

Research Article

Racial Affirmative Action and the Consensus on Phenotypic Hetero-Identification: Notes on the State Universities of the Brazilian Midwest

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Abstract

Racial affirmative action policies in Brazil have recently reached consensus in their technical procedures for defining black subjects of law, through phenotypic hetero-identification panels. Such panels aim to minimize reports of fraud, legitimize the subjects of affirmative policy law and provide legal security to institutions. This article revisits the construction of this consensus. Before 2012, the landmark Law 12,711, which standardizes affirmative actions in Federal Higher Education Institutions, there was a diversity of understandings and selection procedures. Currently, there is a unified model for these federal institutions and homogeneity regarding the phenotypic hetero-identification procedure. As federal legislation is not imposed on state universities, we highlight similarities and differences between the hegemonic model of phenotypic hetero-identification of federal and state universities in the Midwest. Methodologically, we conducted documentary and bibliographical research on the selection processes of State Universities in the Central-West region, with an emphasis on the different models of phenotypic hetero-identification implemented throughout the 21st century. The results indicate, in many ways, an essentialization of black identity and a depoliticization of the public debate on racial issues in Brazil. We therefore assess that this resulted in a decrease of criticism of the formation of Brazilian national identity and the establishment of objective parameters for the definition of black subjects of law.

Keywords

Phenotypic Hetero-Identification, Affirmative Actions, Brazilian Midwest State Universities

1. Introduction

Different researches that propose to analyze the area/theme of race relations in Brazil have in common the recognition that affirmative action policies (AAs) have played a central role in expanding the number of research and, therefore, in the expansion of the area [2, 3, 4, 23]. AA policies have a privileged place in recent analyzes of national intellectual

productions. In one of these evaluations, concerning the Sociology area, we read that “the field of analysis of social policies and racial relations was really consolidated in the second half of the 1990s, driven by discussions on affirmative action” [3].

These searches are carried out in different databases, such

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as the CAPES Theses and Dissertations Bank [2], scientific congresses of Social Sciences and Scientific Electronic Library Online (SciELO) [4], the area of Sociology, with special attention to São Paulo, Rio de Janeiro, and Salvador [3], and SciELO [23]. These are recent publications – between 2015 and 2021. As a whole, they point to an expansion of research and researchers.

In graduate school, the biggest area is Education, and the most researched/published themes are gender and sexuality, intellectuals, culture and identity, as well as affirmative actions and education. The importance of AAs in the racial studies field is twofold, as they contribute to changes in the racial relations field, insofar as there is both the diversification of themes and research subjects.

This paper aims to reflect on the change in phenotypic hetero-identification at state universities in the Brazilian Midwest, based on the assumptions portrayed in previous research [43] on the rise of consensus around phenotypic hetero-identification as a hegemonic procedure for defining black subjects in affirmative policies in Brazil, especially in the Federal Institutions of Higher Education (Ifes). Therefore, it is a question of giving continuity and greater depth to some aspects raised by this research, through a post-doctorate with the Postgraduate Program in Education of the State University of Mato Grosso (UNEMAT), under the supervision of Professor Paulo Alberto dos Santos Vieira.

The theme occupies a still uncertain place in the research field, as expressed in one of these analyses of the area, as follows:

Although significantly present in the public debate, hetero-classification commissions have not been configured as a systematic investigation topic in the production of social sciences, which may deserve more attention from researchers, not only because it deals with the application of AAP (affirmative action policies), but also the dynamics of racial classifications in Brazil today. [4]

The construction of a discursive consensus on phenotypic hetero-identification in Brazil as part of the selection processes by AAs for access to higher education has become nationally important since law 12,711/2012 [12], which establishes AAs for all Ifes¹. Law 12,990, of 2014 [14], in turn, sets aside 20% of vacancies for blacks in federal public tenders. Both laws will interrogate the Brazilian State about who the people entitled to these affirmative policies are. In this sense, it is correct to say that a contemporary discussion is required on the mechanisms and dynamics of racial classifications in Brazil.

Today, phenotypic hetero-identification is hegemonic, as a technique for defining the legal subjects of racial AAs for the two laws – 12,711/2012 [12] and 12,990/2014 [14, 20]. This model makes black identity more essential, contrary to the main theories on contemporary identity [5, 6, 27, 45], but it also guarantees the State and its institution's legal security for decision-making processes. It is configured as part of a process that indicates greater transformations, especially with

a greater introduction of technology.²

This tension over black identity was present from the first debates on AAs in Brazil, but it was repressed in each of the institutions, with few moments of national protagonism. However, as new legislation imposes a model of AAs and there is a homogenization and affirmation in the law of selection procedures by racial AA. This debate becomes fundamental to understanding the new perceptions of central concepts of current racial relations, such as race, racism, prejudice, identity, and the set of relations between culture, politics, and the State in the construction of subjectivities.

Obviously, the limit of this paper is to evaluate historically how state universities in the Brazilian Midwest carried out their debates and choices of racial affirmative policy models. We must remember that the state universities were outside the federal legislation on affirmative policies; therefore, each one has particular characteristics regarding these policies.

