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The institutional life of rules and regulations: ten years of affirmative action policies at the Federal University of Paraná, Brazil

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Abstract

This paper focuses on the ten-year experience of the Plano de Metas de Inclusão Racial e Social (Action Plan for Racial and Social Inclusion), an affirmative action policy through which places were reserved for black students and for students coming from public schools in the Federal University of Paraná's annual selection processes. The ethnographic description highlights three significant moments in a continuous process of producing rules and the means to put them in practice, which retroactively transform the initial formulations. These are: a) the reconfiguration of the Action Plan in the period immediately following its coming into force; b) the confluence between the university's own selection process and the Unified Selection System established by the Ministry of Education in 2010; and c) the local enforcement of Law 12.711/2012, which determined the reservation of places for students coming from public schools in all federal higher education institutions. More than presenting results accomplished by the Action Plan, the analysis envisages the Plan itself as an outcome of, on one hand, practices performed by an array of institutional actors, and, on the other, the intersection of different policies, rules and regulations. Among other aspects, the paper aims to understand how a mutually generative interplay between politics and bureaucracy (or between what situationally counts as one or the

other), local and supra-local processes, has had negative effects on black students' access to the University despite the intended goals of its policies.

Keywords: university, affirmative actions, public policies, rules and regulations.

Resumo

O propósito deste artigo é refletir sobre os dez anos de vigência do Plano de Metas de Inclusão Racial e Social na Universidade Federal do Paraná, que estabeleceu a reserva de vagas para estudantes negros e para egressos de escolas públicas nos processos seletivos da instituição. A descrição destaca três marcos de um movimento contínuo de produção de normas e, simultaneamente, de modos de colocá-las em operação que incidem retroativamente sobre os enunciados iniciais: (a) a reconfiguração da política de cotas no período imediatamente posterior a sua aprovação; (b) a confluência entre o processo seletivo próprio e o Sistema de Seleção Unificada (Sisu) criado pelo Ministério da Educação em 2010; e (c) o processo de efetivação local das disposições da Lei nº 12.711/12 sobre a reserva de vagas nas instituições federais de educação superior. Mais que apresentar resultados do Plano de Metas, trata-se de compreendê-lo como um resultado das práticas de diferentes atores institucionais e da interseção entre políticas públicas e dinâmicas de produção normativa diversas. Desde seus primeiros passos, esse movimento mutuamente generativo entre aquilo que, em situações determinadas, conta como político ou como burocrático, instituinte ou operacional, tem afetado negativamente as condições de acesso de estudantes negros à universidade.

Palavras-chave: universidade, cotas, políticas públicas, produção normativa.

The institutional life of rules and regulations: ten years of affirmative action policies at the Federal University of Paraná, Brazil

Ciméa Barbato Bevilaqua

On May the 10th 2004, the Federal University of Paraná (UFPR)¹ approved an *Action Plan for Racial and Social Inclusion*, at the centre of which was the creation of two categories of quotas as an integral part of its selection process.² From 2005, and for a period of ten years thereafter, 20% of the places available were allocated to people of ‘African descent (*Afrodescendentes*),’ while another 20% were set aside for candidates who had completed all their previous education at public schools. Also planned was the gradual creation of extra places for indigenous students to be filled via a specific selection process. Having participated in the three sessions of the University Council³

1 Higher education in Brazil encompasses a complex and diverse system of public and private institutions. Sixty-four of these are federal universities. The regulation of the system is based on the Federal Constitution (1988) and Law 9.394/96 (Law of Directives and Bases of National Education), as well as a broad set of supplementary regulations. Public universities concentrate the best quality teaching, as well as a substantial proportion of the country’s research and postgraduate activities. However, despite the strong expansion in public sector higher education over the last decade, it has been the private sector that has registered the strongest growth in university places. The private institutions offer approximately 70% of the places available on undergraduate courses, while the public system as a whole accounts for 30% (cf. Soares 2002; Gomes & Moraes 2012).

2 Since the end of the 1960s, entry onto undergraduate courses in Brazil has involved a selection process based on exams that test the applicant’s knowledge of the secondary school curricula: the *vestibular*, organized by each institution following its own particular set of rules (Soares 2002: 41). From 2010, the National Secondary Education Exam (*Exame Nacional do Ensino Médio*: ENEM), created by the Ministry of Education the previous decade as an instrument for evaluating secondary school teaching, began to function too as a selection process for entry to public universities that participated in this mode via SISU/MEC (*Sistema Unificado de Seleção*).

3 Generally speaking, Brazilian federal universities are run by collegiate bodies composed of academic staff, technical-administrative staff and students elected by their peers. The highest decision-making body is the University Council (COUN), chaired by the institution’s rector. The Teaching, Research and Extension Council (CEPE), also chaired by the rector, is the senior body responsible for supervising and coordinating teaching and research activities. The same collegiate model of decision-making and administrative bodies extends to the institutes and faculties (denominated ‘sectors’ at UFPR) and to academic departments.

that culminated in the approval of the quota system – formally instituted by Resolution 37/04-COUN – it seemed to me at the time that an ethnographic account of this process could contribute not only to the debate then under way on affirmative action policies in higher education, but also enable a clearer understanding of the institutional dynamics involved in elaborating the directives and regulations that, inscribed in official documents, configure a public policy (Bevilaqua 2005a).

Reflecting on the results of UFPR's quota policy ten years later is no easy task, not least because of the difficulty of accessing information on the admission of students through the quota system, or on the conditions and consequences of their careers at the university.⁴ Another kind of difficulty concerns the very constitution of the Action Plan for Racial and Social Inclusion – and its impacts – as an ethnographic object.

Two successive moments in the trajectory of a public policy are typically distinguished from the outset: (a) the definition by the legitimate decision-making bodies, through the appropriate formal procedures, of a particular set of objectives and procedures for putting a given policy into effect – in the case discussed here, approval of Resolution 37/04 by the University Council of UFPR; and (b) the implementation of these provisions by different institutional actors, without detriment to all the other regulations that govern their actions and define the limits of their powers – especially, as far as the UFPR quota system is concerned, the Entrance Exams Centre (*Núcleo de Concursos*: NC), an entity linked to the Pro-Rector of Undergraduate Studies (*Pró-Reitoria de Graduação*: PROGRAD) responsible for the selection processes for student admission into the university.

This sequence of actions is frequently associated with an implicit distribution of differentiating qualities: first, the initial impetus of the political debate that gives rise to the regulation; subsequently, the technical-bureaucratic execution of the prescribed procedures. Diverging from this schema, the starting point for this article is the thesis that implementing a regulation – especially when its aim is to engender actions that break

4 A sizeable number of reflections on the affirmative actions at UFPR have already been produced, though, in particular in reference to the racial quotas. I pick out three collected volumes that unite the contributions of researchers from the institution itself who, at different moments, took part in this process: Duarte et al. (2008), Costa et al. (2012) and Ferrarini & Ruppel (2013).

with an institution's established routines, as applies to the introduction of quotas at UFPR – involves more than simply an 'application': it always and necessarily involves creative forms of agency analogous to those involved in its initial formulation.

Resolution 37/04-COUN has just three articles. These set out in general terms the conditions for admission of 'students of African descent,' 'candidates coming from public schools' and 'indigenous students resident in Brazil.'⁵ It also set out measures to ensure that those who entered would be able to complete their courses. Clearly, implementing these directives requires more than just the reconfiguration of experiential elements in line with the regulation's design – beginning with the practical definition of its intended beneficiaries. It also demands multiple developments of the regulation itself in order to bring into being a selection process involving thousands of candidates, not to mention the innumerable dimensions involved in guaranteeing the permanence of the new students in the university.

Applying a regulatory framework – or implementing a policy – inevitably implies, therefore, the continuous remaking of the policy itself through the processes through which it is put into effect. In other words, what the regulation enunciates is also an effect of the very movements that it sets off. Moreover, if the actions unleashed by the regulation contribute to its own production, then the distinction between formulation and implementation cannot figure as a premise inscribed in the notion of public policy per se or in the analysis of its results: on the contrary it becomes the very object of description and analysis.⁶ In the specific case of the UFPR quotas system, the question is understanding precisely how its developments – including, among other things, the introduction of regulations and procedures with a decisive impact on the admission conditions for quota students (*cotistas*) – were able to determine that the Action Plan for Racial and Social Inclusion contained, from the outset, what the interventions of different institutional actors caused it to enunciate at later moments. In this sense, rather than simply presenting the results of the

5 In the following discussion I leave aside the entry of indigenous students, which has very different implications to those involved in the implementation of the quota system for black students and students from public schools. Reflections on the indigenous component of the UFPR Action Plan can be found in Bevilaqua (2004), Gil (2011) and Freitas (2014).

6 This reflection is inspired by Thomas (2002), who problematizes the distinction between fact and law in the practical work of producing legal rulings.

Action Plan – as a stable object or origin point to be taken as an analytic reference – my proposal is to comprehend the quota system itself as a *result* of the actions that were able to be made *with* it and that, likewise, made (and make) the system exist in a specific way.

