Historical Influences in Contemporary Discourse:
Using History to Understand Affirmative Action in Ecuador and Brazil

Danielle W Johns
Submitted for Distinction in International and Comparative Studies, April 2010
Advisor: Professor Micheline Crichlow, African and African-American Studies
Map of Ecuador (Mora)
# Table of Contents

**Acknowledgements** 6

**Introduction: Common Past, Different Future** 7

**15th-19th Centuries**

**Chapter 1:** Slavery, Colonization, and Freedoms 16

**19th-20th Centuries**

**Chapter 2:** "Scientific Racism" and Nationalized Identities 38

**Conclusion:** Constitutional Change and Affirmative Action 51

**Appendix** 68

**Works Consulted** 82
Acknowledgments

It is hard to believe that after working on this thesis it is now complete. This would have not been possible without the support from family, friends, professors, and even strangers who saw the glazed look in my eyes and simply said: whatever it is, it's going to be okay.

To my parents, thank you for letting me call you on my way to class, and in the wee hours of the morning to release stress and to try to articulate my argument. While you may not have seen any of the drafts, you definitely helped out with the process.

To Marcy, thank you for your patience. Earlier drafts were very, very rough drafts, but your comments were invaluable.

To Micheline, thank you for agreeing to take me on as your advisee. I came to you with a topic, and you helped me to develop it into an argument.

To Leslie, thank you for introducing me to Brazil and brainstorming with me in the early stages to come up with a comparative topic to discuss.

To Firat, thank you for being able to meet with me after class, and give feedback on revisions that I made pretty much just before the deadline.

I would also like to especially thank those who helped me with my field research in Ecuador: Mónica Pastor Morris, Juan Aulestia, José Chalá, and other individuals who entertained my requests for interviews. The connections you helped me to make and the information you helped me to obtain were crucial in the development of this thesis.
**Introduction:** Common Past, Different Future

"As the citizens of present-day Afro-Latin America struggle to escape the economic heritage of poverty and dependency left by plantation agriculture, they do so under the shadow of the social heritage of racial and class inequality left by slavery...'blackness' the most visible and obvious indicator of low social status."


In 2008, the Ecuadorian government ratified Ecuador's most recent constitution. In a country whose black population is roughly 5% of the total (Vallejo 14), this 2008 Constitution contains a clause explicitly supporting and thus constitutionalizing affirmative action specifically for blacks and for other underrepresented minorities also victims of discrimination. While it is not yet clear how affirmative action will be implemented in Ecuador because it is still so new, with the support from the constitution, activists have begun to draft the specific affirmative action policy for the purposes of ending racial discrimination and recognizing the positive contributions that blacks have made to Ecuador. Recognizing that they are not alone in this pursuit of affirmative actions, black Ecuadorians have also looked to countries like Brazil to generate ideas for where to begin with their policies.

Brazil is the "home of the largest single component of the overseas African diaspora" (Andrews *Racial Democracy* 483) with a black population of roughly 45% (Alem 312) of the total. Black Brazilians are disproportionately impoverished, and underrepresented in politics, education, and professional jobs. Despite their large presence in Brazil and their legacy of racial discrimination, the 1988 Brazilian Constitution contains no such clause for affirmative action. While Brazil does have
affirmative action policies that have existed in the country for almost two decades, these policies only exist at the state level. At the time of this writing, the Brazilian government has yet to mandate a national system of affirmative action.

**Affirmative Action**

"Affirmative action" is a foreign concept in both Brazil and Ecuador. The phrase was first used in the United States in the 1960s during the Civil Rights Movement. In 1961, President John F. Kennedy issued Executive Order 10,925 which stated:

> “The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action [sic] to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin.” (Spann 4)

The ensuing policy helped to increase gender and racial diversity in the work force and in education. The black middle class in the United States grew rapidly, a positive reason for black activists in Ecuador and Brazil to create a similar affirmative action policies in their countries. (CODAE Personal Interviews)

Critics of affirmative action in Brazil did not ignore the fact that political activists and some members of the Brazilian government wanted to apply a United States racial policy to Brazil. Both Brazilian and United States scholars, having argued from the 1930s to the 1950s that Brazilian race-relations were more harmonious than race relations in the United States, supported the supposed Brazilian "racial democracy," void of racial discrimination and of legal segregation.
Brazilians took pride in being more "racially mature" in comparison to the United States and even western Europe.

While Brazilian scholars openly denounced "racial democracy" in the 20th century, the ideal still remains in the collective consciousness today. It is one of the strongest arguments against affirmative action in Brazil, alongside the argument that discrimination is based on class and not race. The belief is that Brazilians are a highly mixed-race, plural population, with a racial lineage of many races, including black. Therefore, all Brazilians are black, which in Brazil is a function of origin and appearance, thus an American affirmative action policy could not apply. (Skidmore *Multi-Racial* 375) Ecuadorian activists, however, who pushed for the inclusion of affirmative action in the constitution willingly referenced the United States example. Their intent was not to copy it, but learn from it. That same spirit is manifested in Brazil, but challenged because of "racial democracy" and the fear of losing its status as a "racial utopia."

Despite being called by many different names - employment equity, positive action, diversity management, positive discrimination, reverse discrimination, affirmative justice, and affirmative fairness (Tomei 9, 11) - often depending on whether one is for or against affirmative action, the standard definition has remained unchanged. In its purest state, affirmative action is political and social policy designed with the intent to ensure the “equitable distribution” (Spann 1) of power and resources among all individuals within a certain society. The purpose of such a program is to atone and account for past and present discrimination, primarily based on gender, race, or ethnicity in the employment, education, and
political sectors. In the cases of Brazil and Ecuador, affirmative action also includes the recognition of collective land rights. In this thesis, I focus on affirmative action for blacks in Ecuador and Brazil that seek to end racial discrimination in employment, and education, and to recognize collective rights to land.¹ I analyze the history of racialization in these two countries that explains the modern debate and movement towards or resistance of affirmative action.

Brazilian resistance to a nationalized and constitutional affirmative action like that which exists in Ecuador, is rooted a historical process of racialization, i.e. formation of racial identities, that is different from the process in Ecuador between the 15th and 20th centuries. Being Latin American countries, Ecuador and Brazil share a common history of slavery and colonialism. However, throughout this history, country-specific differences emerged and became more evident in the 19th and 20th centuries. The present status of affirmative action in Ecuador and Brazil, as either constitutional or unconstitutional (in the sense that it was not written into the constitution) can be explained as a result of different historical inclusions and exclusions of blacks.

This discussion on history that can explain contemporary approaches to affirmative action focuses on the 1998 Brazilian Constitution and the 2008 Ecuadorian Constitution because of the importance of the constitution in setting legal precedent, especially in Latin America, and the role that these constitutions played in the transitions to democracy and the condemnation of racial discrimination in Ecuador and Brazil.

¹ While the situation of the indigenous also warrants research in this context, it is beyond the scope of this argument.
Being more centralized governments, the government is expected to regulate and determine the legal norms for the entire country. In Ecuador there are varied levels of regional autonomy, and in Brazil there is autonomy for state governments due to a fear of a return to dictatorship. The constitution is expected to clearly outline the rights and guarantees that citizens should have in a country (Borja 312), eliminating any ambiguity. Specific policies then protect those rights and guarantees outlined in the constitution, and the constitution determines the legal validity of those policies. (Borja 323)

Both the Ecuadorian government and the Brazilian governments ratified their constitutions during a transition to more democratic principles and increased appreciation for racial identities. During Brazil's final transition to democracy beginning in 1985, the 1988 Constitution reflected a return to more decentralized governance for Brazilian states following years of dictatorships, and a desire for a multicultural country, where races harmoniously blended together, without discrimination. The 2008 Constitution in Ecuador supported a new plurinational identity, recognizing the individual and collective rights of indigenous and black populations as well as their inclusion in the national Ecuadorian identity. The Ecuadorian pluricultural model identifies blacks as a community while the Brazil multiculturalism does not.

The usual comparison of race relations is done across continents but that strains the support for race-based policy in Latin America. Studies focusing on the Latin American region, comparing race relations between countries with shared histories can strengthen the anti-discrimination movement in Latin America.
Because of extensive scholarship on race and the United States and United States funding of studies on race in Latin America, scholars and opponents of affirmative action argue that United States theories of race monopolize the dialogue on race in Latin America and apply a uniform approach to understanding race in Latin America and resolving racial inequalities. My hope here is to better understand race in a Latin American context, on its own terms, but also recognizing the United States and European influences that shape racial debates and racial practices in Latin America.

**Chapter Organization**

In the first chapter I discuss the Ecuadorian and Brazilian experience during slavery and colonialism, showing commonalities in the practice of slavery and the adaptation of European theories on race to the Spanish and Portuguese colonies, but also important differences: the geographic isolation of slavery in Ecuador and the *município* (extended family household) in Brazil. The geographic isolation of slavery in Ecuador classified blacks as "others," their lower status in the racial hierarchy was clear, resulting in the 21st century inclusion of affirmative action in the constitution. In Brazil, however, the status of blacks in Brazilian slave culture did not end with slavery but continued through to the 21st century, and in 1988 resulted in the exclusion of affirmative action from the constitution, and the present controversy surrounding affirmative action.

Also in this chapter I analyze both the independence and abolition movements in Brazil and Ecuador during the 19th century. I will show that the connection made in Ecuador between independence and abolition during the violent
wars for independence, strengthened the solidarity among the slave population, setting the stage for black populations in the present to recognize instances of racial discrimination and mobilize together for recognition of black rights and affirmative action in the 2008 Constitution. The smooth transition towards independence and the gradual abolition of slavery in Brazil had the opposite effect. The transition towards independence and the gradual abolition of slavery in Brazil created a society that did not explore the contradiction between independence and slavery and grew accustomed to racial inequalities to the point where citizens believed that if any discrimination existed it was class and not race-based.

In the second chapter, I analyze the influence of European "scientific racism" in Ecuador and Brazil, in the 19th and 20th centuries. "Scientific racism" prompted both the Ecuadorian and Brazilian governments to encourage and subsidize European immigration to gradually eradicate the less desirable races, through the "whitening" of their mixed and black populations. When the Ecuadorian and Brazilian societies presumably rejected European theories on race and embraced the mestizo (mixed-race) or "racial democracy," they in fact rejected the European white, while still also rejecting the black and preferring the lighter-skinned. In the 20th century, race became politicized and was a permanent fixture in Ecuador and Brazil.

In the conclusion, I discuss in more detail, the reasons for the drafting of the 1988 and 2008 constitutions in terms of their relevance to race relations and the collective consciousness of blacks in both Ecuador and Brazil, and the process for the inclusion of affirmative action in the Ecuadorian constitution, and the creation of
affirmative action policy in Brazil. This chapter will connect the history of racialization in Ecuador and Brazil from the 15th to the 20th centuries with the present discourse on affirmative action in those countries. It will show the continuation of racial politics from the past through to the present, and the implications.

**A Note about Race**

I will use "black" to refer to those descendants of former slaves who, in the past were or in the present are included in the categories of negro, preto, pardo, moreno, or mulatto. *Negro* a Portuguese and Spanish term and *preto*, a Portuguese term, in English, means "black," referring to darker-skinned blacks. Depending on how, when, and where these terms are used, they can have negative connotations. *Pardo* and *moreno* both mean varying shades of light-brown depending on skin color, hair texture and color, and other physical attributes. Both terms are usually used for blacks who by economic status can ascend to a "whiter" category. *Mulatto* is an English, Spanish, and Portuguese term referring to one of mixed African and European descent.²

---

² While the construction and application of these identities is also an interesting part of the formation of colonial and slave society in Latin America, it is beyond the scope of this argument.
15th-19th Centuries
Chapter 1: Slavery, Colonization, and Freedoms

Up until the late 20th century, scholarship on race relations assumed that, "[i]n the New World two variants of race relations can be identified: the Iberian variant for the former Spanish and Portuguese colonies in the Caribbean, South and Central America...and the North-West variant for the former English and Dutch colonies, Canada and the United States." (Sansone 8) This assumption was not completely without merit because slave plantation culture in both Spanish- and Portuguese-America followed the same general model. However, the plural and polar distinction, the former referring to the Iberian variant and the latter to the North-West variant, did not consider that both variants shared the same theories on race and the "inferiority of races."