In Brazil, racial and social issues have always maintained relations of ambiguity and ambivalence, and the institutionalization of affirmative policies bears this trait as a characteristic feature. When evaluating the normative constructions around AAs and the objectification of a procedure for defining who is black for these policies, this phenomenon becomes more visible. Before 2012, the milestone of law 12,711 [12], which standardizes the AAs model for Ifes, there was a plurality of understandings, which were the result of internal discussions of each institution that adopted the AAs. Today there is a model for federal ones and a hegemony regarding the phenotypic hetero-identification procedure. Therefore, a way of continuing this discussion may be to analyze the state universities.

2. The Consensus on Phenotypic Hetero-Identification in Affirmative Action Policies in Brazil³

Phenotypic hetero-identification refers to the technical procedure in which, in AA policies, third parties attest to racial self-identification. The basis for such a decision is the subjects' phenotype. In Brazil, most public universities adhered to this procedure as part of the AA selection processes for black academics.

The consensus on phenotypic hetero-identification becomes visible from the observation that such technical procedures gain an air of legitimacy for both civil society and the State. The legitimization discourse of phenotypic hetero-identification as a socially valid technical procedure follows some arguments. Firstly, the procedure is already applied, in a similar way, in the research methodologies of the Brazilian Institute of Geography and Statistics (IBGE) for racial issue⁴. Secondly, legal security becomes an institutional concern, which increases the judicialization of access to higher education for universities. However, it is also an object of concern for the national black movement, since this debate

occurs concomitantly with a conservative turn in the country, and a greater legal certainty may reflect the continuity of AAs in this period that is more resistant to different policies. Finally, diverse intellectuals will mobilize strategic theoretical references to strengthen a consensus around phenotypic hetero-identification as viable in the fight against racism and national racial inequality.

It stands out, with some prominence, according to Ribeiro [44] Oracy Nogueira.⁵ In this case, the debate on phenotypic hetero-identification moves away from concepts such as identity and difference, towards a return to more essential debates in the legal dimension or resuming definitions of prejudice already overcome in the social sciences, such as those portrayed in Oracy Nogueira's definitions of brand prejudice and origin.

Historically, the decision on the constitutionality of racial AAs, judged in 2012 (Argument of Breach of Fundamental Precept [ADPF] n.º 186)⁶ [18], is followed by Law 12.711/2012 [12], which makes mandatory an AA policy of access to the federal network of teaching and, two years later, by Law 12.990, of 2014 [14], which reserves 20% of vacancies in federal public tenders. These laws have disparate normative sets: while 12.711 preserves the previous understanding of federal affirmative policies for self-declaration higher education, law 12.990 will be the most responsible for regulating phenotypic hetero-identification boards in the country. Therefore, we will initially give greater attention to this second legislation.

Law 12.990/2014 [14] is very similar to Law 12.711/2012 [12], but simpler, allocating 20% of vacancies to a single group, blacks, in federal public tenders. The term of validity of this law is ten years, and it must be applied whenever the number of vacancies is greater than or equal to three. According to article 2, "[...] those who declare themselves black or brown when registering for the public contest, according to the color or race item used by the Brazilian Institute of Geography and Statistics Foundation - IBGE" are the subjects of rights of affirmative politics [14].

In August 2016, with the Normative Guidance (NO) n.º 3 [17], it was changed the established way of characterizing the subject of rights since law 12.990/2014 was changed, from self-declaration to phenotypic hetero-identification, as read in article 1 of the normative: "Establish guidelines for assessing the veracity of the information provided by black candidates, who declare themselves black or brown, for the provisions' purposes of the sole paragraph of art. 2 of Law 12,990 of 2014" [17].

In the NO n.º 3 text, it is required that public notices foresee and detail, before the approval of the contest, methods of verification of the racial self-declaration to give the candidates possibilities of appeal. In paragraph 1 of article 2, item IV, it is established that: "The forms and criteria for verifying the veracity of the self-declaration should consider, only, the phenotypic aspects of the candidate, which will be mandatorily verified with the presence of the candidate" [17].

Thus, new procedures and a new rite to be followed in federal public tenders are established.

This NO n.º 3 was much questioned, especially due to the new procedures for defining the black subject of black rights. Quickly, in December 2016, through Joint Ordinance n.º 11, a Working Group (WG) [20] of an advisory nature was created, with the purpose of discussing the procedures for verifying the self-declaration of shareholders and creating a new Ordinance. It was a social context permeated by several accusations of fraud in affirmative racial policies, whether they are access to higher education or public service [28].

The result can be seen in Normative Ordinance (NO) n.º 4, of April 6, 2018 [19], in which, as it is the subject of a WG and studies on the legality and legitimacy of procedures capable of reducing the judicialization of racial definition in public tenders, there is a search for "standardization and equal treatment among candidates". Unlike NO n.º 3, from 2016 [17], we observed that phenotypic hetero-identification boards are established as a more detailed procedure.

There is, in this NO, the maintenance of the phenotypic criterion and its reasoning is based: firstly, on the judgment of ADPF 186, on April 26, 2012 [18], in which the Federal Supreme Court (STF) unanimously recognized the constitutionality of the policy of ethnic-racial quotas - a position ratified in the judgment of the Direct Action of Unconstitutionality (DAU) 3330⁷; and, secondly, in Recommendation n.º 41, of August 9, 2016 [16, 21]. This Recommendation defines parameters for the members' performance of the Brazilian Public Prosecutor's Office in the policy's implementation of ethnic-racial quotas in entrance exams and public tenders by the National Council of the Public Ministry.

