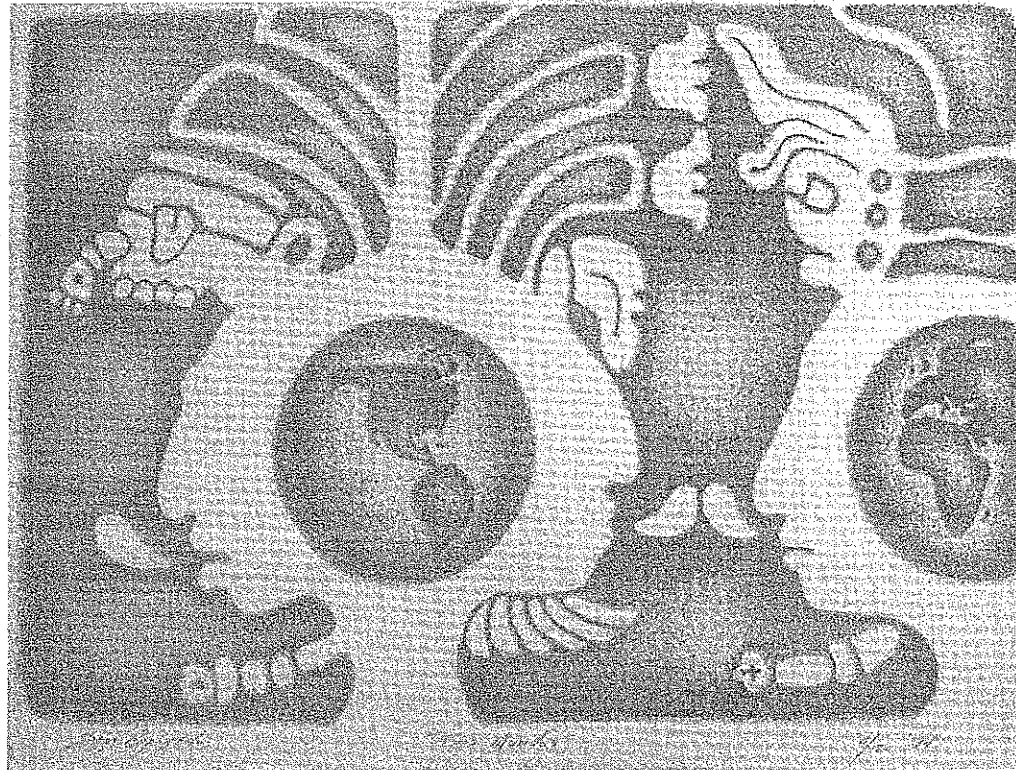


TEXAS HISPANIC JOURNAL OF LAW & POLICY
THE UNIVERSITY OF TEXAS SCHOOL OF LAW

Spring 1998

Volume 4 Number 1



Dos Mundos

Sam Coronado, 1993-1994

NOT A ZOOKEEPER'S CULTURE:
LATCRIT THEORY AND THE SEARCH FOR LATINO/A AUTHENTICITY IN THE U.S.

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We always used to know who we were. We did not need anyone to tell us. We did not have to think too hard about it. We understood that we were many and that we might not like each other or each other's practices very much at times.¹ We also understood how everyone else saw us. We were mostly Mexican (certainly, that is how Disney saw us).² We were mostly Puerto Rican on the East Coast.³ We might also be Cuban, in which case, as Desi Arnaz showed us, we had rhythm and a bad accent.⁴ Sometimes we were rich,⁵ but mostly we were poor. We were all differently colored with some of us darker than others. But no matter our hue, we were still "darker" than those who possessed power.

Still, like the outsiders who are always looking and assessing our 'people' in this country, we also judge, we assess, and we categorize. "In the past, Latinos saw each other differently; we discriminated against each other . . . In the past we would say, 'aah, those Salvadorans! Aaah those

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1. "We who are Latinos are eating each other up." Tanya Broder & Clara Luz Navarro, *A Street Without an Exit: Excerpts From the Lives of Latinas in Post-187 California*, 7 HASTINGS WOMEN'S L. J. 275, 304 (1996) (quoting Mariana). In this article Ms. Broder and Ms. Navarro collected the thoughts of Latina immigrant women involved in community activity in San Francisco, California. Kevin Johnson has written thoughtfully about divisions within what to outsiders may appear to be a monolithic community. See Kevin R. Johnson, *Civil Rights and Immigration: Challenges for the Latino Community in the Twenty-First Century*, 8 LA RAZA L. J. 42, 67-72 (1995); see generally IMMIGRATION RECONSIDERED: HISTORY, SOCIOLOGY, AND POLITICS (Virginia Yans-McLaughlin ed. 1990).

2. Recall those wonderfully perverse cartoon mini-movies, in which Donald Duck was teamed up with a Brazilian parrot (Jose Carioca) and a rooster (Panchito) to explore Disney's version of the US's "Good Neighbor Policy" in effect during the years of the Second World War. *THE THREE CABALLEROS* (Disney 1945) and *SALUDOS AMIGOS* (Disney 1943).

3. Recall that gang movie from the 1950's, *West Side Story*. Stephen Sondheim, *America*, WEST SIDE STORY (music by Leonard Bernstein) (1957, rev. 1989).

4. Consider any episode of *I Love Lucy*, which started airing on television in the 1950's and can still be seen on reruns. Although at this point I must confess my biases — I learned to speak English watching old episodes of that program rebroadcast on TV. My parents didn't understand a word the characters said, but they were immensely proud of Desi.