Beginning in the 15th century, the Spanish and Portuguese colonists, as did other European colonists, applied their notions of race and their established racial hierarchies in Europe to their colonies in the New World in an attempt to recreate Europe abroad, and also to keep political and economic power and control in the hands of the elite - the white, land- and slave-owning able to vote and be elected - responsible according to racial theory at the time for maintaining order because of the "superiority of their race." Race relations in neither Ecuador nor Brazil were free from the influence of European theories on race, even after colonization and slavery. However, during colonization and slavery, the elite adjusted the racial hierarchy to fit the miscegenation of races in Ecuador and Brazil for the purposes of maintain the hierarchy, not embracing multiculturalism.
The Ecuadorian and Brazilian elite adjusted the racial hierarchy to account for a more visible miscegenation, visible more so in Brazil than in Ecuador, while still separating the white from the non-white. This argument is contrary to the portrayal of Spanish and Portuguese slavery as an institution "based on an almost harmonious co-existence between masters and slaves," (Souza 13) to argue that presently racial discrimination does not exist in Latin America to the extent that it does in the United States. By the 18th century, "[i]t was very generally admitted that Blacks were all on the bottom classification. [Emmanuel] Kant reckoned that the darkness of their skin was a sign of their intellectual weakness. 'The Blacks from Africa have not received from nature any feeling that lifts them almost above stupidity'." (Ndiaye 199)

However, while Ecuador and Brazil shared this common history of racialization it was also during the course of slavery, independence and abolition movements that the differences in the visibility and the collective consciousness of the black emerged. The regional isolation of Ecuadorian slaves and the act of manumission, removed blacks from the national collective consciousness, while maintaining collective consciousness among blacks themselves. The Ecuadorian wars for independence from Spain strengthened the national collective consciousness of the black presence. In Brazil, however, the município impeded national collective consciousness of the black, and the transition to independence, as well as the gradual abolition of slavery impeded collective consciousness both nationally and within the black population. This would slow black mobilization in the 20th century; a mobilization necessary to combat racial discrimination.
The Formation of Racial Identities

The term "race" first entered European vocabulary in the 16th century during the era of classification. This was a time in between the Renaissance and Enlightenment when there was a strong desire in Europe to comprehend difference, not just among humans, but among other species as well. While scholars and scientists could not determine a clear definition of race and how one acquired one's race, they used race to determine inferior or superior status. Today, while it is generally accepted that race is a social construct, there is still a fine line in the United States, in Ecuador, and in Brazil, as to whether race is determined by one's origins - having ancestors who migrated from Africa - or by one's phenotype - skin color, and the shape of one's nose or mouth. In Brazil, it then becomes difficult to determine who is black and who is not, but with blacks being associated with criminality, poverty, and promiscuity, the tendency is to avoid being labeled as black.

The original definition of race was lineage, "a stock of descendants linked to a common ancestor." (Wade 6) Having a common ancestor, descendants would have shared common characteristics. Michael Banton, a 20th century British scholar, linked this definition of race with the biblical understanding of lineage. He cites an English usage of race in 1570, referring to the "race and stock of Abraham." (Wade 7) Abraham and all his descendants would belong to the same race, despite the fact that one of his wives was a Midianite, and another was a black Ethiopian. (Wade 7) Here, at the start of slavery in the New World, race is cultural. In 1570, race was
cultural, but those wishing to assert the inferiority of Africans also used it to justify this claim:

"Different peoples were said to be the descendants of the various sons of Noah and Africans were sometimes argued to be the sons of Ham, cursed by Noah for having seen him when he was drunk and naked. In medieval theology, blackness was often linked to the devil and sin, and Africans were often held to be inferior even during the early stages of this period." (Wade 8)

In the Catholic imaginary, there were many portrayals that showed images of the devil through the black man, (Fernández-Rasines 86) so racial discrimination was not confined to just one region of the world.

In *System of Nature*, published in 1735, in the midst of slavery in the New World, Swedish botanist Carl Linnaeus³, presented race as a cultural and phenotypic concept, describing Native Americans as both "copper-colored" and "regulated by custom." (Wade 7) Also in the 18th century, scholars and scientists used Charles Darwin's theories of natural selection to justify racial inferiority. (Wade 12) In the 19th century, scientists and scholars built upon this research of race as a cultural and phenotypic concept in the previous centuries, to argue that race was an immutable biological difference. And to say that miscegenation and blackness were deadly or evil and to associate that with an unalterable biological difference, is to create fear, and a strong desire to segregate from those deadly, undesirable populations.

~

³ Linnaeus "divided up all living things into species and genera, setting the basis for later classification of difference." (Wade, 7)
In 1492, when Christopher Columbus made his first voyage to Hispaniola, the Spanish monarchy expelled the remaining Muslims and Jews who would not convert, partly for economic reasons\(^4\) and partly for the belief in racial purity. "In order to be a good creature of God, a son of Adam and of his wife Eve, created of God, pure Spanish, pure Indian, pure Black." (Fernández-Rasines 43) The Catholic Church and the Spanish monarchy condemned "unnatural" miscegenation (Fernández-Rasines 43) advocating instead for racial segregation, the "purity of race." The Catholic Church and the Spanish monarchy separated the races according to a racial hierarchy, not designed for harmonious co-existence; but rather, for the maintenance of racial distinctions.

The colonists recreated the racial hierarchy in the New World, seeking:

“to establish, by law, a racially stratified society that would reserve for whites all opportunities for social and economic advancement and that would relegate nonwhites to inferior legal and social status. Precedents for such a system existed in the Spanish and Portuguese laws governing people of unclean blood – Arabs, Jews, gypsies, and Africans – in the Old World. During the 1600s, this body of racial law, the first of its kind in the modern West, was extended to the New World and systematized into the regimen de castas, a Caste Regime governing free blacks and mulattoes, Indians, mestizos, and other racially mixed peoples.” (Andrews Afro-Latin America 44)

The Spanish and Portuguese monarchies developed at least 52 racial classifications to designate all members of colonial society to the appropriate caste. (Afro-Latin America 48) So while miscegenation did occur, the Spanish and Portuguese monarchies did not openly applaud miscegenation since its occurrence; they acted instead to control it. They applied European theories of race to the New World, not

\(^4\) Muslims had a monopoly over the trade route to Asia, one of the reasons for Christopher Columbus’ voyage, to bypass the Muslim route.
for peaceful relations between races, and masters and slaves, but for the marginalization of the non-white populations.

**Latin American Plantation Culture**

The slave plantations in Latin America developed around the production of sugarcane, which employed slave labor beginning in the 15th century (Greenfield 45) through until the 19th century. The Portuguese were the first colonists to use slave labor on their sugarcane plantations. Due to a shortage of labor, the Portuguese began using slave labor first on their plantations off the western coast of Africa. In the 1520s and 1530s, they imported this concept to Brazil. Portuguese, like Spanish law, "descended from the same Roman precedents" (Andrews Afro-Latin America 36) and the Spanish colonists modeled their plantations after the Portuguese plantation with some variation.

**The Politicized Brazilian Plantation**

The Portuguese plantation functioned as a household, including slave dependents; it was a município, "a semi-autonomous administrative unit" that could be enlarged with the addition of slaves. (Greenfield 47, 49, 51) With the município, power was localized and decentralized, and blacks were excluded from full citizenship and larger Brazilian society because of status not isolation. Blacks were visible as a part of the family and the larger Brazilian society, but with less rights than the white members of that same society. Brazil as a country developed its societal organization from this plantation culture; from the unification of those municípios, where the black was always present, but relegated to an inferior status.
The black was visible but ignored, even today blacks are visible but ignored as they constitute a large percentage of the population but are still underrepresented.

While the colonists purchased African slaves to work on tropical plantation crops, slaves also worked in the exportation of goods to Europe, as cowboys in the countryside, and in skilled and unskilled urban occupations including construction, manufacturing, and domestic service. (Andrews Afro-Latin America 14, 15) In Rio de Janeiro, some slaves working as apprentices and journeymen were able to rise "to the level of master artisan to constitute a visible presence in the skilled trades." (Andrews Afro-Latin America 15) In domestic work, slaves "did all manner of household work, from cooking, cleaning, and shopping, to the more intimate functions of nursing slave owners' infant children, and in some cases, providing sexual services to masters and their adolescent children." (Andrews Afro-Latin America 15)

From these sexual services and other non-violent sexual exchanges arose the miscegenated Brazilian population that formed the basis for the "racial democracy" argument and the plurality argument. In the "racial democracy" argument the violence that resulted in miscegenation was often ignored, as was the political and religious condemnation of mixing with blacks. While the King of Portugal encouraged Portuguese colonists to mix with the indigenous populations because of the gender imbalance among the colonists, he did not encourage mixing with the black populations:

"As early as 1755, the king of Portugal had encouraged his subjects in Brazil to 'populate themselves' and 'join with the natives through marriage'. In the same year, the Marquis of Pombal rose to power in Portugal as the war minister, eventually becoming prime minister,
and during his twenty-two-year reign when to great lengths to encourage such intermarriages. However, the Portuguese crown did not encourage intermarriages of the white colonists with blacks and mulattos, and the Catholic Church condemned miscegenation in general, but that meant that interracial marriages were simply not recognized by the church. Such prohibitions against race mixture were easily ignored, especially given such a highly uneven sex ratio among the colonizers.” (Telles Race in Another America 25)

The Geographic Isolation of Slavery in Ecuador

The first slaves to arrive in Spanish-America came with the Spanish colonists. In 1517, Carlos I of Spain, allowed for slaves to be imported and sold in the Spanish colonies. (Nuestra Historia 84) Ecuadorian slaves did the same manner of work as did Brazilian slaves: most worked as domestics and others worked on sugarcane plantations and in the mines. (Vellejo 11)

"The most important tradition locations of afro-Ecuadorians, a the level of population size, were fundamentally the province of Esmeraldas, on the coast, and the Valley of Chota-Mira, located in the subtropical zone of the Andean provinces of Imbabura and Carachi." (Vellejo 12)

Most Afro-Ecuadorians remained in these areas until heavy migration from these areas beginning in the 20th century. (Vaellejo 12) While the first slaves arrived in Chota (Valley of Chota-Mira) in 1575 (Nuestra Historia 77), this history of Esmeraldas differs slightly from that of Chota, but still strengthening the collective consciousness among afro-Ecuadorians.

"In Ecuador the contrasts between the contexts of the highlands and the coast are the origins of a regional conceptualization markedly bipolar." "The climate, the topography, and the accessibility to

---

5 The distinction between the importation of slaves into the Americas and the selling of slaves in the Americas is important because in 1810, while the English government abolished the trans-Atlantic trade of slaves, this did not abolish the selling of slaves within the colonies.
colonization are factors that have marked the development of Ecuador's highlands and coast as discreet regions. While the northern sierra was integrated into the colonial system since the beginnings of the Spanish conquest during the XVI century, the northern coast was more removed from state control." (Fernández-Rasines 67)

Blacks were geographically isolated from the white-Ecuadorian population as a collective group. While the Spanish slave plantations mirrored the Portuguese slave plantations to some extent, the Ecuadorian plantation was not as autonomous. The national collective consciousness "othered" blacks, excluding them from the larger Ecuadorian society, which different from the Brazilian experience. Because that "othering" was pronounced, a collective consciousness existed among Afro-Ecuadorians in a way that it did not among Afro-Brazilians.

It is estimated that the black population in the province of Esmeraldas is more than 50% making it "the area with the primary concentration of the African population," often referred to as the "black province" of the country (Fernández-Rasines 191, 47). The history of slavery in Esmeraldas is one of pronounced slave resistance and autonomy since the beginning of slavery in Ecuador. In October of 1553, a slave ship, owned by Spaniard Allonso de Illescas, left Panama for Lima, but became caught in a tropical storm and shipwrecked off the coast of the province of Esmeraldas. (Nuestra Historia 76) The Spanish on board were able to save their lives, and the slaves, led by Anton, "fled to the interior of the jungle." (Nuestra Historia 143)

In the jungle, the slaves engaged in a violent encounter with the indigenous that were already living in the area. The runaway slaves and the indigenous ended
their battle and allied together against the Spanish. This alliance provided the force necessary to preserve the autonomy of the region of Esmeraldas. "The runaway slaves negotiated peace treaties that granted them charters as self-governing municipalities." (Andrews *Afro-Latin America* 38) The autonomous status that the Spanish monarchy gave to the runaway slaves in Esmeraldas attracted slaves from Chota to Esmeraldas where they formed their own communities and joined with others. (Fernández-Rasines 74) Many slaves assigned to work on the railway intended to connect the highland to the coast, fled to Esmeraldas for their freedom.