From NO n.º 4, in 2018 [19], phenotypic hetero-identification crystallized as a legal, legitimate, and standard procedure for confirming self-declaration in cases of AAs in public tenders. This security attracted the interest of the Ifes, which began to adopt the same methodology on a larger scale for verifying the self-declaration before enrolling students. There is, therefore, an expansion of phenotypic hetero-identification in the selective processes of Ife AAs.

Since then, journalistic news about denunciations, investigations, and students' expulsions, under the accusation of having defrauded the quota system, became common in different universities (Universidade Federal de Minas Gerais - UFMG, Universidade Federal do Rio Grande do Sul - UFRGS, Universidade Federal de Pelotas - UFPel, Universidade Federal do Paraná - UFPR, Universidade Federal de Goiás - UFG, Universidade Federal de Mato Grosso - UFMT, Universidade de Brasília - UNB, Universidade Federal do Amazonas - UFAM, among others). The search for a safer system, with "more objective" criteria, has become the simplest answer to resolve, legally and administratively, these problems. The role of different black collectives, which began to emerge in universities after the AAs policies were implemented, is highlighted. These collectives are the main whistleblowers of

fraud and resort to militancy outside universities, institutional ombudsmen, and legal channels [28].

It is important to state that law 12,711/2012 [12] of quotas in universities and federal institutes is not guided by NO n^o 4 [19], as it is a normative mechanism restricted to the law that guides it, in this case, law 12,990/2014 [14]. Therefore, there is no legal obligation for Ifes to follow such normative guidelines, and state and municipal universities are even more exempt.

We also highlight two issues. The first point is the (re)centralization, through Law 12,711 [12], of the social issue to the detriment of the racial issue in the text of the law, whose criteria for defining the subject of rights depart from the social issue and blur the racial issue. This was one of the constant tensions in the debates and positions of the first period of AAs in Brazil (2002-2012). This law enshrines the intersection between class and race, mitigating both the effect of race on the social issue and the black protagonism in the AAs debate.

The second issue is that the law reduced AAs to an administrative procedure, to areas of bureaucratic and legal protagonism. With that, it reduced its political potential, carrying out a classic strategy of depoliticization, conferring legal status to what was previously political. This pendular movement minimized the relationship between the politician and power in the same intensity with which it linked the politician to Law and the law. It is in these terms that the understanding of this legislation is an anthropophagic solution⁸ to the greatest danger: the massification of politicization around the Brazilian racial issue.

The anthropophagic solution materialized in the construction of a multifaceted consensus around phenotypic hetero-identification as an alternative that produces institutional legal security and preserves affirmative policies in a context of conservative progress in Brazil, with the support of several intellectuals and representative institutions of the national black movement. This consensus anesthetizes important political advances in which Brazilian society has been immersed, in a condition of constant reflection on itself, since the beginning of the 21st century.

The Brazilian racial issue always has been a central piece for any understanding of the construction of our nationality.⁹ The ability to erase our national representations and the imagined Brazilian community itself was minimized in these movements of internalization of AAs as actions of state, technical, bureaucratic, and legal predominance. It is required, for the times that are approaching, new efforts to massify politicization around the historical and social effects of racial difference.

3. State Universities in the Brazilian Midwest and Affirmative Actions

We understand that the discourse of AAs went through

different phases. The first phase was the guarantee of constitutionality, between 2002 and 2012; from there, the borders became more blurred. Between 2012 and 2018, there were guarantees of the constitutionality and consolidation of AAs as a State policy, but there was also, from 2018, with NO n^o 4 [19], a general shift in the way in which the political struggle for AAs was operationalized, at a time when it was necessary to pay greater attention to changes that may impact social categories, such as race, black, brown, racism, prejudice, among others.

Law 12,711/2012 [12], despite expanding the scope of AAs policies in Brazil, did so with a view to imposing them on all Ifes. It was a model to be applied nationally, overlapping, in most cases, previous institutional models and, in some cases, successful ones with public and institutional acceptance. As a consequence of this and as a result of the criticism suffered by the increase in fraud reports, there was an expansion of normative resources and a new understanding – by the national bureaucracy about the tension between self-declaration and phenotypic hetero-identification –, which resulted in a new imposition, materialized in NO n^o 4, of 2018 [19], of phenotypic hetero-identification as a State technique for federal public tenders with AAs (law 12.990/2014) [14].