My own analysis is also an effect of these operations. Approval of the Action Plan for Racial and Social Inclusion meant that the new policy had to be adapted to the general regulations for UFPR's 2005 entrance exam. The alterations to the selection process, due to be held in two phases for the first time, were defined by the Teaching, Research and Extension Council (CEPE) less than a month after the University Council's decision. However, the apparently mechanical task of standardizing the regulatory framework relating to the entrance exam had profound consequences because of the stipulation that the names and classification of the accepted quota students could not be made public (Resolution 56/04-CEPE, dated 04/06/2004, Article 26). This ruling would become even stricter over the following years, so that even the institutional actors responsible for monitoring the quota policy within UFPR found – and indeed still find – it difficult to access this information.⁷

Rather than treating the precariousness of the available data as a mere hindrance or gap to be circumvented, part of my endeavour has been to treat it as an object of analysis. This in turn leads me to turn the very movement of the regulations constituting the quotas policy into the central thread of a reflection that, in this sense, is also part of the very phenomenon that it describes.⁸ With this aim in mind, I have opted to highlight some of the significant moments within a continuous and simultaneous process of making regulations (within the context of the university and beyond) and fabricating ways of bringing them into being through the practices of situated institutional actors. As I seek to argue, all these moments have had a negative impact on the conditions of admission for

7 In 2005, reasserting the confidentiality of the data on admission via the quota system established the previous year, the Teaching, Research and Extension Council stipulated that the corresponding reports would be solely “for the internal use of the Entrance Exams Centre” (Resolution 27/05-CEPE, Article 30). A while later, this wording would be altered to “the institutional purposes of interest to the NC [Entrance Exams Centre]” (Resolution 53/06-CEPE, Article 30). Only eight years later the formulation was changed to allude generically to “institutional purposes” (Resolution 22-A/14-CEPE, Article 30).

8 I thus leave aside any examination of the concrete experiences of the students who entered through the quotas system: references to these experiences can be found in Silveira (2012) and Silva (2013).

black students, as well as the possibilities for them to fill places and, finally, the very number of places allocated to them.⁹ These moments are:

- (1) The regulatory movement that led to the reconfiguration of the UFPR quotas system immediately after its approval;
- (2) The confluence of public policies emerging from different state levels and bodies: the affirmative actions of UFPR itself and the Unified Selection System (*Sistema de Seleção Unificada: SISU*) for the admission of students to federal institutions, created by the Ministry of Education in 2010 (SISU-MEC); and
- (3) Promulgation of Law 12.711/12, the so-called Quota Law, and its intersection with local regulatory dynamics.

The description of these turning points reveals that propositions and arguments defeated in the higher councils – especially in the University Council, the institution’s highest body – could resurface later during the making of regulations by bodies lower down the university hierarchy. From this relatively subaltern position, such propositions gradually climbed back up to the higher bodies where they had originally failed to prosper. Now imbued with the routine complexion of technical-bureaucratic operations, these measures tended to be formalized by the policy decision-making bodies without controversy. Assuming that this spiraling movement does not happen solely by chance, though neither is it merely the result of strategies implemented by specific actors, perhaps we can recognize within it a more general dynamic of reciprocal and mutually generative encompassment between what, in determined situations, is determined as political or bureaucratic, inaugural or operational, in the day-to-day experience of institutions.

An initial example of this dynamic can be found in the aforementioned confidentiality applied to the data on students entering through the quota system. In the University Council meetings that approved the Action Plan, this topic was central to the arguments in favour of the institution erasing

9 An anonymous reviewer, whom I thank, emphasized the importance of “pointing out that there are no consensual and intersubjectively shared criteria in Brazil for defining who is black, which generates problems for the notion of quotas as an expression of a percentage of the wider population.” In describing the political-regulatory shifts in the process of putting the UFPR quota system into effect, I use expressions like ‘black students’ and ‘black candidates’ without intending them to be situated outside this politically contested field.

the differences between quota and non-quota students after the selection process in order to ‘prevent discrimination’. One immediate outcome was the rejection of specific support policies for quota students. Initially, confidentiality of the data was not discussed directly nor made into a rule. Nonetheless, support for this argument did not just vanish. In fact, it was formally established a short while later by another decision-making body.

Among other implications, this decision to introduce confidentiality obscures the cumulative effects of later decisions, which tend, therefore, to assume a merely operational guise. At the same time, the figures referring to the affirmative action policy, accessible only in intermittent and fragmentary form, become highly unstable, even when obtained from official sources. This instability, in turn, enables the figures themselves to function as nodal points in the creative and productive movement of bureaucratic practices.¹⁰

More generally, the privilege institutionally conferred to certain issues concerning the quotas policy as a focus of the production of regulations, involving the engagement of diverse actors and bodies, seems to express the continuity over time of a certain ambivalence first observed in the early discussions of the Action Plan. As I have argued elsewhere, the very commitment of the university administration to the institution of affirmative action policies also contained an impulse to limit its reach (Bevilaqua 2005a: 200) – something that indeed became manifest in subsequent years, notably in relation to the admission of black students.

Rules and regulations in movement: the reconfiguration of the quota system

All the institutional procedures relating to the quota system created with the approval of the Action Plan are put forward as implementations of Resolution 37/04 of the University Council (COUN), which is regularly invoked in the preface to the documents produced subsequently by various bodies: the resolutions of the Teaching, Research and Extension Council (CEPE); the public notices for the selection processes elaborated

¹⁰ Obviously, creativity and productivity should not be automatically associated with positive effects, as tends to occur in everyday language.

by the Entrance Exams Centre (always co-signed by the rector and the pro-rector of undergraduate studies); and the candidate guides, also produced by the Entrance Exams Centre (*Núcleo de Concursos*: NC).¹¹ The explicit continuity between these documents does not preclude them from diverging from the wording of Resolution 37/04-COUN. Describing such differences as distortions of the original meaning of the Action Plan, however, would imply losing track of their essential meaning: these new regulatory provisions came into existence precisely because they could be created and recognized *retroactively* as specifications of precepts that Resolution 37/04-COUN was supposed to have contained.¹²

As I observed earlier, about a month after approval of the Action Plan, confidentially was introduced in relation to the data on quota students, with consequences that persist even today. However it was Public Notice 01/2004 issued by the Entrance Exams Centre, which, in setting forth the regulations for the 2005 entrance exam,¹³ imprinted the deepest marks on the way in which the quota policy came into existence.

The public notice literally reproduced the provisions approved by the University Council in terms of the places to be offered and the registration

11 The analysis presented here is based on the examination of these documents for all years between 2004 and 2014. From 2010, this also includes the annual Terms of Acceptance and public notices relating to the Ministry of Education's Unified Selection System (SISU), and, from 2012, Law 12.711/12 (the Quotas Law) and its regulatory framework. My description of the years 2004 and 2005 draws from earlier studies by myself (Bevilaqua 2005a and 2005b). For the subsequent period, until 2010, the works of Porto (2011) and Cervi (2011 and 2013) have afforded essential contributions. I have also benefitted from personal communications with colleagues involved at different moments of the implantation of the institution's quota system. I especially thank Lílania Porto and Marcos Silva da Silveira who provided me with access to other documents. The current director of the Human Sciences Sector, Eduardo Barra, offered valuable support towards obtaining copies of the proceedings and minutes of UFPR's higher councils. I also thank Laura Ceretta Moreira, Laura Pérez Gil and Miguel Carid Naveira for their information on the admission of indigenous students, though I later opted not to discuss this dimension of UFPR's affirmative action policies in the present article. Paulo Guerios saved me from my many arithmetical lapses, which of course does not implicate him in relation to any remaining errors.

12 This idea is partially inspired by Yngvesson and Coutin's (2008) discussion of the relations between legal and ethnographic procedures. In support of my argument, it should be emphasized that, at least during the early years, the different statements concerning the quotas policy at UFPR were often produced by the same actors. The members of CEPE are also statutory members of COUN, with both councils chaired by the rector. The pro-rector of undergraduate studies at the time of the deliberation on the Action Plan – whose participation was a decisive factor in shaping the policy – was also director of the Entrance Exams Centre between 2004 and 2006. Even in later years there is a clear continuity among the occupants of key positions of the administration, albeit in different posts.

13 The entrance exam is usually held between November and December with the selected candidates beginning their courses the following year. References to the entrance exam in this text always concern the year of admission of the students, not the year when the exams were taken.

conditions for candidates opting to apply via the quota system,¹⁴ as well as the criteria defined by CEPE for classifying candidates in the two phases of the entrance exam. On the other hand, the articles referring to the matriculation of approved candidates do not simply reproduce the earlier provisions. As well as the documents required as standard for the academic registration of the successful exam candidates, the students selected for the places reserved for Afrodescendants were required to present “a declaration in their own writing [...] that the candidate belongs to the black [*preto*] or brown [*pardo*] group, as used in the IBGE’s Official Census, and that he or she is so recognized by society and possesses phenotypical traits that identify him or her with the black type [*tipo negro*]¹⁵” (Public Notice 01/2004-NC, Article 69, item ‘e’ – my emphasis).