Despite the agency that blacks in Esmeraldas gained in the 16th century, mining and fishing companies, without imposition from the government, began exploiting the region in the 18th century. At the end of the 18th century, mines developed in the province and slaves provided the labor. (Nuestra Historia 99) In 1990, Esmeraldas was an "open zone for colonization" and the neo-colonizers displaced some blacks from their traditional lands. (Fernández-Rasines 82) The black experience in Esmeraldas shows a clear "othering" of blacks in Ecuador through both isolation and exploitation, increasing collective consciousness within the black Ecuadorian population.

~

The visibility of blacks and the collective consciousness of the black condition varied in Brazil and Ecuador. It was quite clear in Ecuador that blacks were set apart from whites, the society of those with rights, and the rights that blacks did have were willingly exploited. In Brazil, the inclusion of blacks in the larger society was
ambiguous. Negotiations and the granting of freedoms during slavery and during the independence and abolition movements, further clarified or obscured the condition of blacks in Ecuador and blacks in Brazil.

**Negotiations and Proclamations of Freedoms**

In the 19th century, Latin American countries declared their independence from Spain and Portugal following the example set by the American (1776) and French (1789) Revolutions. The Latin American elite, the creoles, saw a contradiction between the liberties being discussed in Europe and the liberties being denied to them in the Latin American colonies. They objected to the economic monopoly that the smaller and distant countries of Spain and Portugal had over the Latin American economy. (Mora *Volume 1* 98) They saw a contradiction between the discussion of liberties in Europe and colonialist in Latin America. The elite, feared the example of the Haitian Revolution (1804) because it resulted in the freeing of all the Haitian slaves and a subsequent economic crisis, a crisis not without European protagonists, but one that in the minds of the Latin American elite was due to the breakdown of the sugarcane plantation, the reason for Haiti’s economic wealth prior to the Revolution.

Taking advantage of Napoleon’s invasion of Spain in 1808, Spain's increasing debt, and Spain's limited military presence in South America, Spanish-American colonies in the South American region began to revolt against the Spanish crown, and violent battles for independence ensued. In Ecuador, the discussion of liberties and the violent battles for freedom included discussions on and actions toward the
abolition of slavery, which occurred in 1852 (Vallejo 12), not long after independence in 1830. The violent independence movement in Ecuador resulted in the inclusion of blacks in the national social consciousness; the same however, cannot be said for Brazil.

Brazil's transition to independence in 1822 was a "smooth transition from colony to state," as was Brazil's transition from slavery. (Telles Race in Another America 25) While Napoleon had also invaded Portugal in 1808, this did not weaken the Portuguese monarchy. There were no violent wars for independence that included the discussion of the abolition of slavery, although the Portuguese creoles did declare their independence from Portugal for the same economic reasons. Blacks were invisible in the discourse on Brazilian independence. While the abolition of slavery was a clear recognition of the oppression of blacks in Brazil under slavery, the transition "did not involve the rupture in local values or the social structure" of the município and the ambiguity of the place of blacks in Brazilian society. (Telles Race in Another America 25)

**Ecuadorean Independence**

In order to understand the Ecuadorian independence movement, we must first have a general understanding of the independence movement in South and Central America that happened in three waves, beginning in 1810 and ending in 1825. The first wave took place in Mexico and Central America, the second in the southern cone - Bolivia, Uruguay, Paraguay, Chile, Argentina, Peru - and the third
and final wave occurred in the northern Andean region comprising Colombia, Venezuela, and Ecuador. (Mora *Volume 1* 102-120)

Patriot militaries for the independence of the Spanish colonies from the different countries within South America fought together for independence. As they fought, important revolutionary figures, Simon Bolivar and Jose de San Martin, advocated for independence under the tenets of a Latin America that is culturally different from Spain because of its different races. "On the other hand we are neither Indians nor Europeans but a medium species in between the legitimate owners of the country and the Spanish antagonists." (Bolívar 22) While the idea of a national ethnicity, formed around this Spanish and indigenous identity would not catch hold until the 20th century, which I will discuss in the next chapter, the plans were laid during the independence movements.

The independence movement in Spanish-America was largely a creole movement:

"The mestizos supported the cause without much enthusiasm. Indigenous and blacks participated in the conflict, obligated by their circumstance, or seeking their own interests, that were having little to do with the change from monarchy to republic or the creation of an independent state." (Mora *Volume 1* 100)

Martin and Bolivar initially did not see a conflict between independence and the maintenance of slavery, but rather recognized the military and political benefit of attracting the popular masses to the cause. Bolivar promised emancipation to those slaves that joined in the army alongside the patriots. However, these incentives were for men (Fernández-Rasines 58); female slaves were not given the same opportunities for freedom.
However, "by the second half of the 1810s, both men had reversed positions. Bolivar dismissed as 'madness [the idea] that a revolution for liberty should try to maintain slavery'." (Andrews Afro-Latin America 56) Both Martin and Bolivar advocated for gradual emancipation in all the territories that they helped to liberate from Spain, despite opposition from slave owners who successfully stalled the abolition of slavery in Ecuador, and in several other Spanish-American countries. (Andrews Afro-Latin America 56)

**Brazilian Independence**

In 1808, while Napoleon overthrew the Spanish court, the Portuguese fled Lisbon for Rio de Janeiro. Relocating the Portuguese Crown to Rio de Janeiro merged the Portuguese aristocracy with that of the colony's, interrupting the pre-established colonial autonomy. From 1808 - 1816, Prince Joao served as regent in Rio de Janeiro while his mother was incapacitated. In 1821, Prince Joao became king, and appointed his son, Pedro, regent of Brazil in order to decrease the level of autonomy that Brazil had experienced being once the cite of the Portuguese Crown. Prince Pedro later allied with the Brazilian elite, objecting to decreased colonial autonomy, and opposed Lisbon’s authority in Brazil. King Joao ordered his son to return to Lisbon, but rather than comply, in 1822, Prince Pedro declared Brazil independent from Portugal.

Because the discussion of individual liberties did not have a presence in the Brazilian transition to independence, as was the case in Ecuador, slavery was not a

---

6 Rio de Janeiro had become the capital of the Portuguese colony in 1763. (Roett, 4)
topic of discussion, nor did the Brazilian patriots use slavery as a tool to persuade blacks, who comprised the majority of the Brazilian population, to fight for Brazilian independence. Blacks were absent from the Brazilian independence movement, absent from their collective consciousness

Further complicating the status of the black in Ecuador and Brazil was the existence of a large number of freed blacks who had either fled, paid for (through money saved when financial compensated for a service), or negotiated their freedoms:

"even when paid for in cash, manumission was still considered a concession on the part of the master, granted to the obedient and loyal, from whom gratitude was expected." (Graham 32)

The abolition of slavery in Ecuador was an act of manumission, a negotiation between slave, master, and government. The abolition of slavery in Brazil occurred following a series of decrees leading to the final abolition in 1988. The treatment of blacks continued to be patterned after their treatment during slavery even in the abolition of slavery, following the model of the município where blacks were an extension of the family and concessions were given through negotiation with the heads of the household, the patrons. However, connection to those patrons required a status that was denied to blacks during slavery and was denied even after slavery.

Slaves staged revolts throughout the duration of slavery, with most of the revolts occurring at the beginning of slavery and the decline of slavery in the late 1700s and early 1800s. (Andrews Afro-Latin America 37) However, slaves did not
always revolt collectively. Racial distinctions made, even alongside African tribal
lines hindered solidarity. A Yoruba slave revolt in Brazil in 1835:

"failed in large part because of the refusal of Congo, Angolan, and
Creole (native-born Brazilian) slaves to take part in it." "[N]on-Yoruba
West Africans held back, viewing the revolt, in the words of a Hausa
slave interrogated after the event, as 'a Nago [Yoruba] disturbance' in
which he wanted no part." (Andrews Afro-Latin America 21)

While colonial law made it clear that "neither slaves nor free blacks were the
legal equals of whites...slaves repeatedly invoked the concept and even the
terminology of rights in the petitions to royal officials." (Andrews Afro-Latin
America 36) As a result, by 1800, the majority of blacks in Latin America were free,
and some "even managed to push their way into profession and social spheres that,
under colonial law, were supposedly closed to them." (Andrews Afro-Latin America
13) The presence of enslaved blacks alongside freed blacks gave the illusion of a
more economic-based "benevolent" Spanish and Portuguese slavery.

Ecuadorian Manumission

In 1851, the interim president of Ecuador, Jose Maria Urvina, in an act of
manumission signed the Law of the Manumission of Slaves. (Fernández-Rasines 58)
He "abolished slavery in the Republic and destined monies to compensate former
slave-owners." (Mora Volume 2 29)

Urvina did not simply free the slaves; he paid for their freedom. Two years
later, Urvina decreed that preference for the payment of freedom would be given to
owners that had enlisted their slaves in the military against Urvina's rival, General
Flores. (Fernández-Rasines 58-59) Once again abolition was not a complete act of
altruism. Furthermore, the freedom promised in 1851, was not granted until 1852 when enough public funds were gathered to pay the slave owners for the freedom of their slaves. (Mora Volume 2 30) With the act of manumission, the legal practice of slavery ended in Ecuador, but the racial hierarchy did not.

Former slave-owners left Chota for nearby Ibarra, in the same province of Imbabura. Colloquially, Ibarra, is called la ciudad blanca (the white city) because of its majority white population in contrast to Chota’s majority black population. Ibarra has access to running water, open markets, and other business, that residents of Chota do not. This distinction between Chota and Ibarra occurred following the manumission of the slaves. Manumission did not eliminate the racial hierarchy; it strengthened it. The racial hierarchy remained in the collective consciousness of the nation and of the afro-Ecuadorian communities.

_Brazilian Abolition of Slavery_

The Portuguese Crown was the first imperial power to begin the trafficking of African slaves, and Brazil was the last country to abolish slavery. "[W]hile slavery was being eliminated from mainland Spanish America, it was expanding and reaching its highest levels ever in Brazil." (Afro-Latin America 10) While Brazilian independence leaders condemned colonialism as "national enslavement" (Andrews Afro-Latin America 55), the Brazilian government did not abolish slavery until sixty-six years after independence in 1822:

"Elites justified the long delay in unchaining the enslaved on the grounds that Brazilian slavery was actually less harsh than the working conditions of peasants and wage laborers in southern Europe, and that slaves were spared the horrors of savage Africa by
being transported to the more civilized and enlightened Brazil.”
(Hanchard Black Cinderella? 65)

The Brazilian government gradually abolished slavery, preserving the municipío and the racial hierarchy. The Brazilian government enacted their first law against slavery in 1831. (Faustina 22) In 1826, the government signed a treaty with Great Britain to end the trafficking of slaves between Brazil and Africa. (Andrews Afro-Latin America 57) The treaty became effective in 1830. However, the Brazilian trafficking of slaves overseas continued, and as a result, in 1850, the Brazilian government enacted a new law, severely criminalizing overseas slave trafficking. Yet again, the overseas trading of slaves continued.

Beginning in 1871, the Brazilian government would pass a series of laws that would place limitations on the practice of slavery within Brazil. In 1871, the Brazilian government passed the Law of the Free Womb. With this decree, all children born to current slaves were freed, but with conditions. The slave mother had two options: "the child could remain on the plantation until he was 21 years old," working without compensation, or the mother could place the child in the care of the state. (Faustino 83) The "majority of slave mothers opted for the first [option]." (Faustino 83)

In 1885, the Brazilian Empire passed the Saraiva Cotegipe law that freed slaves who were older than 60 years old. (Faustino 83) As with the Law of the Free Womb, there was an additional work requirement before liberation. The slave had to work for at least three more years, with compensation from the government, with guaranteed freedom at age 65. (Faustino 83) However, few slaves ever reached the
age of 65. (Faustino 86) In 1888, Princess Isabel abolished slavery, in its entirety. While slavery was eventually abolished in Brazil, the gradual process of that abolition helped to associate the status of the black in Brazil as a function of class, and not of race. While only the black was enslaved, he worked alongside the freed black for a significant period of time.

~

The Ecuadorian independence movements brought slavery into question leading to the eventual abolition of slavery in 1852. However, the nature of slavery, and the nature of the abolition of slavery, created solidarity among the black population at the same time that it geographically isolated afro-Ecuadorians from the larger Ecuadorian society. Afro-Ecuadorians were not present in the national social consciousness as members of the nation, but rather as a problem along the margins of the nation.

