is a constitutionally sanctioned and exclusively ethnic-based policy where only the Malays and other native groups are entitled to receive preferential treatment.”

As part of the NEP, all public postsecondary institutions had to reserve 55% of their places for Malay students. This new admission policy was aimed at expanding the presence of Malays in higher education generally but also to narrow the gap in educational opportunities in science and technology studies (Agadjanian & Liew, 2005). The circumstances under which affirmative action policies were implemented in Malaysia were favorable. As discussed by Klitgaard & Katz (1983), the disadvantaged group had political power and soaring export prices generated much new growth for the country to redistribute. Moreover, the government frequently argued that the preferential policy favoring Malay participation in the economy and

higher education would promote a concept of nationhood and help to ensure stability and foster national integration (Guan, 2005; Brown, 2007). The Malaysian affirmative action policy was mostly developed by Dr. Mahathir, who led Malaysia from 1981 until 2003 and who oversaw its dismantling in 2003 (Cohen, 2007).

Case Study: Brazil

In Brazil, one turning point was the 2001 World Conference on Racism in Durban, South Africa, which forced the Brazilian delegation to recognize the Black movement's suggestions. On the heels of this conference, several Brazilian institutions established race-based affirmative action for the first time, which was counter to the previous long-held belief in racial democracy (Htun, 2004; Telles, 2009). The affirmative action policies were written into the constitution and implemented by government. "Positive discrimination" is allowed by the constitution to correct inequalities, and the president have backed them publicly (Economist, 2001).

President Luiz Inácio Lula da Silva, a former union leader who took office in 2003, was a strong proponent of affirmative action, including the creation of a Secretariat for the Promotion of Racial Equality Policies (Downie & Lloyd, 2010). He also named four black ministers to his cabinet (including the aforementioned minister for racial equality) and appointed the first black Supreme Court justice, Joaquim Barbosa (Lloyd, 2004). However, there was some disagreement about quotas within the government. The Economist (2001) notes that "Paulo Renato Souza, the education minister, is against them, arguing that the recent rapid expansion in school places, and his scheme to give poor non-whites special access to student loans, will help to correct inequalities. Not fast enough, argues Raul Jungmann, the land-reform minister. He plans to phase in a 30% quota of jobs for non-whites by 2003, and to impose it also on firms seeking contracts

from the ministry.” Even with this controversy, the universities adopted the quotes without government mandate, which Moses (2010) interprets to underscore the “the power of the social justice discourse.”

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