Thus, the Public Notice introduced criteria that are supplementary to – but also distinct from – those defined by Resolution 37/04-COUN, which stipulated that self-declaration would be the sole criterion used for the registration of candidates for the reserved places. Another shift is the substitution of the term ‘*Afrodescendente*,’ utilized in the regulation of the University Council and defined in this document with reference to the classificatory categories employed by the IBGE (Brazilian Institute of Geography and Statistics), with the expression ‘*tipo negro*,’ identified with its own specific phenotypical traits. In the next article, the Public Notice refers to a committee, to be appointed by the rector, responsible for analysing the documents of the candidates approved by the quota system, including the ‘self-declaration’ of those competing for places reserved for “racial inclusion”. (Public Notice 01/2004-NC, Article 70).

The 2005 Candidate’s Guide replicates word-for-word the aforementioned terms concerning the declaration to be signed by the racial quota

14 Specifically: 20% of the places available would be reserved for “Afrodescendent students, considering as such those who identify themselves as black [*preto*] or brown [*pardo*] in accordance with the classification adopted the Brazilian Institute of Geography and Statistics (IBGE)”; another 20% would be allocated to “students who have completed their primary and secondary education entirely at public schools” (Public Notice 01/2004-NC, Article 3, Paragraphs 1 and 2). To register, the candidate for ‘racial inclusion’ places had to indicate his or her choice and fill in the “self-declaration of racial group” in the space provided on the electronic form. The candidate for the ‘social inclusion’ places simply had to indicate the choice of this modality since the school history is only requested on matriculation.

15 The term “*negro*” is not used by the census bureau. Rather it is an identity employed in the political arena that includes those who might declare themselves as either “*preto*” or “*pardo*” to the census gatherers.

applicants. However, it only indirectly mentions the existence of the evaluation committee, suggesting that it involves a routine procedure of checking the documentation for all candidates approved in the selection process.¹⁶ This ambiguity persisted over the ensuing years, along with a certain oscillation in the use of the terms *Afrodescendente* and *tipo negro*. The committee's powers would only be made explicit after the revision of Resolution 37/04 by the University Council itself in 2007, which ratified the changes first introduced by the Public Notice for the entrance exam. I return later to the intersection between regulations elaborated at different levels of the institutional hierarchy. Now, though, I wish to describe some of the effects of this dynamic during the first year of the quota system's operation,¹⁷ which also help shed light on events in the following years.

For the 2005 entrance exam 43,907 candidates competed for 4,144 places in 69 courses. In compliance with the percentages established by the Action Plan, 20% of places were allocated to each of the quota modalities, corresponding to 831 places for each category. Of the candidates registered, 2,370 competed for the places reserved for *Afrodescendentes* and 13,795 for places allocated to students from public schools. Among those approved, 573 had applied for places allocated to *Afrodescendentes*. A total of 258 reserved places were unfilled, therefore. In the case of the public school students, the opposite occurred: 930 candidates registered for this quota modality were approved, with 831 entering via the quota system and another 99 achieving a sufficiently good exam performance to be approved in the general competition (Bevilaqua 2005b: 14).¹⁸

The regulations concerning academic registration accentuated the difference between the results of the two quota modalities. From the 831

16 "The academic registration process will involve the analysis of the documents submitted by the candidates and subsequently the list of candidates from each course whose documentation has been accepted by the NAA will be published on the NC [Entrance Exams Centre] website [...]" (Candidate's Guide 2005: 18).

17 For an in-depth discussion of the results of the first UFPR entrance exams held under the quota policy, see Bevilaqua (2005b). The presentation that follows here draws from the data and observations presented in this earlier text.

18 Nonetheless, the fact that not all the places allocated to *Afrodescendentes* were filled is far from representing a failure of the quotas policy. This becomes clear when we compare the data from previous years. In the 2003 entrance exam, none of those approved for the Medicine course had identified themselves as black in the socio-educational questionnaire completed by candidates at the time of registration, and just four of those approved (2.27% of the total of 176) had identified themselves as brown. The same year, the Civil Engineering course also failed to register the entry of a single student self-identifying as black, with just nine of the students approved identifying as brown (5.11% of the total of 176) (Bevilaqua 2005b: 15).

candidates classified for the places reserved for public school students, 65 (7.8% of the total) had their academic registration rejected, although ten applicants successfully contested this decision. The evaluation of the *Afrodescendente* candidates generated widespread coverage in the local press. According to information published at the time, the committee responsible for analysing the 'self-declaration of racial group' rejected the academic registration of 127 of the 573 classified candidates, representing 22.16% of the total. I did not have access to the composition of the committee for this first year, nor the criteria and procedures adopted.¹⁹ At the end of the process, 33 candidates were unable to complete their matriculation, allegedly for failing to present 'a black racial phenotype' (*Notícias da UFPR* n. 29, Oct/2005), thus reducing the number of racial quotas to 540.

The regulatory movement observed in the first year of the quotas policy, with each step involved in implementing the new system also leading to its reconfiguration, gained momentum in the following year, but this time in the opposite direction, i.e. from the lower to higher bodies within the institutional hierarchy. The provisions produced by the Entrance Exam Centre, which had substantially transformed the policy introduced by the University Council (COUN), in turn affected the decisions made by the Teaching, Research and Extension Council (CEPE). It would take a while longer, however, for this movement to reach the highest body in the university's administrative hierarchy.

During this interval, approval of Resolution 27/05-CEPE in May 2005 led to the coexistence of very different versions of UFPR's policy on quotas, depending on the document consulted, or more precisely, depending on the specific points cited in the various documents in force. The references to the quotas for public school students were unchanged. However in relation to quotas for black students, perhaps only the 20% target remained as a point in common between the original regulatory framework approved by the University Council and the regulations issued by other bodies – even though these continued to invoke Resolution 37/04-COUN as their

19 On the experience of the verification committee at a later date, see Silveira (2014).

basis. To a certain extent, the contrast between the instability of some regulations and the stability of others is unsurprising: since the initial discussion of the Action Plan, the racial inclusion quotas had been at the centre of controversies (cf. Bevilaqua 2005a) with their persistence evident in the dissonance between regulations approved subsequently at different institutional levels.

Resolution 27/05-CEPE does not focus on the quotas policy per se, but on regulations for the selection process for undergraduate courses. However, it had two fundamental impacts on the admission of quota students over the following years. The first was precisely the consolidation of changes introduced by the Public Notice for the previous entrance exam – namely, the redefinition of the beneficiaries of the racial inclusion places, switched from IBGE’s classificatory categories to the candidate’s physical attributes. The second was the effective removal of the self-declaration principle by the designation of a committee with the authority to decide whether the candidates’ attributes matched the requirements set by the (new) regulation, which also involved, obviously, the practical work of producing these requirements.

By redefining the scope of the racial quotas and how they were put into operation, the Resolution provides clear official recognition of the model set out in oblique terms in the Public Notice for the previous entrance exam. While the existence of a committee tasked with checking the ‘documentation’ of candidates had already appeared in the entrance exam’s public notice, its powers become transparent in the documents produced after CEPE’s decision. However, imprecision persists in relation to the interview with the candidates: the fact that it is compulsory is not made explicit²⁰ – perhaps an implicit recognition of its polemical nature both within and outside the university – but so too the possibility of questioning its legality given by the higher-level regulation, Resolution 37/04-COUN.

I examine this point in detail because the belief in the need for some kind of formal control over the access to quota places for black students (given the impossibility of the public control that publication of its results

20 Along the same lines, Liliana Porto writes in her report on the quotas policy at UFPR: “...it is interesting to observe that the compulsory nature of the Committee interview is not emphasized – merely registered as a possibility, rather than as a requirement for matriculation. Furthermore there is no mention of how this Committee will be made up, or how it will function in practice” (Porto 2011: 93).

could provide) and the ambiguity over how this control was to be exercised are a theme that accompanied the discussion and development of UFPR's quotas policy over many years. Despite CEPE officially instituting the committee for checking the phenotype of candidates in 2005, the Guide for Candidates only referred to the procedure explicitly in the 2008 entrance exam – that is, after Resolution 37/04-COUN itself was revised. Even so, it was only at the 2012 entrance exam that the committee was included as an item in the timetable for the selection process published in the Guide for Candidates. Meanwhile, in 2013, the first year of operation of the Quotas Law (Law 12.711/2012), which (re)introduced the principle of self-declaration for racial quotas, the Guide for Candidates makes no mention of the fact that candidates for these places *would not* have to be interviewed by the verification committee, even though this information appears in the public notice for that year's entrance exam.²¹

The most negative impact on the admission of black students at UFPR, however, stemmed from one aspect of Resolution 27/05-CEPE that, at first sight, would seem to have no direct relation to the quotas policy.²² To understand its significance requires going back to another decision made by the same council. In 2003, it established that the UFPR entrance exam would be held in two phases (Resolution 85/03-CEPE). The first experience with this new model for the selection process took place concomitantly with the implantation of the quotas policy.²³

The first, eliminatory phase of the selection process involves objective questions relating to the contents of Brazil's secondary education

21 As a contrasting example we can observe the institutional trajectory of another verification committee. In 2008, the reservation of one place per course for people with disabilities was approved at UFPR (Resolution 70/08-COUN). From the outset it was stipulated that committee would be appointed to validate the medical certificates presented by the successful candidates (Public Notice 04/2008-NC, Article 12, Paragraph 5). The call to the interview is made publicly by name on the Entrance Exams Centre's website. The result of the evaluations is also published, including a specification of the reasons for any rejection.