In Brazil, while the status of Afro-Brazilians was still relatively ambiguous, their large numbers, especially after abolition could not be ignored. In the following century, the scholars and elite in both Ecuador and Brazil, in response to the creation of new nations with a new freed population, and in response to scientific racism, would adopt national strategies for the removal and exclusion of the black population, explicitly at times, and more discretely at others. The varied degrees of exclusion and inclusion resulted in different approaches to affirmative action in Brazil and Ecuador.
Post-Slavery: 19th and 20th Centuries
Despite gaining independence from Spain and Portugal, European theories on race continued to influence the racial ideology in Latin America. As seen in the previous section, independence movements and the abolition of slavery did not alter the inferior status of blacks in neither Ecuador nor Brazil. However, in Ecuador, because of the geographic segregation of blacks, the black population felt marginalized and could collectively and strongly advocate for the recognition of their rights in the 2008 Ecuadorian Constitution. In Brazil, however, blacks were not geographically segregated, but still subtly treated as inferior, as evident in the gradual act of manumission. The status of the black in Brazil was ambiguous and contradictory resulting in an affirmative action policy left at the discretion of state governments.

From 1880-1930, Latin American governments subsidized "white" immigration to the region to "whiten" the supposed "degenerate" Latin American population, according to the tenets of "scientific racism." The first "white" recruits were European, but due to war in Europe, at the end of this process, governments negotiated "whiteness" recruiting those who were lighter-skinned, while not necessarily European.

The process of "whitening" was very successful in Brazil, but did little to change the racial composition of the Ecuadorian population. In the 1930s, in response to the loss of jobs to immigrants and a desire to come from under European racial hegemony, the Ecuadorian population embraced the mestizo identity, and the Brazilian population embraced "racial democracy." Despite the literal translation of mestizo as "mixed-race," in practice mestizo excluded the black. Brazilian "racial democracy" was arguably void of racial discrimination because of the supposed peaceful miscegenation of many races within Brazil, but at the same time showed preference for those of lighter skin. Both identities
became nationalized identities, in Ecuador’s case, this strengthen the move to include affirmative action in the 2008 Constitution; whereas, it weakened the resolve to include such policies in the Brazilian 1988 Constitution.
Chapter 2: "Scientific Racism" and Nationalized Identities

In late 19th century Europe, European scholars and scientists solidified and "proved" the racial hierarchy and the "inferiority of races" with the advent of "scientific racism." In this context, they condemned Latin America, which for Europeans represented a plural society of mixed-races, to a permanent state of inferiority and denigration. They criticized the Brazilian population more strongly than other Latin American countries because of its predominantly black population. In Brazil and Ecuador, as well as in other South American countries, despite gaining independence from the Spanish and Portuguese by the turn of the 19th century, maintained ideological ties with the former colonial powers. Ecuadorian and Brazilian scholars and government believed that their populations would continue to be inferior unless they proceeded to "whiten" their populations.

"The melanin factor is a fact of nature, but its interpretation was a fact of culture. The racial categories varied according to moments and places, in the function of different political and social needs that were all characteristic of relations of power." (Ndiaye 33)

In the 20th century Latin American scholars and politicians returned to a sort of Bolivarian identity and embraced miscegenation, embracing new nationalist ideals and adhering to international precedents. In Ecuador, the mestizo would represent the Ecuadorian. While the mestizo first appeared during colonization, he returned in the 20th century as Ecuador's national identity. Literally translated, mestizo means "mixed-race," but those of African lineage were not included in this category. The similar Brazilian concept was Gilberto Freyre's "racial democracy."

10 "Whitening" did not have as much an impact in the Caribbean.
"Racial democracy" appeared to give value to Brazil's mixed-race culture of Spanish, indigenous, Arab, and African, but in fact contributed to the continued marginalization of blacks under the guise of a pluri-cultural identity.

19th Century "Scientific Racism"

In 19th century Europe, race became "everything: literature, science, art - in a word, civilization [depended] on it." (Wade 11) Race became a type - heterogeneous races - that could be ordered hierarchically with the use of science. In the previous centuries, race was cultural, phenotypic, and environmental, but "founded on principles of evolution, scientific racism was founded on a biological and immutable difference of human races." (Ndiaye 201) Subsequently, debates emerged over the science of polygenism and phrenology.

In the 19th century, European scientists began to believe in polygenism and phrenology, the theory and the method for proving "scientific racism". Polygenism theorized that there were many human races. This theory was against the monogenism of the Catholic Church. (Ndiaye 201) (Recall the "purity of race" during colonialism and slavery that argued against miscegenation claiming that it was unholy.) German scientists Franz Joseph Gall started phrenology, the study of brain size. (Ndiaye 201) "Brain size was said to correlate with superior intelligence." (Wade 10) With phrenology, scientists organized the races according to their "intellectual ability." "The white race was placed on top; the black race on the bottom." "Every element of the African brain or skeleton became an indubitable sign of his bestiality." (Ndiaye 201)
Scientific racism combined with the belief in the natural "inferiority of races that existed before the 19th century provided the Latin American elite - the land-owning, the scholars, and the politicians - with the authority to continue the subjugation of blacks and other "less desirable" populations in their countries, during a time of underdevelopment. "Scientific racism was immediately embraced by turn-of-the-century elites confronting the challenge of how to transform their 'backward,' underdeveloped nations into modern, 'civilized' republics." "There could be no disputing the findings of European science, especially when those findings conformed to Latin American elites' own unshakable belief, derived from 300 years of colonial slavery." (Andrews Afro-Latin America 118) However, Europeans used that same "scientific racism" that the Latin American elite used to denigrate their non-white populations, to denigrate the Latin American population as a whole.

The Denigration of Latin America

The Latin American population represented a unique case when it came to the racial hierarchy and racial classification because of its miscegenation of European, indigenous, and African populations, populations either absent or not as prevalent in European countries where the ideas on race were being formed. (Wade 31) However, European "scientific racism" held that in addition to being inferior because of the presence of such large degenerate populations, Latin Americans because of their miscegenation were "like the mule (from which the term 'mulatto' is derived)...sterilized and doomed to disappear." (Ndiaye 202) "Orthodox scientific
racists asserted the superiority of white racial inheritance but also argued that that inheritance was weakened and undermined by mixture with 'inferior races'." (GRA Brazilian Racial Democracy 485) Inferiority because of miscegenation was an issue especially in Brazil because the Brazilian population was more racially mixed than most Latin American countries including Ecuador.

Brazil’s situation was a much more dire situation because its populations was predominately of African descent following the abolition of slavery in 1888, and because miscegenation was more widespread, (recall the discussion of slavery in Brazil). In 1859, Count Joseph Arthur de Gobineau traveled to Rio de Janeiro to serve as French ambassador to Emperor Dom Pedro II. (Fry 86) In 1869, Gobineau wrote *l’Essai sur l’Inégalité des Races Humaines* (*the Essay on the Inequality of the Human Races*) and confirmed Brazil's denigrate state. Gobineau commented that Brazil's "miscegenation had affected all Brazilians (except the emperor whom he befriended) across all classes and even 'in the best families,' making them ugly, lazy, and infertile." (Telles Race in Another America 26)

Gobineau claimed that "mulattos 'do not reproduce themselves beyond a limited number of generations'," and concluded that "the population of Brazil would have 'disappeared completely, to the last man,' within 270 years at the maximum or 200 years at the minimum." (Fry 86-87) Gobineau advocated for European influence to solve this moral and scientific dilemma, but Latin American scholars and scientists argued for European immigration for the gradual "whitening" of the population and the cancellation of these "negative" traits.

～
Within the discussion of the "science of race" (i.e. "scientific racism") were the Lamarckian theories, dominant in France, (Telles Race in Another America 28) "about the hereditability of characteristics acquired during a single lifetime" (Wade 31) In the wake of being relegated to a permanent state of inferiority and potential eradication, Latin American scholars, scientists, and politicians embraced those Lamarckian theories, which they believed provided hope for the "improvement" of their populations through European immigration. Cuban intellectual Fernando Ortiz argued that:

"since the 'black race' has proven itself to be 'more delinquent than the white situated in the identical social position...white immigration is what we should favor.' Such immigration will 'inject in the blood of our people the red blood cells of which tropical anemia robs us, and sow among us seeds of energy, of progress, of life." (Andrews Afro-Latin America 119)

The immigration of Europeans would gradually "whiten" the population "as the superiority and strength of white 'blood' gradually eliminated African and Amerindian physical and cultural traits." (Fry 87) Scientific racists argued "the white genetic component would tend to dominate; and if such mixture were repeated over several generations, then end result would by a 'whitened' population in which African and Indian ancestry was overcome and neutralized." (GRA Brazilian Racial Democracy 485) Joao Batista de Lacerda, former director of Brazil’s National Museum (Fry 87), "predicted [in 1912] that by 2012, the Brazilian population would be 80 percent white, 3 percent mixed (mestiço), 17 percent Indian, and there would be no more blacks. (Telles Race in Another America 29)
Neither Black nor White, but Definitely Light

Being clear that "in order to be civilized, Latin America would have to become white," from 1880-1930, Latin American governments proceeded to Europeanize the people, architecture, and cultural practices. (Andrews Afro Latin-America 119) In the middle to late 20th century, however, Ecuador and Brazil would embrace the miscegenation in their countries while still marginalizing those of clear African ancestry. Since the 1800s, Latin American governments had wanted to encourage European immigrations to their countries for the purposes of "whitening" their population. However, governments were not successful until the 1880s because of the changing political and economic climate in the region. (Andrews Afro-Latin America 135) First, by the 1880s, most countries had abolished slavery. (Brazil and Cuba abolished slavery in 1888.) Since slavery was abolished, workers would no longer be competing with free slave labor. Second, because of increased European and North American consumption of their goods, and thus increased exportation profits, Latin American countries experienced a significant economic boom.

The economic boom generated increased tax revenues essential for the full process of "whitening". Latin American governments used these revenues to centralize the government: governments used the revenue to end civil wars. The land-owning elite profiting from the exportation business had the most political influence and monopolized political and economic control. (Andrews Afro-Latin America 117) They used the revenue to subsidize European immigration to Latin
America (Telles Race in Another America 29), and employers showed preference to
the white immigrants over the native population. In Brazil, politicians used their
political control to exclude non-white immigration: "The 1891 constitution
prohibited African and Asian immigration into the country." (Andrews Racial
Democracy 485)

However not all Latin American countries experienced the same level of
European immigration, most did not attract numbers significant enough to "whiten"
the population. In Afro-Latin America maps 1 and 2 (see Appendix 1 and Appendix
2), we see a significant drop in the percentage of blacks in the southern cone while
there is no significant change in the Caribbean and Central America. In Brazil, by
1900, blacks no longer constitute the majority. Ninety percent of the 10-11 million
Europeans, who arrived in Latin America between 1880 and 1930 went to Brazil,
Cuba, and Uruguay. (Andrews Afro-Latin America 136) In Ecuador, the percentage of
blacks in the country did not change.

Brazilian Racial Democracy

In Brazil, by the 1930s, xenophobia began to surpass the Brazilian desire for
"whitening" and Brazilians instead embraced the concept of a "racial democracy."
From 1880-1930, in Brazil, as in other Latin American countries with high levels of
European immigration during that time, "[n]ative workers faced intense job
competition from the immigrants, and objected strenuously to the open preference
for Europeans displayed by many employers," (Andrews Racial Democracy 486) and
the economic crisis of the 1930s amplified this anger. (Andrews Afro-Latin America
By 1927, the local government in Sao Paulo had already ended subsidies for European immigration. (Andrews Racial Democracy 487), and in 1930 and 1931, the Brazilian federal government "placed restrictions on immigration into the country, as well as on the employment of foreign nationals in commerce and industry." (Andrews Racial Democracy 487) In 1933, Gilberto Freyre published Masters and Slaves, which would appear to transform the negative perception of racial plurality in Brazil, into a positive one.