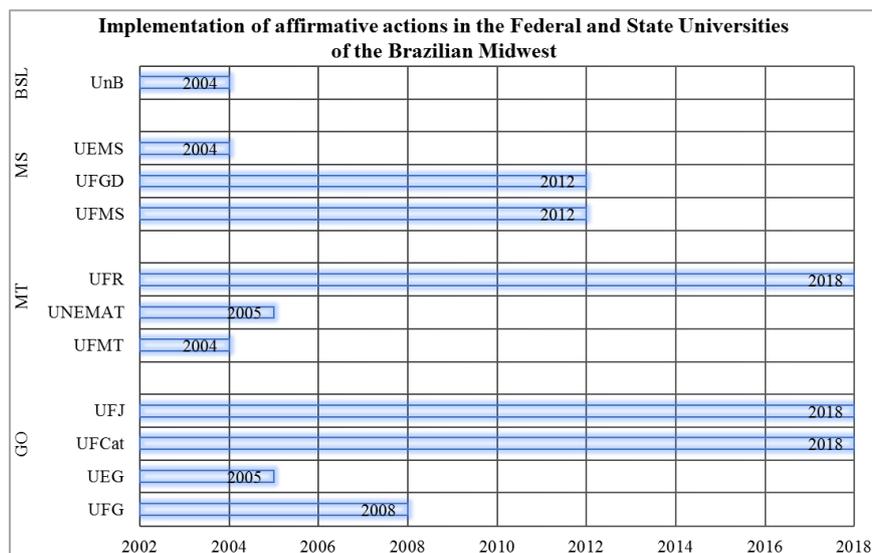
An important fact is that phenotypic hetero-identification was already present in academic selection procedures by racial AA in several universities. In general, state universities, among educational institutions, were the most active in implementing affirmative policies at the beginning of this century. In different ways, these institutions expanded the debate about AAs inwards and, consequently, also fueled the national public debate.

In 2012, the same year that Law 12,711 [12] was approved, there were quotas in 32 of the 58 federal universities; in 12 there was an increase in vacancies, and in 11 there was a bonus program. These data demonstrate a strong regionalization of the demands of the Black Movement and its members, who were agents of recognized importance in the debates around the implementation of AAs in universities and states of the federation, a factor that increases the politicization of the racial issue.

In 2017, there was a consolidation of quotas as the main AAs program. Federal law went on to reduce AAs policies to quotas and establish standardized procedures. Furthermore, 21 universities, out of a total of 63, which had resisted the adoption of these measures for almost a decade, were then forced to implement them [37]. Therefore, at that moment, AAs became State policy, and a new set of reflections on AAs was produced.

Figure 1 represents the implementation in federal and state public universities of affirmative policies in the Brazilian Midwest region, which, between 2003 and 2012, began to reach all institutions in the region. The first university to adhere to an affirmative policy was the State University of Mato Grosso do Sul (UEMS) and, certainly, the most emblematic case is the University of Brasilia (UnB), as a

catalyst for national debates both in the public sphere¹⁰ and in the legal sphere¹¹.



Source: Ribeiro & Vieira, 2022.

Figure 1. Implementation of affirmative actions in the Federal and State Universities of the Brazilian Midwest.

The year 2012 became the limit for the beginning of the implementation of racial AAs policies in the federal universities, for example, the Federal University of Mato Grosso do Sul (UFMS) and the Federal University of Grande Dourados (UFGD), due to law 12.711/2012 [12]. It is also noteworthy that the Federal University of Catalão (UFCat), the Federal University of Jataí (UFJ), and the Federal University of Rondonópolis (UFR) were created in 2018 and, therefore, were born under the Quota Law. We prioritize state universities in this research.

3.1. The State University of Mato Grosso Do Sul (UEMS)

UEMS was instituted by the state law n°1461, of December 20, 1993, authorized by Deliberation CEE/MS n°4787 [48] of the State Board of Education. However, the State University of Mato Grosso do Sul Foundation was created in the first State Constituent Assembly, in 1979.

The AAs at UEMS were established in 2002 and 2003. Firstly for indigenous people, by law n°2589, of December 26, 2002 [49], which established the reservation of vacancies for this group, proposed by State Deputy Murilo Zauith (PFL). Also, through law n°2605 [50], by State Deputy Pedro Kemp (PT)'s authorship, on January 6, 2003, vacancies were allocated to blacks.¹² However, its implementation took place the following year, in 2004.

The UEMS University Council, after discussions with the black and indigenous movements, established, through Resolutions 241/03 and 250/03 [52, 53], the percentage of 10% of vacancies for indigenous people and 20% for blacks, still

requiring them to come from public schools or scholarship holders from private schools [8]. As for the selection criteria, based on the UEMS University Council, the black and indigenous social movements made their demands: for blacks, adding the social and racial issue, while the Guarani Kaiowá and Terena peoples pointed out the need for the indigenous community, together with the National Indian Foundation (Funai), attesting their indigenous descent [7].

According to Cordeiro (2008) [24], the regional black movement was responsible for defending the phenotype as a selection criterion, based on the idea that discrimination is bigger among those with darker skin in Brazilian society. This was a defense that presupposed race as a social concept [42].

Consequently, there is a need to form phenotypic verification committees throughout the admissions selection process. The commission responsible for evaluating the phenotypes was created through the Pro-Rectorate of Education and is composed of representatives of UEMS and the black movement. The regulations that followed defined that blacks must come from public schools or scholarship holders at private schools, in Resolution n°250, of 07/31/2003 [53]; and the enrollment and competition criteria were indicated in CEPE/UEMS Resolution n°382, of August 14, 2003 [51].¹³ Thus, the first vestibular - the university entrance exam - under the new terms was in December 2003 (Cordeiro, 2008) [24].

In the first years of the policy, according to Cordeiro (2008) [24], there was a high number of rejected admissions due to phenotypic criteria: in “2003 it was 29.7%; in 2004, 38%; in 2005, 54.7% and in 2006, 31.8%”. Further on, part of this high percentage is justified by the ideologies of miscegenation and

whitening, which are widespread in our culture and which candidates “play with the impossibility of knowing who is black” (Cordeiro, 2008) [24].