22 These effects, which would have escaped my attention due to the impossibility of accessing the relevant data, were identified by Líliliana Porto. As the representative of the Human Sciences Sector and president of the Committee for Evaluating and Monitoring the Action Plan, she was able to analyse reports by the Entrance Exams Centre on the admission of quota students (Porto 2011). Though included in Resolution 37/04-COUN (Article 12), the committee was only officially appointed in 2006, i.e. after the changes made during the first year of operation of the quotas system.

23 Approval of the quotas policy required adaptation of the general entrance exam regulations defined by Resolution 85/03-CEPE, which was achieved through Resolution 56/04-CEPE. This remained in force, with alterations, until approval of Resolution 53/06-CEPE, which would also be successively changed in 2007, 2009, 2010 and 2014.

curricula. The best-performing candidates pass to the second phase, which involves a comprehension exam and essays, the same for all candidates, followed by one or two specific tests set by the directors of the respective courses. After completing both stages, the candidates are classified according to the marks obtained and invited to matriculate until all the places on each course are filled.

One of the polemical issues during the University Council's discussions of the Action Plan was precisely deciding the entrance exam phase to which the quotas would apply. Implementing the quotas during the first phase was summarily rejected with the invocation of the 'meritocratic principle.' Next the council rejected the proposal that the places reserved to black and public school students would be filled in the second phase only after the general competition places had been filled, based on the global classification of the candidates. Clearly, the defeated proposal was more inclusive in nature, since it would allow candidates registered for the quotas to be approved in the general competition places, increasing the chances for approval of a higher number of quota students (see Bevilaqua 2005a: 193-205).

The change in the criteria for calling up the candidates for the second phase of the entrance exam, introduced in 2005, again affected the admission chances of candidates competing for quota places. According to the earlier rule, the number of places for the course would be multiplied by a factor dependent on the candidate/place ratio established for the course in various bands.²⁴ In 2005, at the suggestion of the Entrance Exams Centre, the bands and multiplication factors were redefined so as to reduce the number of candidates – and, allegedly, also the costs – in the second phase of the selection process.²⁵ This proposal was based on the argument that the candidates with the worst performance in the first phase had proved unsuccessful when called for the second (cf. Porto 2011: 95, note 18).

However, as Liliana Porto points out, the data on the admission of racial quota students indicates that “for this category (and for it only) this

24 The multiplication factors 'N' originally defined by Resolution 85/03-CEPE were: N=3 for a candidate/place ratio equal to or lower than 10; N=4 for a candidate/place ratio higher than 10 and lower than 15; N=5 for a candidate/place ratio higher than 15 and lower than 20; and, finally, N=6 for a candidate/place ratio equal to or higher than 20.

25 The number of places available on the course was multiplied by N=2 when the candidate/place ratio was lower than 5; N=3 when the ratio was equal to or higher than 5 and lower than 15; N=4 when the ratio was equal to or higher than 15 and lower than 20; and N=5 when the ratio was equal to or higher than 20 (Resolution 27/05-CEPE, Article 21).

argument is not applicable” (Porto 2011: 94-95). In fact, the admission of students via racial quotas fell dramatically between 2005 and 2006 (from 492 to 306, or from 11.9% to 7.1% of total places in the entrance exam), and consistently remained below 7% over the following years (Cervi 2013: 247).²⁶ This reduction becomes even more significant when we observe that the marks obtained by students approved in the UFPR entrance exams fell in all competition modalities between 2005 and 2010, but that, within this “general decline in the marks, the racial quota students are the ones who presented the *least* decline in performance” (Cervi 2011: 124, my emphasis). Combined with another change introduced by Resolution 27/05-CEPE – namely, the transfer of unfilled places in one quota category to the other, before being passed on to the general competition (Article 10, II) – the new system for calling up candidates for the second phase of the selection process led to the number of candidates admitted through the quota system for public school students recording a sharp upward rise in the following years, reaching around 30% of new students in 2011 (cf. ACS/UFPR, 15/01/2011). This was a result, however, produced “at the expense’ of racial inclusion” (Porto 2011: 107).

A retrospective analysis provides us with no means of determining whether these effects were foreseeable at that time – and to whom.²⁷ However, it is worth stressing once again that the implementation of the quota policy – which is also, as I have been arguing, an intrinsic dimension of the policy’s very production – enabled the revival of arguments previously lost in the debates from which the policy first originated.

In an ethnographic study of the University Council sessions that led to the approval of the Action Plan for Racial and Social Inclusion, I observed that opposition to the introduction of quotas for black students was indirectly manifested in the form of a defence of “affirmative actions aimed at the public school” (Bevilaqua 2005a: 181). In this sense, the concrete

26 Readers will note that the number of racial quota students admitted in 2005 presented here (492) fails to coincide with the figure cited earlier (540). Both figures were in fact issued by the Entrance Exams Centre (NC) but at different moments. The higher figure was published by UFPR’s official news release in October 2005 (*Notícias da UFPR* n. 29, p.7). The other apparently became sedimented at a later date and can be found in the NC reports that served as a base for Cervi’s analyses (2011 and 2013). As I have already indicated, the instability in the figures is one of the recurrent themes in the life of the quotas policy.

27 It seems reasonable to assume that this future prospect was not imagined by the majority of council members who participated in the approval of Resolution 27/05-CEPE, whether because of the lack of data that – perhaps – might have enabled some prediction to be made, or because of the apparent dissociation between the regulations that were being voted on and the quotas policy.

trajectory of the quotas policy at UFPR – over which the quotas for public school students gradually absorbed the racial quotas until swallowing them completely – can perhaps be described as a gradual victory of previously defeated viewpoints. This effect derives both from the cumulativeness of the practices of many different institutional actors, and the intersection – from the 2011 entrance exam onwards – of locally implemented conducts and regulations derived from the federal level.

Even so, the very initiative of revising the University Council's original resolution, undertaken just three years after its approval in mid-2007, is to some extent a predictable outcome of the movement described above: after the inaugural moment of introducing the quota policy, the axis of regulatory practices shifts to bodies lower down the university's structural hierarchy. From there an inverse movement begins, moving upwards to the higher decision-making bodies where the transformations produced earlier gradually become consolidated. As the cycle closes, there is a temporary elimination of the practical difficulties generated by the coexistence of dissonant regulations, the legitimacy and legality of which remains contestable. But this also enables a new cycle to begin, analogous to the previous one.

The evaluation of the Action Plan for Racial and Social Inclusion was first discussed at the University Council on 26 April 2007, after various meetings called by the rector and including those involved in activities relating to affirmative action policies at the institution.²⁸ In this session the analyses of the Pro-Rectorate of Undergraduate Studies were presented. These indicated that although candidates in the general competition presented better performance in the entrance exam compared to the candidates from the two quota modalities, after admission, the social

28 This process is described in detail by Porto (2011: 96-107), who records as antecedents the submission of the first report by the Standing Committee for Evaluating and Monitoring the Action Plan at the end of 2006, and the conclusion of a study commissioned by the Ministry of Education on the inclusion of black students at UFPR (Souza 2007). Without overlooking the importance of these analyses in terms of grounding the revision of the quotas policy at UFPR, I believe that the very perception of the need for a formal review of the Action Plan would not have emerged at this time had the shifts in regulation identified in the previous section not been produced. The outcome of the revision process described below corroborates this interpretation.

quota students (i.e. those coming from public schools) showed a higher academic performance for almost all assessed parameters. At the same time, the performance of the racial quota students was below the level recorded for the other two categories, both before and after admission to the university (COUN minutes, 26/04/2007, lines 103-107). In relation to the regulations of the selection process, the Pro-Rectory recommended that the University Council formalize the validation committee for the racial quota candidates, “to legitimize the decision and the process”²⁹ (COUN minutes 26/04/2007, lines 116-118).

The session minutes also record in detail the presentation by the president of the Standing Committee for Evaluating and Monitoring the Action Plan, from which I select three points to emphasize. Firstly, the committee’s analyses pointed to “a significant increase in the racial diversity of the approved candidates” in the entrance exam after the adoption of the quotas policy, though still below the percentages recorded by IBGE for the population of Paraná. The second aspect highlighted was the decisive contribution of racial quotas to this outcome, since the “exclusive adoption of quotas for students coming from public school does not guarantee racial diversity” (COUN minutes 26/04/2007, lines 153-158). Finally, in underlining the decline in the number of candidates approved for the second phase of the entrance exam as one of the potential causes for the reduction in racial inclusion after 2005, the Committee’s president highlighted the need to evaluate the impact of changes in the rules of the selection process on affirmative actions (COUN minutes 26/04/2007, lines 172-175).