Freyre's "racial democracy" dominated racial thought in Brazil until the 1980s, representing a racial utopia both nationally and internationally in the midst of what appeared to be more racially polar countries. He developed this theory in part after extensive travel through the racially segregated United States south, which for him represented the complete opposite of his experience in the Brazilian northeast.8 (Telles Race in Another America 34)

For Freyre, "democracy" referred to the "Spanish connotation of the term, which referred to brotherhood or fluid social relations rather than to a type of political institution." (Telles Race in Another America 33) This racial fluidity, or racial plurality, was unique to Brazil because of the nature of Portuguese colonization, i.e. "Lusotropicalism." Freyre believed Portugal to be plural; Portugal was not purely European, but rather "a bridge between Christian Europe and Islamic North Africa." (Telles Race in Another America 34) He justified Portuguese colonization "arguing that they were the only European colonizers to create a new civilization in the tropics, an accomplishment attributable above all to their racial

---

8 The Brazilian northeast received less European immigrants than the southeast during "whitening."
tolerance." (Telles Race in Another America 34) "Lusotropicalism" held that slavery was a necessary evil. It was grounded on the belief that miscegenation was encouraged and non-violent, which ignored the reality of the black slave during slavery.

During the height of "racial democracy" non-Brazilian scholars exalted Brazil as a true example of racial harmony. In 1942, American sociologist Donald Pierson, based on his study in Salvador, Bahia⁹ concluded that "Brazil was a 'multiracial class society'." (Telles Race in Another America 35) Embracing the assimilationist aspect of "racial democracy, Pierson argued that any existing racial hierarchies were simply a reflection of incomplete assimilation, leading to the "mixed-race person", a status that was more socially advantageous in Brazil. (Telles Race in Another America 35) Embraced the presumed respect for the African contribution to Brazilian society, black American leaders such as Booker T Washington and W.E.B DuBois "wrote positively of the black experience in Brazil." (Fry 90) "Black nationalist Henry McNeal Turner and radical journalist Cyril Biggs went so far as to advocate emigration to Brazil as a refuge from oppression in the United States." (Fry 90) In 1944, Jewish writer Stefan Zweif "found Brazil to be the least racially bigoted society he had visited." (Fry 90)

In the wake of European Nazism, after World War II, the larger international community became interested in using Brazil as a case study. "UNESCO agreed, on the suggestion of Brazilian anthropologist Arthur Ramos, to sponsor a pilot research project in Brazil with the aim of studying 'the problems of different racial and ethnic

---

⁹ Most slaves entered through this port during slavery. Salvador has the largest black population in Brazil.
groups living in a common social environment". (Fry 90) Brazil seemed to represent a viable alternative to European and American ethnic and racial segregation. (Fry 90)

In the 1980s, however, "racial democracy" became "demonized in certain academic and activist circles" while still providing the strongest argument against affirmative action in Brazil. (Fry 96) Freyre’s "racial democracy" was dependent both on "scientific racism" and the previous period of "whitening." Freyre preferred to focus on the peaceful miscegenation of races in Brazil, ignoring the violence often associated with miscegenation, but he also believed in the "inferiority of races" evident in his remark: "[n]egroes are rapidly disappearing in Brazil, merging into the white stock." (Telles Race in Another America 34) Hidden within Freyre's "racial democracy" were the politics of race during colonialism and the era of "scientific racism" that wanted the exclusion or even eradication of the black associated with the "anti-civilization" and anti-European.

The Ecuadorian Mestizo

The mestizo existed during colonialism and slavery, and was alluded to in Bolivarian nationalism in the 19th century as a potential Latin American ethnicity. However, it was not until the mid 20th century, that "the idea of the mixed race person [mestizo] being at the center of a new national ideal became widespread in Latin America." (Canessa 244) In the colonial racial hierarchy prior to independence that takes on the form of a pyramid, the Spanish were at the top, criollos at the
second stratum, *mestizos* (once they appeared) at the third, then indigenous\(^\text{10}\), and finally blacks and African slaves.

"The noun "mestizos" was a term applied for the first time by the colonial State, and the Spanish and European elites in general to identify those individuals and populations resulting from marriages or interracial conjugal unions, especially Spanish-indigenous." "The noun of "mestizos" assigned to the population considered to be both visually and functionally, neither Indian, black, nor white." (Apolo 203-204)

*Mestizo*, like racial democracy represents social ascension toward the Hispanic, the European, the lighter complexion. The *mestizo* embraces a mixed-race, but excludes the Afro-Ecuadorians for (1) being visibly black, and (2) not present in the social consciousness. The *mestizo* is a struggle between an indigenous and a Spanish identity:

"*The ideology of the mestizaje [mixing] [is formed] when the dominant republican sector of the 19th century a contradictory double necessity [emerged]: the quest for a specific American identity that [affirmed] the difference from the Spanish and the necessity to revindicate the Spanishness placed in doubt by the vigilant theoric prejudices in the [Iberian] peninsula." (Apolo 218)

Being *mestizo* is also a means for social advancement, one denied to blacks unable to escape phenotypic difference:

"The majority of these 'mestizos' are simply ex-quechua\(^\text{11}\) indigenous, protagonists of an advanced process of aculturation, the same that has been seen to accompany a relative miscegenation or racial mix." (Apolo, 207) "In this manner, the mestizos with more acquired power consider themselves 'white.'" (Apolo 210)

\(^{10}\) Referring to their location socially. Politically, during colonialism, the colonists established the Spanish and the indigenous republics, to prevent the mixing of races and due to Friar Bartolomé de las Casas, who along with other theologians, fought against the servitude of the indigenous arguing that they had the potential to receive salvation while blacks did not.

\(^{11}\) Referring to the largest indigenous population in Ecuador.
Power and recognition was contained in being *mestizo* a sort of transitory identity towards becoming white. However, international decrees in the 20th century that valued the indigenous, encouraged the more vigilant re-adoptions of the *mestizo* as a national identity. "After decades and centuries of contemporary indigenous culture being represented as anachronistic, backward, and retarding the process of the nation, 'the indigenous' is now increasingly seen as being iconically national." (Canessa 243) In 1957, in Convention 107, the UN ILO supported indigenous rights by favoring universal individual rights and nation building. In 1989, Convention 169 supported collective indigenous rights and obliged countries to give indigenous populations "greater participation in decision-making with regard to social, cultural, and economic development." (Foweraker 169) In 1994, the UN declared the Decade for Indigenous Peoples. Throughout the decade, the UN and the World Bank prioritized "the position of indigenous people." (Canessa 241) It was also during this decade that most Latin American countries ratified ILO Convention 169 and non-governmental organizations channeled "aid to indigenous groups for political as well as economic development." (Canessa 242) It was not until later in the 20th century that similar international decrees would prompt the reconsideration of the value and contribution of the African in Ecuador.

~

12 The UN advocated for self-identification.
There was no space in 20th century Ecuador and Brazil for the black to be the owner of rights and to be a respected member of society. Blacks had to negotiate that space following the model outlines during slavery. Black Ecuadorians were better equipped to negotiate their space because they could clearly see what was being denied to them. Esmeraldas was once autonomous, yet now companies were coming in and colonizing these ancestral lands while the government looked on. Black Brazilians did not have a tangible experience as a collective community and had to overcome the Brazilian tradition of the granting of liberties versus the demanding and being owned liberties present in the discourse during Ecuadorian independence. It was therefore more difficult for black Brazilians to mobilize and be heard.
Conclusion: Constitutional Change and Affirmative Action

In the preceding centuries racial policies came from the government, but in the transition to independence and the ratification of new constitutions, racial policy could not come from the people. Black Ecuadorians mobilized in the 1970s recognizing a void in the national identity, that of the black. Black populations were not talked about in history classes, but were referenced as though they pertained to another country. This treatment is rooted in the spatial segregation before and immediately post slavery, and in the exaltation of the mestizo identity for the latter part of the 20th century, and part of the mission of emerging black activist groups was to remind themselves and remind the state of their contributions even before colonial independence. It is expected that affirmative action will help to do just that.

Brazilian groups emerged in the 1920s and 1930s as a result of the end of the slave trade and a common black Brazilian-born identity. However, they encountered some resistances among themselves and had to go before a state that was embracing a "racial democracy" that supposedly saw no race.

Movement Towards Affirmative Action in Ecuador

The black movement in Ecuador began in Quito, in the 1970s, during a period of democratic change. In addition to the mobilizations of blacks, other marginalized groups - the indigenous, youth, environmentalists, human rights activists, and women - formed their own groups pushing for the "reaffirmation of identities." These groups were beginning "to recognize themselves as subjects with common unresolved problems of discrimination and exclusion." (Vallejo 128, 129)
As argued in this thesis, throughout Ecuador's colonial history and its history as an independent country, despite negotiations and proclamations of freedoms, scholarly debate and government action prevented black Ecuadorians from acquiring full citizenship. Full citizenship is the acknowledgment of the contribution of blacks in the formation of the country and their existence in the national identity, the protection of rights, and the respect of persons. This attestation of citizenship can be seen in goals that black organizations have set forth in response to past histories of exclusion.

In 1979, black students in Quito founded the first black socio-cultural organization, the Center for Afro-Ecuadorian Studies "as a space of investigation, congregation and identity of the Black Population." (Vallejo 129) Members proposed to compile a history of the black Ecuadorians absent from the national collective consciousness and not included in the officially histories taught in the education system, except in Esmeraldas and Chota where the majority of the population is black, creating an "us" and "them" dynamic. The goals of the Center were to "contribute to the organization of the black population, collect and dispense the collective history of the black population, and publicize the marginalization and poverty that blacks suffered" on account of their race. (Vallejo 129, 130)

As blacks in Quito continued forming other organizations until the 1990s for the purposes of identifying, combating, and documenting racial discrimination in order to form a plan of action to be presented before the government for the recognition of their rights, blacks in Esmeraldas joined the movement. The regionally collaboration of blacks allowed them to create a space for the
appreciation of their culture, but with the unification of the two regions, blacks were able to do more.

Blacks in Esmeraldas mobilized themselves in defense of their cultural identity, but also in protest to the violation of territorial and political autonomy; an autonomy first granted in the 16th century. The Ecuadorian government had violated collective land and political rights, allowing for the exploitation of natural resources the destruction of the mangroves (they take hundreds of years to grow) for shrimp farms (Vallejo 54), land that blacks in Esmeraldas cultivated to sustain themselves.

In 1998, before the ratification of the 1998 Constitution that would recognize collective rights for the black population after eighteen years of mobilization, Ecuadorian president Fabián Alcarón, with decree number 1747, created the Corporation for Afro-Ecuadorian Development (CODAE). (Vallejo 72) Some of the functions of CODAE are as follows:

"to achieve the productive and humane development of the Afro-Ecuadorian; to strengthen the organization of communities within the Afro-Ecuadorian; to design plans and training programs for the purpose of revitalizing ancestral wisdoms, identity and cultural values of the Black Population; to promote the participation of different sectors and communities of the Afro-Ecuadorian Population...to realize studies, for the purpose of developing plans and training programs in the technical and financial fields at the national and international level, in order to see the execution of the same." (Vallejo 73)

CODAE convened for the first time in December 2001, with 10 delegates from the presidency, and a total of 9 representatives from black organizations throughout
Ecuador, and would be actively involved in the creation of the 2008 Constitution (Vallejo 78)

The ratification of the 1998 Constitution was the result of mobilization within the black population and achieved two very important goals: the recognition of blacks as an ethnic population with collective rights, and the 2001 census with questions about race and other surveys on discrimination. It was in 1998, that Ecuador became the first country in Latin America to give blacks collective rights and recognized their existence as a separate ethnic group prior to the creation of the Republic of Ecuador. In the 2001, from the data it was estimated that blacks constituted approximately 5% of the total population. (Los Derechos 11, 12) However, despite these advances for the black community, in a 2004 national survey, 64% of Ecuadorians believed that racism existed, while only 10% believed that they were openly racist. (Los Derechos 12) In another survey also conducted in 2004, 82% of Ecuadorians agreed that "the State should adopt methods against racial discrimination and racism:" 81% of whites agrees, 83% mestizos agreed, and 90% of blacks agreed. (Racismo y Discriminación 39)

The black Ecuadorian community proposed affirmative action for the eradication of racial discrimination, and began submitting and presenting proposals to the Constituent Assembly in 2007, for the inclusion of affirmative action in the revised, more democratic 2008 Constitution. Supported by international decrees against discrimination - the Universal Declaration of Human Rights (1948); Convention 169 of the International Labor Organization (ILO); the UN Declaration against all forms of Racial Discrimination; the declaration of the right to
development (1986); and the UN Declaration against Racism in Durban, South Africa (2001) - from October 2007 to December 2007, CODAE and several black socio-political organizations met to outline their proposals for the Constituent Assembly.