Currently, CEPE-UEMS Resolution n.º 2,214, of December 4, 2020, which amends CE/CEPE-UEMS Resolution n.º 324, of November 4, 2020 [57], is responsible for regulating boards and verification phenotypic procedures of black candidates, face-to-face and/or in a virtual meeting. For this article, it is worth highlighting the 7th and 8th articles of CE/CEPE-UEMS Resolution n.º 324 [57].

Art. 7 The Phenotypic Verification Board will exclusively use the phenotypic criterion to assess the condition declared by the candidate for the vacancy reserved for blacks.

Art. 8th Phenotype is defined as the set of visible characteristics of the individual, predominantly skin color (black or brown), hair texture (curly or wavy), and face shape (broad nose and thick, brownish lips), which, combined, will allow validating or invalidating the ethnic-racial condition asserted by the self-declared black (black or brown) candidate, to occupy a vacancy object of quotas or reserve.

§ 1 The phenotypic criteria that must be observed by the Verification Bank are those that allow, in established social relations, the recognition of the individual as black, of black color/race, or of brown color/race.

§ 2 The genotypes that are defined as the candidate's ancestry or family collateral will not be considered under any circumstances to investigate the candidate's self-declaration as a black person (black or brown) [57].

UEMS, since 2003, preserves the phenotypic criterion as being unique in the procedures for defining the black subject with the right to racial AAs, even if it has undergone changes, which begin with the analysis of photographs, for models with interviews, including online, according to the current resolution. Another constant has been the racial and social criteria's articulation, in this case, public school students or private school scholarship holders.

3.2. The State University of Mato Grosso (UNEMAT)

UNEMAT was created on December 15, 1993, through the complementary law n.º 30 [35]. By that time, it was maintained by the Mato Grosso State University Foundation (Funemat), and it transformed the old pedagogical centers, whose roots they meet in 1978, with the Higher Education Institute of C ceres (IESC). After 1990, the expansion of the institution to other regions of Mato Grosso began, with the opening of campuses outside C ceres. The first campus to be created was Sinop's, in 1990; then those of Alta Floresta, Alto Araguaia, Nova Xavantina, Pontes and Lacerda, and Luciara, in 1991; Barra do Bugres and Col fer, in 1994; Tangar da Serra, in 1995; and Juara, in 1999, entering effective exercise in 2001.

AA policies at UNEMAT began with a decision by the Teaching, Research, and Extension Council (Conepe), through Resolution n.º 200/2004-Conepe [54]. UNEMAT's Ethnic-Racial Integration and Inclusion Program (PIIER) [1, 59] was approved in 2004 and implemented in the second half of 2005, with a reassessment in ten years. It guaranteed the allocation of 25% of the vacancies offered in all undergraduate courses to self-declared black or brown candidates¹⁴, who have been residents of Mato Grosso for at least three years and have completed elementary and high school in a public school, or with scholarships in a private school. In this way, we see the relationship between racial and social criteria again. However, there is here a primacy of the racial over the social aspect [59, 1].

Unlike what happens at UEMS, Resolution n.º 200/2004-Conepe [54] does not impose the phenotype as the only criterion as it regulates the self-declaration:

§1   For this Resolution, candidates will be considered black or brown, according to the classification adopted by the Brazilian Institute of Geography and Statistics - IBGE.

 2 When registering for the selection processes of UNEMAT, the black candidate who wishes to compete for the vacancies provided for in the caput of this article must make the option on the registration form and make a self-declaration of the racial group to which he/she belongs.

In 2015, after evaluating the first ten years of AAs, the policy was extended for another ten years. In 2019, with Resolution n.º 011/2019 – Conepe [55], it was made some changes in important and institutionally issues rooted in UNEMAT since Resolution n.º 200/2004-Conepe [54]:

III. For courses with 50 (fifty) vacancies, 20 (twenty) vacancies are allocated to broad competition and 30 (thirty) to students who have fully completed high school in a public school, distributed as follows: a) 13 (thirteen) vacancies for black students; b) 02 (two) vacancies for indigenous students; c) 01 (one) vacancy for students with disabilities; d) 14 (fourteen) vacancies for other public school students. Single paragraph. If vacancies for black, indigenous, and disabled students are not filled, they will be allocated to other public school students [54].

We noticed that the format changes: the first cut of vacancies ceases to be racial and becomes social (public school), but the racial percentages are preserved. There is an equivalence between the 25% (Resolution n.º 200/2004-Conepe) [54] and the 13 vacancies (Resolution n.º 011/2019 – Conepe) [55]. Further on, in Article 6, phenotypic hetero-identification and Verification Commissions are established to the detriment of racial self-declaration.

Art. 6 Those who declare themselves black or brown when applying for the entrance exam may apply for the vacancies reserved for black candidates, according to the color or race used by the Brazilian Institute of Geography and Statistics - IBGE.

 1  To enroll, the candidate, in addition to complying with the provisions of art. 5th, he/she must present his/her

self-declaration, to be signed in a specific UNEMAT form, which will be made available in advance together with the admission notice.

§2 The candidate's self-declaration enjoys a relative presumption of veracity and will be ratified through a verification procedure to be carried out by the Verification Committee [55].