A second session of COUN was held on 16 May 2007 in order to vote on amendments to the resolution that had introduced the Action Plan for Racial and Social Inclusion. Selectively incorporating the analyses presented in the previous session, Resolution 17/07-COUN, through which the alterations were made, has just three articles. These are limited to formalizing the practices that had been instituted in previous years, namely: (a) the redefinition of the intended beneficiaries of the racial quotas as “black [*preto*] or brown [*pardo*] candidates, who possess phenotypical traits that characterize them as belonging to the black racial group [*grupo*

29 In the debates that followed, just a single council member expressed reservations about the verification committee; namely, the representative of the Human Sciences Sector on the CEPE (cf. COUN minutes 26/04/2007, lines 198-201).

racial negro]” (Article 1, Paragraph 1); (b) the appointment of a committee responsible for verifying that the approved candidates match this definition, called the ‘Self-Declaration Validation and Orientation Committee’ (Article 1, Paragraph 3); and (c) the transfer of the places remaining from one quota category to another before its occupation by candidates from the general competition (Article 2, Sole Paragraph). The only novelty was the establishment of a supplementary condition for admission through the quota system: applicants already possessing higher education degrees were barred from competing (Article 11).³⁰

None of the considerations of the Committee for Evaluating and Monitoring the Action Plan seem to have been taken into account, either then or later, in particular its identification of the limiting effects of the changes to the entrance exam rules for racial inclusion. On the contrary, the new version of Resolution 37/04-COUN gave formal expression to viewpoints that seem to have been in the majority both in the higher councils and in the other administrative bodies from the outset of the discussions on affirmative action policies at UFPR, but which, for diverse contextual reasons, failed to feature in the document approved in 2004 (Bevilaqua 2005a).

The (non)encounter of public policies

The next significant moment in the trajectory of the quota policy at UFPR surfaced in the 2011 entrance exam through the intersection between local dynamics and the Ministry of Education’s introduction of the Unified Selection System (SISU). The latter allowed for the admission of students to federal institutions, based on the results obtained in the National Secondary Education Exam (ENEM: Regulatory Directive 02/2010-MEC, dated 26/01/2010).³¹ This encounter between public policies

30 The articles cited in this paragraph refer to Resolution 37/04-COUN which, reformed, remains in effect.

31 The National Secondary Education Exam (*Exame Nacional do Ensino Médio*: ENEM) was established in 1998 by the Ministry of Education in order to evaluate the school performance of students at the end of secondary education. Since 2009 its results can be used as partial or exclusive selection criteria for admission to higher education institutions (enem.inep.gov.br). The Unified Selection System (*Sistema de Seleção Unificada*: SISU), created in 2010, is a computerized system, run by the Ministry of Education, in which public higher education institutions offer places to candidates participating in the National Secondary Education Exam (ENEM). At the end of the registration phase, the system automatically selects the best classified candidates for each course, based on their marks in the ENEM and the competition criteria defined by the respective institution, including its own affirmative action policies (sisu.mec.gov.br).

run at different levels also coincided with the arrival of a new administration at UFPR.³²

UFPR decided to participate in the system run by the Ministry of Education (MEC), a non-compulsory program, allocating 10% of its places to be filled by SISU and 90% by its own entrance exam.³³ The Term of Participation was signed by the rector in October 2010 when the Public Notice and candidate's guide for the 2011 entrance exam had already been released. The discrepancy between the information contained in these documents is significant. The table presented in item 3 of the term formalizing the agreement between UFPR and MEC lists 54 courses, the number of places available via SISU for each of them, and the distribution of places among the different competition categories. This table shows that 429 places were offered in 54 courses, 293 through the general competition, 68 for black [*negro*] candidates (black [*preto*] or brown [*pardo*])³⁴ and 68 for candidates coming from public schools. However, the distribution of the offered places on each course, due to the rounding off in the calculations (always rounded down in the case of quotas), results in percentages that differ substantially from those defined by the Action Plan.³⁵ Globally, the distribution is approximately two-thirds of the places (68.29%) for general competition and one third of places for quota students (15.85% for each modality).

In this same document, a descriptive table with the overall summary of courses and places offered by SISU (item 5) presents different figures

32 The new rector, who took over the post in December 2009, had participated in the first administration of his predecessor (2002-2006) as Pro-Rector of Planning, before leaving the post after being elected director of the Applied Social Sciences Sector. The vice-rector had been director of the Health Sciences Sector for two successive mandates (2002-2009). Both had participated in the deliberations on affirmative action policies at UFPR, though only the vice-rector had sat on COUN both when the Action Plan was approved and when it was revised.

33 Internally, the decision was formalized through an amendment to Resolution 53/06-CEPE, which regulates the institution's selection processes. Although the resolution does not mention the adoption of quotas in the selection via SISU, the other documents relating to the selection process indicate that the same model of racial and social quotas adopted in the UFPR entrance exams was extended to the selection system run by MEC.

34 TN: Here the racial-ethnic category *negro* (black) is subdivided into the colour categories *preto* (black) or *pardo* (brown).

35 To list some examples: on the Medicine course, from a total of 180 places, 18 are allocated to SISU. Of these, 12 (66.66%) for the general competition, 3 (16.66%) for blacks and 3 (16.66%) for students from public schools. The difference in relation to the percentages stipulated in the Action Plan (20% for each inclusion category) is even more pronounced on the Mechanical Engineering course (an evening course), which made 9 places available to SISU, distributed as follows: 7 for the general competition (77.77%), 1 for blacks (11.11%) and 1 for public school students (11.11%) – that is, practically half the amount stipulated by the Action Plan (Term of Participation 2010-2011, item 3, Table 'Affirmative Action Policies: offer of courses/places').

and percentages from the previous set, even more distant from those stipulated by the Action Plan. According to this table, 524 places were offered in 85 courses, 388 of which for general competition (74.04%) and 136 (25.95%) for affirmative action. The total number of places presented in this table is the same as appears in the 2011 Guide for Candidates. However, the distribution between the competition modalities presented in the Guide for Candidates is different, corresponding to the percentages set in the Action Plan: of the 524 places offered on 85 courses, 108 were for racial quotas (20.61%), 108 for public school quotas (20.61%) and 308 for general competition (58.8%) (2011 Guide for Candidates: 9-10).

Although the Guide for Candidates was published on the website of the Entrance Exam Centre (according to records available online) on August 19th 2010 – that is, prior to the signing and release of the Term of Participation of UFPR in SISU (13/12/2010) and Public Notice 01/2011-NC referring to the admission via SISU that year (05/01/2011) – it seems likely that the places were distributed in the selection process as recorded in the Guide, the figures of which coincide with those presented at the time of publication of the entrance exam results (ACS/UFPR, 15/01/2011). Here it is worth noting the actual *calculation* contained in the agreement signed with MEC – i.e. it had been carried out as described and endorsed by the university's senior administrative bodies, at least until a certain moment, without any attention being paid to its impact. As I suggested earlier, the instability of the figures, as well as the regulations, is a recurrent theme in the institutional life of the policy on quotas.

In concrete terms, the number of students admitted through the racial quotas in the 2011 Entrance Exam (i.e. in UFPR's own process, since I lack the data referring to SISU) fell sharply compared to the previous year. In 2010, with 1,069 places available for black students, 363 students were admitted via the racial quotas (33.95% of places offered). In 2011, with 999 places for black students, the number of students admitted fell to 298 (29.82% of places offered).³⁶

³⁶ The numbers presented should be taken as an indication only, since they come from diverse sources and distinct moments, though they share a common origin in the Entrance Exams Centre. The figures referring to 2010 were consulted in Cervi (2011: 122, table 5), whose analysis covers the period 2004-2010. The figures for 2011 are those that were made available by the UFPR Social Communication Office at the time of publishing the entrance exam results and are still, therefore, subject to variations in the matriculation process – though not upward, which supports the argument for a reduction in the number of entrants (ACS/UFPR, 15/01/2011).

As places were left unfilled in the two years under consideration, the lower admission of racial quota students cannot simply be attributed to the lower number of places on offer in the entrance exam. One possible reason for this can again be found in the model for calculating the candidates to be called for the second phase of the selection process. In 2011 this number was based on the number of places available in the entrance exam, not the total number of places offered by each course (i.e. the places offered through SISU were discounted).³⁷ Consequently, as the figures in the previous paragraph indicate, this enhanced the negative effects of the decline in the number of candidates called for the second phase of the selection process when it came to filling the places reserved to black students, as observed by Porto (2011: 94-95).³⁸ Concomitantly, the number of students admitted via the public school modality rose,³⁹ in compliance with the rule of transferring leftover places from one quota category to another.

In 2012 the distribution between the entrance exam (90% of places) and SISU (10% of places) remained the same. The downward trend in the number of students admitted via the racial inclusion places also persisted.⁴⁰ What changed was the way in which the selection process was divulged: the Guide for Candidates ceased to record the distribution of SISU's places by competition category, eliminating the possibility of any

37 This calculation is surmised from the comparison of two types of documents available on the Entrance Exams Centre website (nc.ufpr.br): the candidate/place ratio for each course and the list of students called for the second phase of the entrance exam in 2010 and 2011.

38 However, Porto (2011) omits to point out a crucial aspect of the change in the rules for calling students for the second phase of the entrance exam, introduced by Resolution 27/05-CEPE, which altered the multiplication factors taken as a reference for calculating their numbers. As well as the reduction in the multiplication factors themselves, there was a substantial increase in the interval covered by the factor $N=3$ (and only this factor), applied to the courses where the candidate/place ratio was between 5 and 15. This factor came to apply to practically all of UFPR's courses with effects that became more apparent with the advent of SISU. Due to the breadth of this band, the multiplication factor tends to remain the same after the subtraction of the places offered by SISU ($N=3$), but the number of candidates called for the second phase falls sharply, intensifying the competition.