From January 2008 until February 2008, CODAE and several black organizations presented their proposal to the Constituent Assembly who rejected the inclusion of collective rights for the black population, to which CODAE and the other organizations protested in March 2008. A couple months later, in May 2008, CODAE and the black organizations involved, "participated in a workshop on plurinationality, defending collective rights for Afro-Ecuadorians, territorial rights, political participation with ethnic inclusion, condemning racism and discrimination, and proposing articles supporting affirmative actions." (Los Derechos 6)

After a series of debates and discussions from May 2008 until July 2008 among the Constituent Assembly, CODAE and several black organizations participating, in 2008, the Constituent Assembly ratified the 2008 Constitution. (Anton, 6) The Constitution declares that Ecuador is a plurinational State and that "[t]he State shall adopt affirmative actions that will promote true equality in favor of those owners of rights that find themselves in situations of inequality." (Title 2, Chapter 1, Article 11) In declaring that Ecuador is a plurinational state, the constitution legally recognizes the existence of all of Ecuador’s ethnicities and their contribution to the present Republic of Ecuador. Plurinationality recognizes these populations as socially autonomous along ethnic lines, not to be confused with racial plurality that implies racial hybrids. The inclusion of affirmative action in the
constitution gives validity to subsequent policy, at the time of this writing, still being discussed between the government and CODAE.

The 2008 Constitution complies with the 5 principle goals that CODAE and other participant black organizations wanted included in the constitution:

1. "to recognize Ecuador as a multi-ethnic nation;
2. to defend the collective rights acknowledged in the 1998 Constitution;
3. to constitutionally condemn racism, racial discrimination, xenophobia, and other forms of cultural intolerance and consequently apply methods of affirmative action to repair damages caused by slavery and racism;
4. to consecrate the right of direct political participation for cultural minorities through principals of inclusion;
5. within the territorial order of the nation, to constitute afro-Ecuadorian and indigenous conscriptions in ancestral lands.” (Los Derechos 5)

In compliance with the third goal mentioned above, the blacks Ecuadorian organization succeeded in changing the terminology used to refer to the black population. The 2008 Constitution does not contain the term negro to refer to blacks in Brazil. Instead, the Constitution uses afro-descendiente (afro-descendant) or afroecuatoriano (afro-Ecuadorian) to progress away from colonialism and slavery and toward modernity where blacks are recipients of rights rather than objects without rights, because of the inferior status associated with the term negro as a result of racialization. (Los Derechos 17, 36) Ecuadorian affirmative action is, not only about visibility and increased representation, but also about including and elevating the place of the black in the collective consciousness.

While the English translation of negro is "black" there are different histories surrounding the use of those two words that is beyond the scope of this argument.
Movement Towards Affirmative Action in Brazil

In Brazil from the 15th to 20th centuries, being black was always equated with being inferior despite the theory of "racial democracy." Thereza dos Santos, a black Brazilian actress and playwright based in Sao Paulo, recalled an encounter with racial discrimination when she was a university student in 1966, during the era of "racial democracy":

"I went to a celebration at the Federal Club, a club made up of Jews, developers, and chief judges - in a word, the cream of the crop in the justice system of Rio de Janeiro. It was a ball before Carnival, invitation only. After entering the club, however, I was told to leave by the manager, who said, 'Blacks are allowed here only as servants!'" (Thereza dos Santos My Conscience 192)

Ironically she encountered discrimination that the government had made in the previous century, in a space comprised mostly of people who worked in the justice system. Santos was also not told to leave, but was told that she could no be in that space as the one being served, but as the one serving. Locations might not have been legally segregated, but the space was reserved for those white elite, and that was a subtle difference, that when not recognized limited the discussion on rights and affirmative action for blacks.

Other instances of racial discrimination occurred in the access to education.
In this graph, we see the disparity in the years of schooling between whites, blacks, and browns. While there was only a slight difference between the years of schooling between blacks and browns, there was a large gap between them and whites, one that decreased in the 1990s following the implementation of affirmative action programs whose successes have yet to be discussed more readily. The unwillingness within Brazil to recognize this racial disparity stems from a history of seeing blacks in various occupations, while still being marginalized because they are darker-skinned as opposed to lighter-skinned. A disparity in education, what most affirmative action policy in Brazil is addressing, is especially detrimental because higher education can later provide financial security.

Because black Brazilians had no collective black identity around which to mobilize as did black Ecuadorians, because of their own lack of collective consciousness and also because of the intervention of the federal government, the black Brazilian movement was not as successful nor as consistent as the black Ecuadorian movement in implementing a national policy on affirmative action.
Following the abolition of slavery in 1888, African-born populations diminished and black Brazilians allied around a collective native-born black Brazilian identity (Butler 61), with some exceptions:

"Of the Afro-Brazilians who had achieved relative success in the abolition movement, politics, the arts, and other professions, many were mulattoes who did not acknowledge their African ancestry. Mobility was much easier for lighter-skinned Afro-Brazilians, and the ideology of 'whitening' (embranquecimento) was firmly entrenched in most minds." "The concept that blackness was so incompatible with social advancement that virtually any measure of success or social position sufficed for a person to be accorded whiteness in colloquial usages." (Butler 51)

As early as the 1920s, black Brazilians mobilized and formed activist groups. (Butler 65) These groups were short-lived, however, due to an inability of blacks to collectively self-identify as black, or due to government restriction on identifying along racial lines. In 1931, blacks in São Paulo formed Brazil’s first and only race-based political party, the Brazilian Black Front (FNB). (Butler 59) However, the government disbanded the party six years later because organizing along racial lines was unconstitutional.

Statistical changes on how people self-identify reveal the political trends of racial identities. Current statistics report than blacks comprise roughly 45% of the population. (Alem 312) However, in 1990, nearing the end of the dominance of "racial democracy", the Brazilian Institute for Geographic Statistics (IBGE) reported that the black population was somewhere between 5-6% of the total. The brown population constituted about 39%, while the white population was 55%. (Thereza dos Santos Black Movement 25) In 1991, black activists encouraged black Brazilians to identify as either black or brown, during the 1990s and 1991, the evidence of
such trends could explain the large percentage of self-identified brown Brazilians. (Andrews *Afro-Latin America* 155)

Since 1968 there have been several attempts to implement affirmative action, but government resistance prevented the adoption of affirmative action until after the ratification of the 1988 Constitution. (Moehlecke) The Brazilian government was unstable and centralized prior to the 1980s. Brazil experienced its first coup in 1889, a year after the abolition of slavery, and then three more coups in 1954, 1955, and 1964. From 1889-1988, the Brazilian government ratified four different constitutions and underwent four regime changes: the collapse of the Old Republic in 1930, the restoration of democracy in 1945, and the military revolution in 1964. (Hagopian)

During the dictatorship of Gêulio Vargas in the 1930s, and also during the rise of "racial democracy," there were "outright prohibitions as to organizing and forming societies on an ethnic basis," hence the closure of the FNB in 1937. As was the case in Ecuador, the transition to democracy provided an opportunity for black Brazilians to successfully mobilize:

"against the systematic denunciation and struggle against the genocide practiced against blacks in its different forms: the murders committed by the police; the subhuman conditions generated by the total lack of access to the most elementary conditions of survival; the sterilization of black women; the mental genocide practiced through the stigmas and prototypes that destroy blacks' self-esteem and dignity." (Thereza dos Santos *The Black Movement* 27-28)
In 1968, the Brazilian government created law number 5465/1968, the *Lei do Boi* (Servant Law). It was "created without polemic, in order to benefit children of *agriculturalists* in the entry into public schools." (Garcia, Fernando; 317) In this same year, technicians from the Ministry of Work and from the Superior Ministry of Work organized themselves in support of a policy of affirmative action that would resolve the problem of racial discrimination in the work force. The technicians supported the creation of a law that would demand that private companies maintain a minimum percentage of workers of color in accordance with activity and demand. However, while the government passed the Servant Law, a class-based law, it did not even consider the passing of a race-based law.

In that same year, 1968, the Brazilian government ratified Convention 111 under decree number 62150. Convention 111 is an international article created by the International Labor Organization that "affirms that all human beings, irrespective of race, creed, or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity." (C111 Discrimination Convention 1958) C11 was one of the first international articles to permit the adoption of "'special mediums of protection or assistance' in order to respond to the particular needs of persons that, for reasons associated with sex, deficiency, family responsibility or social or cultural status, are generally recognized as needing protection or special assistance." (Tomei) In ratifying this document, the Brazilian government promised to "formulate and implement a national policy for the promotion of equality of opportunity and treatment in the work sector." (Moehlecke 206)
However, in 1992, CUT (Unified Workers’ Central), the main democratic workers union in Brazil\textsuperscript{14}, with the support of CEERT (Center for the Study of Work Relations and Inequality), a non-governmental organization of the black movement in Sao Paulo, "sent a document to the ILO denouncing the Brazilian State" for the discriminatory practices in the work force. (Moehlecke 206) Subsequently, in 1995, the Brazilian government acknowledged discriminatory practices in the work force and created the Group Work for the Elimination of Discrimination in Employment - GTEDEO. (Moehlecke 206) Activists had to persuade governments to act, often using international decrees to their advantage.

In 1983, federal deputy Abdias Nascimento proposed law number 1332, which was similar to the law proposed in 1968. Law 1332 proposed:

"A compensatory action that would establish mechanisms of compensation for afro-Brazilians after centuries of discrimination. Within the actions would figure: 20\% of spaces for black females and 20\% of spaces for black males on the selection of candidacy to public service, [and] educational scholarships; incentives for companies in the private sector to eliminate the practice of racial discrimination, [and] the incorporation of a positive image of the afro-Brazilian family in the educational system and in educational literature, as well as the introduction of the history of African civilizations and the African in Brazil." (Moehlecke 204)

Law 1332 resembles the demands that afro-Ecuadorians made in that both black Ecuadorians and Nascimento wanted retributions for "centuries of discrimination." They believed that these retributions could be given through policy, "compensatory action" or affirmative action, that would promote the visibility of blacks. As affirmative action is still new in Ecuador, the specifics of the policy are being

\textsuperscript{14} CUT was founded in 1983 during the transition from dictatorship to democracy.
discussed now; however, in Brazil, a quota system, the reservation of a certain percentage of spaces for blacks, similar to the one that Nascimento proposed in 1983, is in use today in Brazil.

The Brazilian National Congress considered law 1332 but did not approve it because of the continued legacy of "racial democracy." Nevertheless, law 1332 contributed significantly to the affirmative action movement in Brazil because it started the dialogue on quotas. In 1984, the Brazilian government declared that Serra de Barriga, the site of the infamous Quilombo do Palmares a historical landmark. This decree was monumental because previous references made to quilombos, lusophone refuges formed by runaway slaves during slavery, considered these communities to be criminal. In naming the Quilombo do Palmares a historical landmark, the quilombo was less associated with a negative concept, criminality, and increasingly being seen as a positive contribution to Brazilian society, important in the deconstruction of "racial democracy" a major barrier to affirmative action.