With the new changes, there is a closer approximation to the model of the federal law n° 12,711/2012 [12], both concerning the scheduling of vacancies and the phenotypic hetero-identification, which has no roots in the institution but became effective as a new parameter for defining of the black subjects of rights of the institutional affirmative policy. We believe this fact is due to the national consensus around phenotypic hetero-identification as a technical procedure for defining black subjects by law.

3.3. The State University of Goiás (UEG)

UEG emerged with the state law n° 11,655, of December 26, 1991, [31] which provided for the basic organizational structure of the Executive Power and authorized the creation of the UEG based in Anápolis. Its origins, however, lie in the creation of the Faculty of Economic Sciences of Anápolis (FACEA), in 1961, followed, in the following year, by the Higher School of Physical Education of the State of Goiás (ESEFEGO), under the government of Mauro Borges Teixeira (1961-1964). Still in the 1960s, the Faculty of Philosophy of the City of Goiás was created (1968).

The debate on AAs arose after proceedings, initiated on March 7, 2003, by bill n° 1,069/2003 [34, 47], by State Deputy Luis César Bueno (PT)'s authorship. It proposed creating quotas of 10% for the State University of Goiás. After some modifications, it was unanimously approved by the Assembly on September 25, 2003 [46, 47]; however, it was not approved by Governor Marconi Ferreira Perillo Júnior (PSDB). At the time, the technical arguments that justified the non-approval were given by the Secretariat of Science and Technology (SECTEC). The main ones were the absence of an internal debate within UEG and with the Community. It also raises issues such as the social quotas and questions the self-declaration criterion and the percentage of vacancies.

Due to some of the justifications, the racial debate took a turn to become a debate about social quotas. To conduct the dialogues, GT49 was created, responsible for a new report, which guides the new proposed percentages: “the percentages of 20% (twenty percent) for students from the public basic education network, 20% (twenty percent) for black students, and 5% (five percent) for indigenous people and students with physical disabilities” [46]. The bill returned to plenary and the approval of the law n. 14,832 [26] took place on July 12, 2004.

In the first half of 2005, racial quotas were implemented in UEG, and the law will be valid for 25 years (Article 9) [26]¹⁵.

Accompanying the text of the law, we can read:

The higher education institutions that are part of the State System of Higher Education will allocate, for admission to their courses offered on a regular basis, specific quotas for the following students graduating from high school and classified in selective process:

I - coming from the public basic education network;

II - blacks;

III - indigenous peoples;

IV - people with disabilities, under the terms of the regulation.

Single paragraph. It is considered for the purposes of this law:

I - blacks those classified by the Brazilian Institute of Geography and Statistics - IBGE or public record holders indicating the racial category;

Single paragraph. The candidate, when enrolling in the entrance exam, must make his choice for which vacancy he will apply, in accordance with the provisions of the public notice for the launch of the event, observing the definitions contained in the sole paragraph of art. 1 of this law. (GOIÁS, 2004) [30].

Three factors are still worth highlighting. The first is that there is an articulation between the social and racial issues in the final text of the law, which had a racial quota only in its initial project. Second, UEG has a resolution for two additional vacancies for quilombolas (CSU Resolution No. 858, of October 11, 2017) [32]. It also has instituted the Program for Access to Higher Education for Refugees and Humanitarian Visa Holders in Brazil, through CsU Resolution n° 739, of December 3, 2015 [33], with an additional vacancy. Both can reach racialized populations, but they have other forms of proof of who is a subject of rights more formal and less essential.¹⁶ Finally, a particularity of UEG refers to the definition of the black subject of rights in this law. UEG entrance exam public notices suggest that one of the ways of proving racial belonging is a public registration in a notary.

219.2 blacks – public record document that assigns the candidate this racial category (birth or marriage certificate, public deed, document (self-declaration) registered at the registry office of titles and documents, etc.) or decision issued by CAPC/CAMPUS/Unit¹⁷, confirming the candidate's racial category; [56].

Thus, the black subject's definition of entitlement to racial affirmative politics is becoming increasingly essentialized. In different ways, we can observe the search for objectivity that can guarantee institutional legal security, to reduce possible lawsuits for universities, minimize the impact of fraud in racial quotas, and legitimize the black subjects of these affirmative policies.

Table 1 below aims to present some of the main points debated about state universities in the Brazilian Midwest, regarding the implementation of racial AAs, their racial definition procedures, and current regulations.

Table 1. Racial affirmative actions at state universities of Brazilian Midwest.

University	Year of Implementation	Percentage of vacancies for blacks (2022)	Racial definition procedure (2022)	Regulation (2022)
UEMS	2004/1	20%	phenotypic hetero-identification	CEPE-UEMS Resolution n °2,214, from December 04, 2020
UNEMAT	2005/2	25%	phenotypic hetero-identification	Resolution n °011/2019 – Conepe
UEG	2005/1	20%	phenotypic hetero-identification	State Law n °14.832/2004

Source: Ribeiro & Vieira (2022).