39 As I pointed out earlier, the figures are imprecise and strictly speaking incomparable, serving only to outline a general movement. In 2010, 1,350 students were admitted via the entrance exam in the public school modality (cf. Cervi 2011: 122, table 5). In 2011 there were 1,631, despite the allocation of 10% of the places available to SISU (ACS/UFPR, 15/01/2011).

40 Here I refer to the entrance exam only since the data relating to quota admissions via SISU are inaccessible even indirectly. While a total of 298 students were admitted through the racial quota in 2011, corresponding to 5.94% of the places offered in the entrance exam and to 5.37% of the total available places (ACS/UFPR, 15/01/2011), in 2012 the number fell to 277, corresponding to 5.44% of the places available in the entrance exam and 4.93% of the total places on offer (ACS/UFPR, 04/01/2012).

discrepancy between different documents.⁴¹ Another aspect to note is that for the first time the compulsory nature of the interview with the committee for racial quota students was clearly announced in all documents relating to the 2012 selection process, including the UFPR-SISU Term of Participation, as well as the timetable of the stages and procedures for the selection process in the UFPR entrance exam Candidate's Guide. The number of potential interviewees, however, continued to shrink.

The local production of the Quotas Law

The final moment to be highlighted in the historical trajectory of UFPR's quotas policy also stemmed from the intersection between local and supralocal dynamics. In this case, though, the institution's regulatory practices became inscribed within the limits of a compulsory regulatory framework: the Quotas Law (Law 12.711/12), promulgated on August 29th 2012 after at least thirteen years spent passing through the National Congress. Despite the interest of comparing the controversies that emerged during the discussion of the federal law and those that accompanied the deliberation and the successive implementations of the quotas policy at UFPR (and other institutions), the sheer size of this task prevents me from even outlining it here. I would observe, however, that Law Bill 180/2008 of the Chamber of Deputies, approved by the Senate on 07/08/2012, initially focused (as proposed in Bill 73/1999) on the access to universities by public school students. As far as I know, the inclusion of ethnic-racial quotas in the project was always encompassed by this principle, having originally been proposed in Bill 3.627/2004 submitted by the Executive. The proposal generated resistance that lasted until the final vote.⁴² Consequently, some parallels could be drawn with the debates that occurred at UFPR in 2004 and with the later trajectory of the Action Plan itself.

41 The distribution of places presented in the SISU Participation Agreement, published on the website of the Entrance Exams Centre, corresponded for all courses to the percentages defined by the Action Plan (cf. UFPR-SISU Participation Agreement, 14/12/2011).

42 On the debates in the Chamber of Deputies, see, for example, the *Diário da Câmara dos Deputados* of 21/11/2008 (p. 52.925-52.946). In the *Diário do Senado Federal* of 08/08/2012, which records the session in which the Quotas Law was approved (pp. 40.027-40.035), it is also possible to read the lengthy declaration against the project, in particular against the ethnic-racial quotas, made by Senator Aloysio Nunes Ferreira from the PSDB block (p. 40029).

Law 12.711/12 has just nine articles. In general terms, these set aside at least 50% of places at federal higher education institutions for students who have completed their entire secondary education at public schools. Of the total number of places reserved, 50% must be allocated to students from families with a gross income equal to or lower than 1.5 minimum wages *per capita*.⁴³ In each band (i.e. above and below this income limit) places are allocated to self-declared black, brown and indigenous candidates, in a proportion at least equal to the percentages registered in the last IBGE census for the population in the state where the institution is based. The law also rules that institutions must implement at least 25% of the quota places each year, giving them a maximum of four years to comply with these requirements in full.

The use of these percentages to calculate the quota places was regulated by Decree 7.824, dated 11/10/2012, which stipulates, among other aspects, that whenever the calculation “involves results to one or more decimal places, the immediately higher whole number will be adopted” (Article 5, Paragraph 1). On the same day, Regulatory Directive 18/12 was published by the Ministry of Education, detailing the procedure to be adopted to calculate the quota places (Article 10 and 11). Not by chance, the Directive also gave particular attention to this point: given the stipulation to round up figures contained in Decree 7.824/12, the order in which the operations are undertaken is decisive in terms of the final result. The same concern appears in the rules for filling places after completion of the selection process (Article 14). It also establishes a strict sequence for transferring any leftover quota places from one category to another (Article 15). Finally, the Directive earmarks August 30th 2016 as the final date for complying with the law in full, obliging institutions to implement at least 25% of the quota places each year until then (Article 17).

The first point to note is that the UFPR quotas policy henceforth was inserted within an obligatory and hierarchized domain configured by the law, the decree and the ministerial directive – documents to which each federal higher education institution must adapt within a given time period and at a minimum pace. However, at the same time that it is impossible

43 The national minimum wage in 2012 was R\$ 622, corresponding to approximately US\$ 305 at the time when the law was issued. Today the value is R\$ 788, or around US\$ 300 (January 2015).

to take *any* decision, the generic nature of the regulations prevents their wording from *wholly* containing their own application. In other words, it is not just possible but actually indispensable to *produce* the regulations contained in these documents in the practical and everyday running of the institution, a movement that can engender very diverse experiences, even within the set legal limits. This is where the analytic (and political) interest of analysing these concrete trajectories resides.

The Quotas Law was passed after the release of the Public Notice for the 2013 UFPR entrance exam. When the decree and the ministerial directive regulating the law were published in the *Diário Oficial da União* (Official Federal Gazette) on 15/10/2012, the registration period and other actions relating to the entrance exam had already concluded. A new Public Notice was quickly prepared and released on the 7th of November, a Wednesday. The exams for the first phase would take place on the following Sunday. This process involved a series of decisions of various kinds and potential effects, taken in an extremely short time span. Some of them can be retraced in the new versions of the public notice and the Guide for Candidates (the latter released on 21 November, already after the first phase of the entrance exam had been completed),⁴⁴ although it is impossible to tell how they were produced or the outcomes intended by their authors.

The first of these decisions was to take as a norm the gradual compliance with the quota places set as a *minimum* by the law. Given that UFPR had already reserved 40% of its places for affirmative action policies, leaving just 10% for compliance with the legal quota target of 50% of available places, this was not an automatic decision. Following this step, it was also decided to transfer 12.5% of the places from the pre-existing quota system in order to comply with the law, maintaining the two policies in parallel, each with its own rules.⁴⁵ Two immediate consequences can be

44 The alternative to complying with the law was to establish, in the new version of the public notice, that all the candidates called for the second phase would have to access the Entrance Exams Centre website within a specified period of just three days, and opt either to stay in the current competition category or migrate to the quota system introduced by Law 12.711/12 (Public Notice 13/2012-NC, Articles 3 and 4). According to information released by the UFPR Communication Office, just around 400 of the 14,237 called for the second phase of the entrance exam opted to migrate to the new system (ACS/UFPR, 14/01/2013).

45 Consequently, in the 2013 entrance exam, 12.5% of the places would be allocated to meet the quota places stipulated by the Quotas Law and 27.5% of the places would be offered under the terms of the Action Plan; in 2014, the ratio would be 25% of the quota places stipulated in the law and 15% for the Action Plan; in 2015, 37.5% and 2.5%, respectively; finally, in 2016, the percentage of 50% quota places would be attained, all filled under the terms of the law.

identified: on one hand, the increase in the admission opportunities for students from public schools, something already seen before promulgation of the new law; on the other hand, the reserving of places for black students not conditional on other requirements for another few years. The importance of this possibility had been observed since 2007 by the report of the Committee for Evaluating and Monitoring of the Action Plan.

A second aspect was the interpretation, present from the outset, that the black candidates opting for the places reserved under the terms of the law would not have to face the 'Self-Declaration Verification Committee' (Public Notice 13/2012-NC, Article 3, IV). As the very name of the committee implies, the idea that the self-declaration of colour by candidates in the quota system itself needed to be checked, while the self-declaration of colour by candidates for places reserved under the Quota Law dispensed with this requirement, is certainly far from obvious.⁴⁶ One effect of the discrepancy produced by the implementation of the law was the end of the verification committee for all the candidates from 2014 onward. It is somewhat curious that the committee – established in the 2005 entrance exam through the Public Notice issued by the Entrance Exams Centre, without any formal decision being made on the matter – had been abolished in the same way ten years later.

Before then, though, what vanished from the reworked versions of the public notice and the candidate's guide, still with reference to the 2013 entrance exam, was the self-declaration of the candidates for UFPR's racial inclusion places – probably as a result of the interpretation given to the self-declaration contained in the Quotas Law. But if the document (the model of which appeared in previous versions of the candidate's guide) ceased to exist,⁴⁷ the evaluation of the students classified for the racial inclusion places from UFPR's own system by the 'Self-Declaration Verification Committee' remained obligatory (2013 Candidate's Guide, p. 5).