In 1988, two events propelled the affirmative action movement forward: the ratification of the present constitution after periods of military dictatorship, and the creation of the Palmares Cultural Foundation. The 1988 Constitution enforces plurality of thought, equality for all persons, and the right to self identify. (Brazilian Constitution) The constitution decentralized power and cancelled the political acts of the military including those that suppressed the formation of race-based organizations. In contrast to the Ecuadorian Constitution, blacks were not mentioned anywhere in the constitution.
On May 13, 1988, on the centennial of the abolition of slavery, President Sarney announced the creation of the Palamares Cultural Foundation. The foundation "seeks to 'promote and preserve cultural, social, and economic values that come from black influences in the formation of Brazilian society,' as guaranteed in the Brazilian Constitution (article 215 of the 1988 Constitution)." (Telles *Race in Another America* 49) The foundation also seeks to "create and implement public policies that may create the possibilities for participation by the black population in development, arising from it history and culture." (Telles *Race in Another America* 49)

In 1995, just 15 years after the rejection of law 1332, the Brazilian government instituted its first national affirmative action policy. This policy like the first affirmative action policy in Ecuador, and present affirmative action policy in the United States, addressed the underrepresentation of women. Brazil's first affirmative action policy imposed a quota for the number of woman candidates that should be present within a given political party. It stipulated that women considered for candidature in all the political parties must make up at least 30% of the total number of candidates. (Moehlecke 1999)

The following year, in 1996, affirmative action was extended to blacks, and beginning in 1999, other affirmative action policies for blacks in politics and superior education would begin to be ratified. In 1996, the newly established Secretary of Human Rights started the National Program of Human Rights (PNDH) whose mission was to:

“develop affirmative actions for the access of blacks to professional courses at the university and in technological areas; to formulate
compensatory measures that would socially and economically promote the black community and support the actions of private initiatives that realize positive discrimination.” (Moehlecke 207)

In 1999, the Brazilian government "guaranteed spaces for blacks in the cadre of the Ministry of External Relations" where blacks were underrepresented and also established a 20% quota for blacks in the Supreme Federal Tribunal. (Garcia, Fernando; 318) Also in 1999, Senator Jose Sarney initiated "the project of the Senate Law number 650/1999, that [proposed] to institute racial quotas, as an extension of affirmative actions, for the black population in the access to public office and employment, to superior education and to contracts in the Student Financial Fund of Superior Education (FIES), in discussion today." (Alem 319)

In Rio de Janeiro, in 2000 and in 2001, the local government created racial quotas for the access to superior education. State Law number 3524/2000, designated a 50% quota in the State University of Rio de Janeiro (UERJ) and in the States University of North Fluminense (UENF) for "alunos oriundos de escolas publicas." (Alem 319) In 2001, the state government of Rio de Janeiro, in accordance with State Law number 3524/2000, "instituted a minimum quota of up to 40% of spaces for the black and light-brown population in the access to graduate courses at the UERJ and the UENF." (Alem 319)

Beginning with the entrance exams for the 2002 school year, in order to fulfill the 50 percent public school quota already in existence prior to the adoption of an affirmative action policy for blacks, there would be two entrance pools: one for public school students, and another for private school students. This was to ensure that the two groups would not be competing against each other and to also avoid
lawsuits. After the initial round of admissions, the universities would then see what portion had declared themselves to be black. If that number did not reach 40%, "the university would reclassify the pool of entrants, removing and adding candidates, until the 40 percent quota was reached." (Htun 71)

In July 2002, Bahia’s state university announced that it would reserve 40 percent of the spaces in undergraduate and graduate programs for blacks. In November 2002, the state legislature in Minas Gerais also approved a quota, of 20 percent. (Souza 22-23) The State University of Bahia adopted the IBGE – Brazilian Institute of Geography and Statistics – system of classification that had as its racial categories: black, white, pardo (brown), yellow, or indigenous. (Souza 22-23) On the application, applicants could choose whether they want to self-identify as belonging to one of the racial categories. They took the same entrance exams, but were then divided according to whether or not they want to be considered for the quota. "Since the students are allotted in two different percentage groups there is a variation in the average minimum grade for approval in the exams. The average grade for each group is calculated differently." (Souza 22-23)

In 2002, the Brazilian government passed law number 10558/2002, "that instituted the University Diversity Program, in the field of the Ministry of Education, with the ultimate goal of implementing and evaluating strategies for the promotion of access of persons pertaining to socially disadvantaged groups, especially black and indigenous Brazilians, to superior education." (Alem 318) The Diversity in Education program came about in 2001, after president Fernando Cardosso supported the use of affirmative action to address the fact that blacks made up only
2% of university students despite representing almost half of the total Brazilian population. (Htun 70) The program financed college preparatory courses for poor and black students so that they could pass the university entrance exams, made possible "by a loan of $5 million from the Inter-American Development Bank to which the Brazilian government contributed an addition $4 million." (Htun 70)

The process leading to affirmative action in both Ecuador and Brazil was a series of negotiations between the government and social organizations which appeared to be a product of democracy, but at the same time a product of Ecuadorian and Brazilian colonial and slave heritage. While the black movements in the countries have been connecting the contemporary struggle for rights with past histories in which blacks were removed from the collective consciousness, showing a reproduction of systematic marginalization in the current century, it does not appear that the governments are responding to this fact, but rather are responding to the demands of different activist groups. However, without the full understanding of the connection being made between the past and the present, while affirmative action is constitutionalized in Ecuador and therefore should be present in society, it will be implemented slowly.

Nonetheless, affirmative action in Brazil and Ecuador can be studied further and be a point of reference for other countries such as France whose governments and marginalized populations are discussing affirmative action as others propose color-blind policies, in the midst of discussion on nationalized and often racialized identities.
Map 1 (Andrews Afro-Latin America)
1800
Map 2 (Andrews Afro-Latin America)
1900
Map 3 (Andrews Afro-Latin America)  
2000

Title I: Constitutive Elements of the State

Chapter 1: Fundamental Principles

Article 1: Ecuador is a constitutional State of rights and justice, social, democratic, sovereign, independent, Unitarian, intercultural, pluri-national, and secular.

Article 3: Primordial duties of the State:
1. To guarantee without any discrimination the effective enjoyment of the rights established in the Constitution and in the international instruments, in particular, education, health, alimentation, social security and water for its inhabitants.

Chapter 2: Citizens

Article 6: All Ecuadorians are citizens and enjoy the rights established in the Constitution.

Article 7: They are Ecuadorians by birth:
1. Persons born in Ecuador
2. Persons born overseas of either mother or father born in Ecuador; and their descendants until the third generation.
3. Persons pertaining to communities, populations or nationalities recognized by Ecuador with a presence in the border areas.

Title II: Rights

Chapter 1: Principles of the Application of Rights

Article 10: Persons, communities, populations, nationalities and collectives are permanent and enjoy the rights guaranteed in the Constitution and in the international decrees.

Nature shall be a subject of these rights recognized in the Constitution.

Article 11: The exercise of rights shall be subject to the following principles:
1. These rights can be exercised, promoted, and demanded in individual or collective form before competent authorities; these authorities will guarantee their completion.
2. All persons are equal y shall enjoy the same rights, responsibilities, and opportunities.

No one will be discriminated against for reasons of ethnicity, birth place, age, sex, gender, culture, civil status, language, religion, ideology, political affiliation, judicial past, socio-economic status, migratory status, sexual orientation, health, having HIV, handicap, physical difference; nor for any other distinction, individual or collective, temporal or permanent, that s/he would have as the result of the infringement o cancellation of the recognition, enjoyment or exercise of these rights. The law shall penalize all forms of discrimination.
The State shall adopt affirmative actions that will promote true equality in favor of those owners of rights that find themselves in situations of inequality.

3. The rights and guarantees established in the Constitution and in the international decrees pertaining to human rights will be in direct and immediate application by and before every public servant, administrator or judiciary, either officially or upon request.

Chapter 2: Rights to wellness

Article 13: Persons and collectives have the right to secure and permanent access to healthy, sufficient, and nutritious food; preferentially produced locally and in correspondence with the diverse identities and cultural traditions.

Article 16: Each person, either individually or collectively, has the right to:
1. Open, intercultural, inclusive, diverse, and participatory speech, en all realms of social interaction, through whatever medium or form, in one's own language and with one's own symbols.
2. The universal access to information technology and communication.
3. The creation of social media, and equal access to the use of radio frequencies for the management of public, private, and community radio and television stations, and to free edicts for the exploitation of wireless networks.

Article 19: The law shall regulate the prevalence of the content of informative, educational, and cultural media programs, and shall encourage the creation of spaces for the diffusion of national and independent productions.

The emission of publicity that induces violence, discrimination, racism, drug addiction, sexism, religious or political tolerance, and any other publicity that goes against these rights shall be prohibited.

Article 21: All persons possess the right to construct and maintain his/her own cultural identity, to decide on his/her belonging to one or several cultural communities and to express said choices; aesthetic liberty; to know the historic memory of his/her culture and to attain cultural patrimony; to diffuse his/her own cultural expressions and to have access to diverse cultural expressions.

Article 23: All persons have the right to attain and participate in public space as a sphere of deliberation, cultural exchange, social cohesion, and the promotion of equality in diversity. The right to diffuse in this public space, one's own cultural expressions, shall be exercised without more limitations than what the law has established, subject to the constitutional principles.

Article 28: Education shall respond to public interest and shall not be at the service of interests expressed by individuals or corporations.
The universal, permanent, mobile access, and graduation are guaranteed and obligatory without discrimination as is initial, basic, and high school education or its equivalent.
It is the right of each person and community to interact between cultures and to participate in a society that learns. The State will promote intercultural dialogue in its plural dimensions. Learning will develop in scholarly and non-scholarly form.
Public education will be universal and secular in all levels, and free until the third level of education, including superior education.  
Article 29: The State shall guarantee the freedom of education, the freedom of professorship in superior education, and the right for individuals to learn in their own languages and cultural environments.

Chapter 4: Right of Communities, Populations, and Nationalities
Article 56: The communities, populations, and indigenous nationalities, the afro-Ecuadorian population, the Montubio population and the communes form part of the State of Ecuador, solely and indivisibly.

Article 57: In conformity with the Constitution, pacts, agreements, declarations, and other international decrees pertaining to human rights, for communes, communities, populations, and indigenous nationalities, the following collective rights are recognized and guaranteed:
1. To maintain, develop, and freely strengthen one’s identity, feeling of belonging, ancestral traditions, and form of social organization.
2. To not be the object of racism and any form of discrimination based on origin, ethnic or cultural identity.
3. The recognition, reparation, and reimbursement to collectives affected by racism, xenophobia, and other connected forms of intolerance and discrimination.
4. To conserve the imprescriptible propriety of community land, that shall be inalienable, without embargo, and indivisible. These lands shall be exempt from the payment of taxes and interest.
5. To maintain the possession of ancestral lands and territories and obtain their free allocation.
6. To participate in the legal use, administration and conservation of these renewable natural resources that are in their lands.
7. The prior consultation, free and informed, within a reasonable period, about survey plans and programs, exploitation and commercialization of non-renewable resources that are found in these lands and that can affect them environmentally or culturally; to participate in the reported benefits from these projects and receive compensation for social, cultural, and environmental damages they may cause. The consultation that competent authorities should realize shall be obligatory and timely. If consent is not received from the consulted community, one shall proceed according to the Constitution and law.
8. To conserve and promote their practices in the use of the biodiversity and of their natural environment. The State shall establish and execute programs in order to assure the conservation and sustainable utilization of the biodiversity.
9. To conserve and develop their own forms of cohabitation and social organization, and generation and exercise of authority, in their legally recognized territories and community territories belonging to their ancestors.
10. To create, develop, apply, and practice their own or customary rights that shall not be able to violate constitutional rights, of women, children, and adolescents in particular.
11. To not be displaced from their ancestral territories.
12. To maintain, protect, and develop collective knowledge; ancestral science, technology, and wisdom; genetic resources that contain biological and agro-biological diversity; ancestral medicines and medicinal practices, with the inclusion of the right to recuperate, promote, and protect ritual and sacred sites, such as plants, animals, minerals, and ecosystems within their territories; and the knowledge of resources and proprieties of the fauna and flora.
All forms of appropriation of their knowledge, innovations, and practices are prohibited.
13. To maintain, recuperate, protect, develop, and preserve their cultural and historical patrimony as an indivisible part of the Ecuadorian patrimony.
The State shall provide the resources for this effect.
14. To develop, strengthen, and potentiate the system of intercultural bilingual education, with the criteria of quality, from elementary education up through superior education, conforming to cultural diversity, for the care and protection of the identities in relation with their pedagogical methodologies.
A dignified teaching career shall be guaranteed. The administration of this system shall be collective and participatory, with temporal and spatial alternations, based on community veneration and the rendition of stories.
15. To construct and maintain organizations the represent, in a mark of respect to pluralism and cultural, political, and organizational diversity. The State shall recognize and promote all forms of expression and organization.
16. To participate through their representatives in official organizations as determined by the law, in definition of the public policies that concern them, such as in the design and decision of their priorities in the plans and projects of the State.
17. To be consulted before the adoption of a legislative measurement that could affect any one of their collective rights.
18. To maintain and develop contacts, relationships, and cooperation with other populations, in particular with those that are divided by international borders.
19. To promote the use of clothes, symbols, and emblems that identify them.
20. The limitation of military activity in their territories, in accordance with the law.
21. That the dignity and the diversity of their cultures, traditions, histories, and aspirations be reflected in public education and media of communication; the creation of their own media of social communication in their languages and the access to the rest without discrimination.
The territories of the populations in voluntary isolation are non-reducible and intangible ancestral possessions, and in them every type of extractive activity shall be forbidden. The State shall adopt methods to guarantee their lives, to respect their self-determination and will to remain in isolation, and prevent the avoidance of the observation of their rights. The violation of these rights shall constitute an ethnic crime, which shall be typified by the law. The State shall guarantee the application of these collective rights without discrimination, in conditions of equality and equity between women and men.44

Article 58: To strengthen their identity, culture, traditions and rights, collective rights as established in the Constitution are conferred to the afro-Ecuadoran population, the law and the pacts, agreements, declarations, and other international human rights decrees.