UEMS and UEG, which maintained their model of phenotypic hetero-identification for the longest time, did not build it in a moment of consensus on the technical procedure, which is more recent, but during the first decade of racial debates, whose consensus was racial self-declaration. The Brazilian Association of Anthropology (ABA) [22] spoke out in defense of self-declaration and, through the Commission on Ethnic and Racial Relations of the ABA (Crer-ABA), against the phenotypic hetero-identification model of the UnB, similar to that of the UEMS:

The alleged objectivity of the mechanisms adopted by the UnB constitutes, in fact, a constraint on the individual right, notably of free self-identification. Furthermore, it disregards the conceptual framework of the social sciences and, in particular, of social anthropology and biological anthropology. Crer-ABA [22] understands that the adoption of the system of racial quotas in public universities is a measure of a political nature that should not be submitted, nor subject those whom it aims to benefit, to authoritarian criteria, under penalty of opening the way for new modalities of exception that violates people's free expression [...] [Crer-ABA] expresses its concern not only with the fundamentals that guide the classification system of candidates but also with the negative repercussions that the system implemented by UnB may produce [38].

Subsequently, the ABA reiterated its critical position regarding the objectivist models of validation of self-identification in a note forwarded to the approval of NO n. °3, of 2016 [17]:

It is in this reflexive key, which is linked to Anthropology's long history of criticism of racial essentialisms, that the ABA expresses its concern regarding the use of procedures for the use of physical characteristics that underlie initiatives such as that of the "Evaluative Standards for the Description of Blacks" ¹⁸ and, fundamentally, the legitimization given to the adoption of such criteria by Normative Guidance n° 3, of August 1, 2016, of the Ministry of Planning, Development, and Management [22]. With both quotes from the ABA, we want to reinforce that,

both historically and currently, the discussion at hand is not simple or conflict-free. The existence of consensus does not exclude the existence of divergences. Currently, we have a consensus around phenotypic hetero-identification in Brazil, to the detriment of a weakening of models whose foundations are found only in self-declaration. In state universities in the Brazilian Midwest, the experience of UNEMAT reaffirms this situation since it changed from a self-declaration model to one of phenotypic hetero-identification. Universities with models such as UEMS and UEG, on the other hand, subsidized, with their institutional experiences, the construction and the strengthening of a consensus around phenotypic hetero-identification as an adequate technical procedure for the selection of black candidates in affirmative racial policies for access to higher education.

4. Conclusion

It is important to reiterate that Law 12,711/2012 [12], the famous Quota Law for Federal Universities and Institutes, and its other legal provisions (Decree 7,824 and NO n° 18, 2012) [10] only reinforce self-declaration as a criterion for defining who is black. Even so, many of these institutions migrated their technical procedures to phenotypic hetero-identification models as a result of a political decision. State universities are outside the legal limits of this legislation and built their affirmative policies in state scenarios. Therefore, looking at these institutions can broaden the diversity of AA models and procedures, in our case, racial affirmative policies.

As we have observed, there are and have been different ways of defining the black subject entitled to the right of racial AAs: self-declaration, which, for a long time, guided the UNEMAT model; and the different models of phenotypic hetero-identification: by photo, face-to-face interviews, and by video and documents registered in the notary's office. It is an important political issue that questions how some public institutions decide to answer the question: "Who is black in Brazil?". Hegemonically, the current national consensus is for a "phenotypic option". Our point is that this phenotypic option essentializes subjects, excludes subjectivities and experiences

and takes up biological and legal approaches, sometimes masked by a reification of the cultural, that is, an essentialization of social categories [41].

Once it is claimed that race is a social concept, it is necessary to reject objective definitions [60, 61]. Both natural and legal models provoke a stabilization of social meanings, as both essentialize social categories and frame multiple identities within these categories. Reducing, entirely, cultural identities to social categories produces a control of the possibilities of changes and social questions generated by the politicization of cultural differences. It minimizes the political imagination of new democratic possibilities.

The change is not as simple as it seems, as it affects important social categories. Quilombola communities have legal treatment specified by Decree 4.887/2003 [8], which regulates, among other issues, the identification of territories of remnants of quilombos. The terms “indigenous community”, “indigenous land”, and “indigenous” have a legal definition, as provided for in the Statute of the Indigenous People (law 6001/1973) [9]. In both cases, group identity is based on self-definition and this model is defended by the ABA [39]. The Statute of Racial Equality (law 12.288/2010) [13], in turn, defines “black population” as “the group of people who declare themselves black and brown, according to the color or race item used by the Brazilian Institute of Geography and Statistics Foundation, or who adopt analogous self-definition” (Brasil, 2010) [13].

It is this understanding of self-identification that is hegemonically changed by a phenotypic racial conception in the investigated affirmative policies, linking social groups to phenotypic groups. The definition of cultural identities, even though it has been subject to legal regulation in recent Brazilian history, has never been as rigid and objective as the model adopted for affirmative racial policies.

Conflicts of Interest

The authors declare no conflicts of interest.

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¹ In all federal universities and institutes, 50% of enrollments, per registration, would be allocated to students from public schools. Of these vacancies, 50% should be distributed among blacks, browns, and indigenous people, in a proportion at least equal to that of the last Census carried out by IBGE for the state where the institution is located. Law 13,409/2016 [15] changes the first one by including people with disabilities among the subjects with the right to enjoy this policy, also using the IBGE as a marker for quotas.

² Unicamp – University of Campinas recently announced that, in the entrance exam that guarantees access in 2023, facial recognition technology will be part, as a tool, of the selection process, as it informed, to avoid fraud in racial quotas. Available in: <https://educacao.uol.com.br/noticias/agencia-estado/2022/08/01/vestibular-da-uni-camp-tera-reconhecimento-facial-para-evitar-fraudes-em-cotas.htm>

³ Topic adapted of the book *Quem é negro no Brasil: As ações afirmativas e o governo das diferenças* [43].