46 I tried to locate some kind of documentation on the interpretation or form of implementation recommended by the Ministry of Education for this self-declaration. The only reference I could find was in the 'Frequent questions' on the quota system published on the Ministry's website, where it states: "The racial criterion will be self-declaration, as used in the demographic census and in all affirmative action policies in Brazil" (portal.mec.gov.br/cotas/perguntas-frequentes.htm, consulted 04/01/2015). Whether the criterion of self-declaration is used in 'every' affirmative action policy in Brazil is difficult to know for sure. But the fact that the implementation of this criterion assumes very distinct contextual forms is a familiar topic for anyone who has accompanied affirmative action policies in Brazil's public universities.

47 The self-declaration model returned in the 2015 Candidate's Guide, but now intended exclusively for those opting for the places offered under the Quotas Law criteria and not conditional on a verification committee.

Another decision⁴⁸ concerns the calculation system adopted for the places reserved under each of the quota policies. Undoubtedly with the aim of complying with the legal stipulations in full, the calculation of the distribution of quota places under the terms of Law 12.711/12 produced a global result above the 12.5% initially anticipated. Based on the 5,087 places available in the entrance exam, 12.5% would have corresponded to 636 places. Since the calculation had to be made course-by-course, in most cases the result was not a whole number. Whenever this occurred, the result was rounded up, as specified under the law's regulations. This resulted in an additional 38 places, making 674 places, corresponding to 13.24% of the total. However it was the sequence of calculations that produced the interesting results, which is why I go into some detail here.

After calculating the total number of quota places, the next step, following Regulatory Directive 18/12-MEC (Article 10, III), is to allocate half of these places to candidates coming from public schools with a gross family *per capita* income equal to or lower than 1.5 minimum wages. In this case too, the rounding up of the figures resulted in an increase: from 337 to 370 places (or from 50% to 54.89% of 674).

Also in accordance with the Directive, the next operation is to reserve places from this total to black, brown and indigenous candidates, in percentages matching the total for these categories found in the most recent IBGE census for the respective federal state. UFPR's understanding was to round up each of the percentages before combining them,⁴⁹ which raised the total from 28.51% to 31%. However, since this percentage applied to a very small baseline (54.89% of 13.24% of the total places on each course, which in most cases resulted in a figure below 10), the rounding up of the calculations raised the percentage of this category from 31% to 41.35% of the 370 places allocated to candidates with a family *per capita* income below 1.5 minimum wages: i.e. a total of 153 places. Consequently, the remaining candidates in this band were allocated 217 places, corresponding to 58.64% of the 370 places linked to proof of income. In other words, the distribution initially planned for this group, 31% and 69% respectively, resulted in 41.35% and 58.64%.

⁴⁸ This decision was formalized through Resolution 44/12-CEPE, dated 26/10/2012.

⁴⁹ The percentages registered by the 2010 Census in Paraná are as follows: black 3.17% ; brown 25.09%; indigenous 0.25%. The percentages 4%, 26% and 1% were used respectively, which combined total 31%.

The 304 remaining places (from the 674 allocated to the application of the quotas law) were distributed in the two competition categories independent of income, using the same criteria described above. With the rounding up of the calculations per course, setting out from an even smaller base, the number rose from 31% (94.24 places) to 45.06% (137 places) allocated to black, brown and indigenous candidates. The 167 remaining places were allocated to the other candidates for income-independent places (corresponding to 45.06% of the 304 initial places, a percentage considerably lower than the 69% initially planned).

After distributing the places relating to the application of the Quota Law, the 4,413 remaining places were distributed in accordance with UFPR's own regulations. In this case, however, and contrary to what had happened ever since the approval of the quotas policy, the decision was made to allocate 60% of the places to the general competition first and only afterwards calculate the places allocated for racial and social inclusion, in that order. Using this arithmetic, the global result ended up fairly close to the model instituted by the Action Plan: 3,059 places for the general competition (60.13% of the total), 1,014 places for black candidates (19.93% of the total) and 1,304 places for students from public schools (who, discounting the places for black and indigenous students from public schools, totalled exactly the same number calculated above: 1,014, or 19.93% of total places in the entrance exam). However, while the previous global distribution was maintained, almost a third of the places allocated to black students (290 from the 1,014) were now dependent on supplementary conditions (public school students, combined or not with low income).

As in previous years, 10% of the places were allocated to SISU, 40% of which continued to be reserved to inclusion policies. However, the measures formulated under the Action Plan ceased to apply to these places, which began to be distributed entirely under the terms of the Quota Law. I lack the data here to affirm whether this was a decision internal to the university or a ruling of the Ministry of Education (MEC). Whatever the case, though, the change primarily impacted the places available for black students, which became conditional on the completion of secondary education in public schools and on set income parameters. On the other hand,

the calculation system, as identified in relation to the entrance exam, produces a bias favourable to quotas.⁵⁰

Another effect of the specific way in which the quotas law came to be implemented at UFPR was the increasing opacity of the practical results of any changes in the offer of places on student admission. This was due both to the coexistence of different entry regulations and conditions, and to the release of global figures only on the quota places filled under the terms of the new law, with no distinction made between the four categories of competition. In a sense, the available figures tell us more about institutional dynamics than about inclusion mechanisms.

Despite this fact, some pointers emerge when we juxtapose the data available for 2012 and 2013, the year when the quotas law came into force. There was no alteration to the global number of places offered by UFPR from one year to the next, nor to the distribution of the places between the entrance exam (90%) and SISU (10%). Considering just the figures relating to the entrance exam, 1,015 places were reserved for black students in 2012 under the terms of the Action Plan, and an equal number for students from public schools. A total of 277 black students were admitted (27.29% of the places reserved for this category) along with 1,550 public school students (a higher number than the initial reserved amount due to the transfer of places not filled by the racial quota). Even so, 203 quota places were left unfilled, or 19.70%.⁵¹

In 2013, 208 (28.72%) of the 724 places reserved for black students by the Action Plan were filled. Another 630 places were reserved for students from public schools, with the admission of 1,334 candidates through this modality. Although some quota places for black students had been left unfilled, the total number of candidates admitted through quotas (1,542) was higher than the number of places initially

50 277 of the 529 SISU places were for general competition and 252 for public school students, in compliance with the Quotas Law. Of these, 88 (34.92% of the reserved places and 16.63% of the total SISU places) were allocated to black, brown and indigenous students with an income below the limit set by the law and 53 (21.03% and 10.01%, respectively) to the other students within this band. Another 79 places (31.35% of the reserved places and 14.93% of the total SISU places) were allocated to black, brown and indigenous students irrespective of income. Finally, 32 places (16.69% and 6.04%, respectively) were taken by other public school students irrespective of income (see the UFPR-SISU Term of Acceptance, 23/11/2013, item 4).

51 The data on the offer of places has been extracted from the 2012 Candidate's Guide. The admissions data was presented when the entrance exam results were released (ACS/UFPR, 04/01/2012).

offered through the Action Plan (1,354), perhaps due to the redistribution of places leftover from those allocated under the Quotas Law. In this modality 674 places were reserved, just 340 of which filled. If this inference is correct, 146 places were left from the total number reserved (7.19%, a significantly lower percentage than that seen the previous year).⁵²

In sum, with the offer of quota places remaining constant (2,030 in 2012 and 2,028 in 2013), the number of students admitted through affirmative action policies after the Quotas Law rose (1,827 and 1,882, respectively) while the number of leftover places noticeably fell (from 203 to 146 places). The filling of the places reserved for black students, however, remains stable and at percentages much lower than the total places available under the Action Plan. Since the admission of black students had already proven fairly difficult during the period of unconditional quotas, it seems reasonable to infer that even more obstacles have emerged as a result of the conditions by set the Quotas Law on the type of schooling and income levels. However, specific information on the different competition categories (as well as the data per course) is unavailable. There is more, though: with the advent of the Quotas Law, the actual *quantity* of places reserved for black students has tended to decline at UFPR.

The fall in the number of places available for black student might be seen as less relevant today given that these places were never completely filled. But this certainly is not the case when we turn to future projections. In a hypothetical calculation, ignoring the rounding up of figures which the concrete distribution of places through the different competition categories inevitably entails, the full implantation of the Quotas Law implies a reduction from the 20% initially established by the Action Plan for racial quotas to just 14.25% of places reserved for ethnic-racial inclusion, all dependent on studying

⁵² The data on the offer of places is taken from Public Notice 13/2012-NC. Data on admissions was made available when the entrance exam results were released (ACS/UFPR, 14/01/2013).

in public schools, and half of them conditional on the income limit determined by the legislation. This percentage corresponds to precisely half of the percentage of black, brown and indigenous people in the population of Paraná state, 28.51% according to the 2010 census.⁵³

The potential reduction in the number of places for ethnic-racial inclusion results from the successive application of percentages on percentages. Considering the places as a whole, 50% are reserved to students from public schools and 50% for general competition. Of the reserved places, 50% (i.e. 25% of the total) are allocated to students with an income below the limit established by the law. The percentage calculated by the IBGE census (28.51%) is then applied to this figure, which results in an allocation of 7.12% of the total places to black, brown and indigenous students below the income limit set by the legislation. The other reserved places (also 25% of the total), distributed according to the same census criteria (i.e. 7.12% of the total), are allocated to black, brown and indigenous students with an income above the limit set by the legislation. Combining the two categories associated with the self-declaration of colour/ethnicity, we arrive at the figure of 14.25% indicated above.