Article 59: The collective rights of the Montubian populations are recognized in order to guarantee the process of integral and sustainable human development, the policies and strategies for their progress and their forms of associative administration, beginning with the knowledge of their reality and the respect for their culture, identity, and vision, in accordance with the law.

Article 60: The ancestral populations, indigenous, afro-Ecuadorian, and Montubian, shall be able to constitute territorial circumscriptions for the preservation of their cultures. The law shall regulate their conformations. The communes that have collective ownership of the land are recognized as an ancestral form of territorial organization.

Chapter 5: Rights to Participation

Article 65: The State shall promote the equal representation of women and men in their nomination or designation to public office, in instances of direction and decision, and in political parties and movements. In the candidacy to pluri-personal elections, the alternate and sequential participation shall be recognized.

Article 66: To individuals it shall be recognized and guaranteed:

4. The right to formal equality, material equality, and no discrimination.
6. The right to have and to express freely one’s thoughts and opinions and all forms and manifestations.
8. The right to practice, conserve, change, and profess in public or in private, one’s religion or beliefs, and to diffuse them individually or collectively with the restrictions imposed with respect to rights.
27. The right to live in a healthy and ecologically equilibrated environment, free of contamination and in harmony with nature.
28. The right to personal and collective identity, which includes to have a first and last name, dutifully registered and freely chosen; and to conserve, develop, and strengthen the material and immaterial characteristics of one’s identity, such as nationality, family origin, spiritual, cultural, religious, linguistic, political, and social manifestations.
29. The rights to liberty also include:
   a) The recognition that all persons are born free.
   b) The prohibition of slavery, exploitation, servitude and the traffic and trade of human beings in all forms.

Article 67: The family in all its diverse types is recognized. The State shall protect it as the fundamental nucleus of the society and shall guarantee conditions that integrally favor the achievement of the ends.

Article 71: Nature or Mother Earth (Pacha Mama), where life is realized and reproduced, has the right to have her existence integrally respected and to have her vital cycles, structure, functions, and evolutionary processes maintained and replenished.

Each person, community, population, or nationality, shall be able to demand the public authority to comply with nature’s rights. In order to apply and interpret these rights, the principles established in the Constitution, in that which proceeds, are observed.

The State shall give the incentive to natural and juridical persons, and to collectives, so that they will protect nature, and promote respect to all the elements that form an ecosystem.

Article 72: Nature has a right to restoration. This restoration shall be independent of the obligation of the State and natural or juridical persons to indemnify individuals or collectives that depend on the affected natural systems.

In the case of grave or permanent environmental impact, including those occasioned due to the exploitation of natural non-renewable resources, the State shall establish the most efficient mechanisms to reach restoration, and shall adopt adequate methods in order to eliminate or mitigate the noxious environmental consequences.

Article 73: The State shall apply methods of precaution and restriction for the activities that could conduce the extinction of species, the destruction of ecosystems, or the permanent alteration of natural cycles.

The introduction of organisms, and organic and inorganic materials that can definitively alter the national genetic patrimony is prohibited.

Article 74: Persons, communities, populations, and nationalities shall have the right to benefit from the environment and from the natural riches that permit wellness.

Chapter 9: Responsibilities

Article 83: It is the duty and responsibility of all Ecuadorians, without prejudice, envisaged in the Constitution and the law:
10. To promote unity and equality in diversity and in intercultural relationships.
14. To respect and recognize ethnic, national, social, generational, gender, sexual orientation, and sexually identification differences.

Title III: Constitutional Guarantees
Chapter 1: Normative Guarantees
Article 84: The National Assembly and all organs with normative legal authority shall have the obligation to adequate, formally and materially, the laws and other juridical norms to the rights envisaged in the Constitution and international treaties, and those that are necessary in order to guarantee the dignity of the human being or of communities, populations, and nationalities. In no case, shall the reform of the Constitution, the laws, other juridical norms, and acts of public power act in opposition to the rights recognized in the Constitution.

Chapter 2: Public Policies, Public Services, and Citizen Participation
Article 85: The formulation, execution, evaluation, and control of public policies and public services that guarantee rights recognized in the Constitution, shall be regulated in accordance with the following dispositions:
In the formulation, execution, evaluation, and control of public policies and public services that shall guarantee the participation of individuals, communities, populations, and nationalities.

Chapter 3: Executive Function: Second Section: National Council of Equality
Article 156: The national councils for the equality are organs responsible for assuring the full vigilance and exercise consecrated rights in the Constitution and in international human rights decrees. The councils shall exercise attributions in the formulation, transversalization, observance, follow-through, and evaluation of public policies in relation with gender, ethnic, generational, and intercultural themes, as well as those related to themes of disability and human mobility, in accordance with the law. For the completion of these ends, governing and executive entities shall coordinate with organisms specialized in the protection of rights in all levels of government.
Article 157: The national councils of equality shall integrate in parity form, through representative from civil and state society, and shall be presided over by who represents the Executive Function. The structure, functioning, and form of integration of its members, shall be regulated in accordance with the principles of alternation, democratic participation, inclusion, and pluralism.

Title V: Territorial Organization of the State
Chapter 2: Organization of Territory
Article 242: The State is organized territorially in regions, provinces, counties, and rural parishes. For reasons of environmental, ethno-cultural, or populational conservation, special regimes shall be constituted.
The autonomous metropolitan districts, the Galapagos province and the indigenous territorial and pluri-cultural circumscriptions shall be special regimes.

**Article 257:** In the mark of political and administrative organization, indigenous or afro-Ecuadorian territories that shall exercise the competencies of a corresponding and autonomous government, and shall be lead by principles of inter-culturality, pluri-natonality, and in accordance with collective rights, shall be able to be conformed.

The parishes, counties, and provinces conformed in majority by indigenous, afro-Ecuadorian, or Montubian communities, populations, or nationalities, shall be able to adopt this special administrative regime, following the appropriate consultation by at least two-thirds valid votes. Two or more circumscriptions administered by indigenous or pluri-cultural territorial governments shall be able to integrate themselves and conform a new conscription. The law shall establish the norms of conformation, the function and competencies of these conscriptions.

**Title VI: Developmental Regime**

**Chapter 1: General Principles**

**Article 275:** The developmental regime is the group organization, sustainable and dynamic, belonging to economic, political, socio-cultural, and environmental organizations that guarantee the realization of wellness, of sumak kawsay. Wellness shall require that persons, communities, populations, and nationalities effectively enjoy their rights, and exercise responsibilities in the mark of inter-culturality, and in respect of their diversities, and of harmonious cohabitation with nature.

**Article 277:** For the achievement of wellness, the State shall have general duties:
1. To guarantee the rights of individuals, collectivities, and Nature.

**Article 278:** For the achievement of wellness, persons, collectives, and their diverse forms of organization are entitled to:
1. Participate in all phases and aspects of the public negotiation and planning of national and local development, and in the execution and control of the completion of development plans in all its levels.

**Title VII: Wellness Regime**

**Chapter 1: Inclusion and Equity**

**Article 340:** The national system of inclusion and social equity is an articulated and coordinated group of systems, institutions, policies, norms, programs, and services that assure the exercise, guarantee, and demandability of those rights recognized in the Constitution and the completion of the objectives of the developmental regime.

The system shall articulate itself to the National Developmental Plan and to the national decentralized participatory planning system; it shall be guided by the principles of universality, equality, progressivity, interculturality, solidarity, and without discrimination; it shall function below that criteria of
quality, efficiency, effectiveness, transparency, responsibility, and participation.
The system is comprised of spheres of education, health, social security, management of risks, physical culture, habitat and home, culture, communication and information, enjoyment of leisure, science and technology, population, and human and transportation security. 

Article 341: The State shall generate the conditions for the integral protection of its habitants for the duration of their lives, that they maintain the rights and principles recognized in the Constitution, equality and non-discrimination in particular, and shall prioritize its action towards those groups that require special consideration for the persistence of inequalities, exclusion, discrimination, or violence, and in virtue of their aged condition, health and disability.

Chapter 1: Inclusion and Equity: Section 1: Education

Article 343: The national system of education shall have as its finality, the development of individual and collective capacities and potentials of the population, that allow for learning, and the generation and utilization of knowledge, techniques, wisdoms, arts, and culture. The system shall have as its primary focus, the student, and shall function in a flexible, dynamic, inclusive, effective, and efficient manner.
The national system of education shall integrate an intercultural vision in accordance with the geographic, cultural, and linguistic diversity of the country, and the respect of the rights of the communities, populations, and nationalities.

Health:

Article 360: The system shall guarantee, through the institutions of which it is conformed, the promotion of health, familial, communal, and integral prevention and attention, based on the primary attention to health; it shall articulate the different levels of attention; and it shall promote the complementation with ancestral and alternative medicines.

Article 363: The State shall be responsible for:
4. Guaranteeing the practicing of ancestral and alternative medicines through the recognition, respect, and promotion of the use of their knowledge, medicines, and information.

Section 5: Culture:

Article 377: The national system of culture has as its purpose to strengthen the national identity, protect and promote the diversity of cultural expressions; to encourage with incentives, the free artistic creation and the production, diffusion, distribution, and enjoyment of cultural goods and services; and to safeguard the social memory and cultural patrimony. The full exercise of cultural rights is guaranteed.

Section 8: Science, Technology, Innovation and Ancestral Wisdom:

Article 385: In a mark of respect for nature, life, cultures and their sovereignty, the national system of science, technology, innovation, and ancestral wisdom shall have as its goal:
1. To generate, adopt, and diffuse scientific and technological knowledge.
2. To recuperate, strengthen and potentiate ancestral wisdom.

Title VIII: International Relations

Chapter 1: International Relation Principles

Article 416: Ecuador’s relationship with the international community shall respond to the interests of the Ecuadorian population, to that which it shall surrender to its executives and those responsible, and in consequence:
1. Proclaim the independence and juridical equality of the States, the peaceful cohabitation and the self-determination of populations, such as the cooperation, integration, and schooling.
5. Recognize the rights of the distinct populations that coexist within the States, especially the right to promote mechanisms that express, preserve, and protect the diverse character of its societies, and reject racism, xenophobia, and all forms of discrimination.
8. Condemn all forms of imperialism, colonialism, neo-colonialism, and recognize the populations’ rights to resistance and liberation from all forms of oppression.
9. Recognize the international right as a norm of conduct, and demand the democratization of international organisms and the equal participation of the States in the interior of these organisms.

Chapter 2: International Treaties and Decrees:

Article 417: The international treaties ratified by Ecuador shall be subject to that which is established in the Constitution. In the case of treaties and other international human rights decrees, principles pro human being shall be applied, in no restriction of rights, with direct applicability and in open clause established in the Constitution.

Title IX: Supremacy of the Constitution

Chapter 1: Principles

Article 424: The Constitution is the supreme norm and prevails above all other juridical order. The norms and the acts of public power shall be maintained in conformity with the constitutional dispositions; contrary cases shall lack juridical efficiency.

The Constitution and international treaties on human rights ratified by the State that recognize more favorable rights than those contained in the Constitution, shall prevail over all other juridical norm or act of public power.

Transitory Dispositions

6. The national councils of childhood and adolescence, handicap, women, indigenous populations and nationalities, afro-Ecuadorians and Montubians, shall constitute in national councils for equality, for that which shall adequate its structure and functions in the Constitution.

Derogator Disposition

The Political Constitution of the Republic of Ecuador published in Official Registry number one on the 11th of August 1998, and every norm contrary to this
Constitution is abolished. The rest of the juridical order shall remain valid as long as it is not contrary to the Constitution.
Works Consulted:


"CUT." http://www.cut.org.br/.


Former governor of Quito. Personal Interview. Quito. August 2009


---. "The Black Movement: Without Identity There Is No Consciousness or Struggle." Black Brazil: Culture, Identity, and Social Mobilization. Ed. Crook, Larry and