⁴ As it is impossible for everyone to respond to the IBGE questionnaires, it is assumed that the respondent, that is, a third party, can define the racial belonging of the other members of the household.

⁵ See [27].

⁶ The STF met to judge the ADPF-186, forwarded by the DEM, with the petitioner opposing the AAs to UnB – University of Brasília. The Court unanimously voted in favor of the constitutionality of the policies. This historical moment summarizes the first set of legal discussions about AAs in Brazil, in particular, its constitutionality since favorable and contrary arguments were drastically reduced [18].

⁷ DAU 3,330 was addressed to PRUNI AAs. The rapporteur was Minister Ayres Britto, who reaffirmed the constitutionality of the AAs [11].

⁸ This is one of the alternatives cited by Foucault [25], in one of his classes (Class

of January 3, 1973). Citing L.Évi-Strauss' *Tristes Tropiques*, he states that, to get rid of a "dangerous individual endowed with fearsome and hostile strength" [...], it is necessary to assimilate the substance of that energy, neutralizing everything that may be dangerous and hostile in it. It is the anthropophagic solution, in which absorption makes possible, while the assimilation and neutralization of this force.

⁹ Ortiz demonstrates the various interweavings between different conceptions of Brazilian nationality and our racial relations, especially between the 19th century and the first half of the 20th century. Miscegenation occupies a central place in his reflections, and the myth of the three races is exemplary, as it both "covers up racial conflicts and enables everyone to recognize themselves as nationals" [40].

¹⁰ The case of the twin brothers is from 2007, in which one of them had his phenotype approved and the other did not. Validation of the self-declaration was done by photo at the time and this result generated great social repercussions. *Veja Magazine* gave the article of this news great prominence and, just below the photo of the twins side by side, on a black and white background, it was shown the following headline: "The decision of the University of Brasilia committee that determines who is entitled to the privilege of the quota shows the danger of classifying people by skin color – something that the Nazis and South African apartheid did" (Revista *Veja*, June 2007) [58].

¹¹ The Action for Noncompliance with Fundamental Precept 186 (ADPF-186), forwarded by the party Democrats (DEM), being the petitioner against the UnB AAs, generated a judgment by the STF which, unanimously, voted, on April 26, 2012, in favor of the constitutionality of affirmative policies.

¹² In 2021, law n.º 5.541/2020 was approved, which reserves 10% of vacancies for state residents, for at least ten consecutive years. The author is State Deputy Paulo Corrêa (PSDB) [36].

¹³ For registration of blacks, the following rules are required: "I – A recent color photo of 5x7 cm; II – Self-declaration contained in the registration form; III – Photocopy of the High School Transcript or Enrollment Certificate issued by a public school; IV – declaration of scholarship student status provided by a private education institution, when applicable. V – Candidates enrolled in the percentage of vacancies for blacks will have their applications evaluated by a commission established by the Pro-Rector of Education, composed of UEMS' representatives and the Black Movement appointed by the Permanent Forum of Entities of the Black Movement of Mato Grosso do Sul and by the State Council for Black Rights, which will grant or reject them, by reasoned decision, according to the candidate's phenotype. VI – Candidates who have their applications rejected will automatically compete for the seventy percent referring to general vacancies (Cordeiro, 2008) [24].

¹⁴ At the time, in 2005, there was a proposal to reserve 5% of quotas for blacks in a public tender for teachers, which would take place in 2006. The proposal was considered unconstitutional by a General Attorney of the State of Mato Grosso, given the proximity of the tender and the possibility of prosecuting it. Therefore, the proposal did not go ahead. The previous tender had been in 1988 [35].

¹⁵ Currently, the law n.º 14.832/2004 is in force with two amendments. The first was due to law 20,249, of July 30, 2018, which increased the vacancies reserved for students graduating from the public basic education network, from 20% to 25%. The second amendment was promoted by the law 20,807, of July 15, 2020, which increased the term of validity of the quota system from 15 to 25 years, starting on January 1, 2005.

¹⁶ In this category, the candidate member of the quilombola community, certified by the Palmares Cultural Foundation, falls into this category. The quilombola candidate who wishes to compete for the additional vacancies must declare himself in this condition when registering, at the place indicated for this purpose, and must: attach, to the registration form, a declaration issued and signed by the person in charge of the association that represents the quilombola community [33].

¹⁷ Permanent Commission for Monitoring and Evaluation of the Implementation of the Quota Policy of the State University of Goiás, of the Public Notice of the Selective Process UEG 2023/1 8 (CAPC/CAMPUS/Unit), whose purpose is to monitor, guide, and decide on matters related to the allocated vacancies to the UEG quota system [33].

¹⁸ That year, some notices of public tenders brought, in the annex, a table with guidelines for a phenotypic evaluation, "Evaluative Standards for the Description of the Black", which brought some categories such as skin, nose, mouth/teeth, jaw, skull, face, hair, among others. Besides, there was a table to score, in an objective way, who the blacks would be (for example, the contest of the Federal Institute of Pará [IFPA]) [29]. The proximity to a physical and racist Anthropology of the 19th century was immediate and one of the reasons that forced the revision of this NO n.º 3, of 2016.