However, while the downward trend in racial quotas derives from application of the law, the law itself also allows for the adoption of supplementary affirmative action policies by universities, meaning that this result is not produced either necessarily or unidirectionally. Although it is impossible to determine how UFPR reached the decision to maintain the affirmative action policies at the legal minimum limit – the eventual outcome of which, as indicated above, is to limit the possibilities for racial inclusion – it can still be observed that another set of actions led to the acceleration of this tendency from the 2014 selection process onward, where it was decided to double (from 10% to 20%) the percentage of places offered through SISU (see Resolution 50-A/13-CEPE, dated 16/08/2013).

53 In the Action Plan, the admission of indigenous students is governed by separate rules. Under the new law, the three categories are considered together, though this does not prevent institutions from maintaining their own supplementary and distinctive affirmative action policies, as seen at UFPR. Since the indigenous population registered by IBGE in Paraná is very small (0.25%), the impact is residual in terms of the analysis proposed here.

According to the progressive implementation delineated the previous year, 15% of the places offered in 2014 had to be reserved for the policy run by UFPR itself and 25% for compliance of the Quotas Law, totalling the 40% adopted ten years earlier. The UFPR-SISU Term of Acceptance that year introduced two important changes to this course of action. Firstly, the places under this system were distributed through the different competition categories by applying just the 25% of places set aside to comply with the Quotas Law. In 2013, when the law was already in force, the usual quota of 40% of places was maintained, although these places were distributed solely in accordance with the parameters of the federal legislation. The second alteration, which accentuated the effects of the first, was to offer places on new courses entirely via SISU (see UFPR-SISU Term of Acceptance, 11/12/2013). In sum, a fall was seen in the places allocated to affirmative action policies in 2014 – from 2,280 to 2,267, despite the increase in the global number of places on offer from 5,616 to 6,176 – effected through UFPR's participation in the system run by the Ministry of Education (MEC).

In the broader and more transparent process of the entrance exam, 40% of places were reserved from the outset involving a combination of the Action Plan and the Quotas Law. A total of 4,500 places were offered, 1,136 reserved in accordance with the Quotas Law, 1,378 under the terms of the Action Plan and 2,680 open for general competition. According to the published results of the selection process, 1,103 students were admitted via the quota places allocated under the law, though no information is available on the distribution between the different competition categories. Following the rules of the Action Plan, 342 places were reserved for black students and 204 filled, a slightly lower number than the 208 entering in 2013. Also following these same rules, 398 students from public schools were admitted: in other words, the 342 reserved places were all filled, plus another 56 transferred (probably) from those reserved for black students. Adding this figure to the number approved under the Quotas Law model, a total of 1,501 students were approved from public schools in 2014, accounting for a third of total students admitted in the entrance exam that year.

However, it is impossible to know how many black students were included in this combined total.⁵⁴

The 2015 selection process, the results of which had yet to be released when this text was concluded, marks the end of the Action Plan at UFPR.⁵⁵ According to the schedule planned for implementing the Quotas Law, 37.5% of the places would be earmarked for compliance with the law and another 2.5% would remain under the conditions of the Action Plan, setting aside 40% of places in total for affirmative action policies.

This schedule was changed at the initiative of the Pro-Rector of Undergraduate Studies, which proposed to CEPE that three alterations should be made to the regulations governing the 2015 selection process: an increase in the percentage of places offered via SISU from 20% to 30%; the full offer of the places reserved to affirmative action policies in accordance with the parameters of the Quotas Law; and the removal of the students' marks in the National Secondary Education Exam (ENEM) from the final calculation of their performance (see *Ofício Prograd* 143/2014, 18/07/2014).⁵⁶

The proposal was examined at a session of CEPE held just one week later and, according to the minutes attached to the process, approved unanimously, giving rise to Resolution 22/14-CEPE. While it might be argued – to cite the words of the rapporteur – that the 2.5% remaining from the UFPR model “[was] very small and not worth the

54 These figures also omit the differences stemming from each policy's specific rules (students who completed all their previous schooling or just secondary education at public schools, and whether places are linked or not to income levels), as well as the students coming from public schools who did not opt to compete via the affirmative action policies.

55 Resolution 37/04-COUN was not rescinded but, aside from its general provisions, only the offer of supplementary places for indigenous students actually remains in force and is currently being re-evaluated, the result of which is difficult to predict.

56 This communiqué forms part of Process 028785/2014-11, which led to Resolution 22-A/14-CEPE, approved on 25/07/2014. Since the 2010 entrance exam, the candidate's final mark resulted from weighing the mark obtained in the ENEM objective exam (10%) and the mark obtained in the tests for the selection process (90%), even if the ENEM results in a reduction of the candidate's final average (cf. amendment to Resolution 53/06-CEPE approved in 2009).

administrative burden of its implementation” (Process 028785/2014-11, fls.15), it is also true that this step anticipated the end of the offer of places to black students not conditional on any other criteria.

Another aspect worth considering is that the allocation of 2.5% of the 4,830 places in the 2015 entrance exam to the UFPR quotas policy would imply a total of 121 places to be distributed in equal proportion for racial and social inclusion. Since this number virtually equals the number of courses offered by the institution (117 courses in the state capital and another four localities in Paraná state) it would be impossible to allocate a minimum of one place on each course to each inclusion category from the Action Plan without doubling the percentage of reserved places. Apparently this potential outcome did not pass unnoticed. With no legal possibility of subtracting this surplus from the percentage planned to comply with the Quotas Law, the result would be an increase in the global offer of places allocated to affirmative action policies. However, given that this increase will have to take place in 2016 in order to meet the legal requirements and, on the other hand, recognizing that the quota places have so far tended not to be filled in full, CEPE’s decision echoes two themes that have accompanied the institutional life of the quotas policy at UFPR from the outset: the willingness to implement the policy, but containing it within precise limits; and ‘administrative rationality’ as a form of implementing these limits.⁵⁷

This argument is supported by two other changes made to the 2015 entrance exam regulations, the practical limit of which aligns them with the ambivalence suggested above. The first change prohibits the admission of candidates who have already completed a higher education course through the Quotas Law places – a restriction absent under the law, but which the institutions are allowed to institute (Resolution 60/14-CEPE, dated 31/10/2014). The second change, whose origin remains indeterminate, concerns the percentage used to calculate the places allocated to black, brown and indigenous students under the terms of the federal legislation. The rounding (up) of the census data

57 It is worth noting that the change made in 2005 to the criteria for calling candidates for the second phase of the entrance exam, which had profoundly negative effects on the admission of black students, was also made under the pretext of streamlining the costs involved in the selection process.

relating to these categories, adopted when the Quotas Law came into force, was substituted in the table of offered places published in the 2015 Candidate's Guide, by the simple sum of their respective values, meaning that the benchmark percentage fell from 31% (in 2013 and 2014) to 28.51% (in 2015).

Apparently, after an initial phase when the Quotas Law was implemented in literal form, the same diffuse impetus that affected the regulatory framework of the Action Plan after its approval, limiting its scope, now began to act on the federal law. The latter began to contain retroactively provisions more in tune with local practices not attributable merely to specific actors or particular bodies. Here it suffices to consider the multitude of operations needed to put the selection process into practice, the complexity of the calculations that precede and succeed it, the unpredictability that always surrounds collective decisions, and the infinite number of possible intersections between regulatory formulas, bureaucratic routines, technical skills and political effects, to obtain a glimpse of a movement necessarily produced in collective and distributed form.

As I proposed at the outset, the description of various aspects of this movement suggests that setting out from the difference between formulation and implementation as entirely distinct and successive operations is of little help when it comes to understanding the concrete existence of the administrative and legal regulations that constitute a public policy, since it is *between* these extremes that the institutional life of regulations develops and its effects are produced. As I have aimed to show, what the regulation enunciates is also an outcome of practical engagements that render it operational, as well as the intersection between different bodies and processes involved in the production of regulations.

Proposals initially defeated during the debates in the University Council, once reactivated in the production of regulations by bodies lower down the institutional hierarchy, redefined the criteria for racial quotas and their operationalization, which became confidential and dependent on a 'Self-Declaration Verification Committee.' In parallel, initiatives at first located outside the quotas system – in particular the changes to the formula for calculating the number of candidates called

for the second phase of the entrance exam – contributed decisively to the gradual absorption of racial quotas into the quotas allocated to public school students, reflecting the general trajectory of affirmative action policies in the institution.

In the following years, the intersection between public policies run at different levels – the UFPR Action Plan and the Unified Selection System (SISU) instituted by the Ministry of Education – accentuated this tendency and, simultaneously, left the figures related to quota targets less accessible and more unstable. The introduction of the Quotas Law also contributed to the increasing opacity of these figures, in part because of the coexistence of different regulations and conditions for student admission at the university, in part because of the release only of global figures on quota uptake under the terms of the law, with no distinctions made between the different competition categories. Furthermore, while the new legal requirements led to the dissolution of the ‘Self-Declaration Verification Committee,’ they also ended the offer of racial quota places not conditional on supplementary criteria. Finally, the actual number of places reserved for black students at UFPR has tended to decline – an effect in part inscribed in the law itself, but equally dependent on its local modes of implementation.

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