5. Consider the apocryphal Latin American Heiress, or for that matter, the *bon vivants* and jet setters Carolina Herrera or Paloma Picasso. See, e.g., Stephen Glover, *Why Diana is Such a Party Prize*, EVENING STANDARD (Eng.), November 23, 1995 at 9, available in LEXIS, Nexis library, curmws file ("By and large the modern English upper classes dress badly, or at least dress down. She, on the other hand, favors the kind of ostentatious costumes and coiffure that might find favor with a Peruvian heiress . . .").

Mexicans! Always those people, these people.' No longer. Now we say our Mexican brothers, our Nicaraguan brothers, and our Salvadoran brothers. Because that is what we are, brothers."⁶ We are Latino/a, but we are also nationalities, and sexes, and culture, and religion, and race, and power. We are all these things, all the time, in everything we do and in everything we are. There is no running away from it. Even when we do not want to 'think' about it, others will.

We were once a part of the background norm ourselves. As part of the dominant group in the old countries, we were at the top of the hegemonic hierarchy.⁷ It was an unconscious act—much like being an 'Anglo' is an unconscious act for many in the United States.⁸ Like our 'Anglo' neighbors, our nations and our culture were the product of imperialism. We are the children of an invading culture. 'Hispanic' is a geographical term alluding to origins in Europe; 'Latino/a' is a term of origin, which looks also to the European Mediterranean. Both terms announce the intention to erase the indigenous and betray our common European orientation. Dominance, we came to understand, is quite comforting and automatic. All we had to worry about was socio-political, religious and racial stratification. Culture, however, was another matter, at least our official "Latinocentric" culture.⁹ In whatever way imposed, at least among the elites, culture is a

6. Broder & Navarro, *supra* note 1, at 305. (quoting Rosa) (Rosa, in this passage refers to the unifying effect of proposition 187 on California Latinos/as). See Berta Esperanto Hernandez Trujol, *Building Bridges – Latinas and Latinos at the Crossroads: Realities, Rhetoric and Replacement*, 25 COLUM. HUM. RTS. L. REV. 369, 410-11 (1994) (recounting the story of how Cubans are sometimes excluded and classified as part of the members of the dominant group in the U.S., despite their language, culture and history).

7. Hegemony, of course, implies exclusion. And we did exclude in the old countries. We trivialized our Indian and African selves; we obliterated the multiculturalism of our religious norms, hounding some out of existence, and sending many underground. Consider the marginalized place of *Santería* in the Caribbean, or of indigenous religious practices in Central and South America. As such, some of us were more a part of the dominant group than others. We carry these hierarchies with us when we come here. Consider that the power structure of Hialeah, whose government sought to suppress public expressions of *Santería* practice, were Latino/a. See *Church of Lukumi Babalu Aye v. Hialeah*, 508 U.S. 520, 113 S. Ct. 2217 (1993). These systems of subordination work the same in the United States for those we consider uniformly part of the dominant discourse here. All non-Latino/a white people in the United States are not "created equal." Eastern European Catholics, for instance, are not as comfortably ensconced in the realms of the elite, as may be her Anglo-German Protestant sister. And then, of course, there are issues of social class, even among white non-Latino/a Americans.

8. Having said this, I want to take it back, if only just a little. We do ourselves a disservice by constructing this thing we call an 'Anglo.' This is especially the case when we use that term and direct it at the children of immigrants from Italy, Spain, Poland and other non-English speaking European countries, many of whom were until fairly recently as much the 'other' we now claim for ourselves. See, e.g. NATHAN GLAZER, WE ARE ALL MULTICULTURALISTS NOW 85-88, 101-12 (1997). By way of small example: it is perverse to insist on the term 'Anglo' to describe the Irish, who have spent the last several centuries attempting to overthrow the domination of the English in their own country. If the term is meant to deride, then we demean ourselves by practicing those vile habits we so hate when exercised against us. If the term is meant to describe, then it ought to be abandoned as non-descriptive. Moreover, we are hardly in a position to *name* the 'other,' taking for ourselves that right of naming would be supremely ironic in a age when we congratulate ourselves for taking back the power to name ourselves. We should be careful about demonizing even the dominant 'other.' See Larry Catá Backer, *Queering Theory: An Essay on the Conceit of Revolution in Law*, in LEGAL QUEERIES (Leslie J. Moran et al., eds. 1998).

9. I use the term "Latinocentric" to denote practices and preferences rooted in the norms derived primarily from Hispano-American culture. Latinocentric culture in our home countries is accorded the same power and dignity as in "English" culture in the United States. Cf. Francisco Valdes, Foreword: *Under Construction: LatCrit Consciousness, Community, and Theory*, 85 CAL. L. REV. 1087, 1096 & n. 23 (1997); 10 LA RAZA L.J. 1, 10 & n. 23 (1998) (using the term "Anglocentric" to "denote practices and preferences rooted in norms derived primarily from English Culture," and noting that "Latinas/os have

living thing in the old countries, especially our dominant Latinocentric cultures. As people living these cultures in a geography where such cultures are dominant, cultural identity is easy. Culture on its home turf is also easier to interrogate without threatening our core identity, unless it is threatened by the importation of cultural norms from another place.¹⁰

It is not as easy here, but ought it to be easy at all? The question of who we are, either as individuals, as a collective, or as the sum of all of our parts, is one we are forced to consider. It has become a question of culture¹¹ and language,¹² as well as of politics.¹³ It is treated as a question of life and death. Perhaps it is a question of extinction.¹⁴ We deal with these fears and

been subjected to injustice and prejudice, and thereby pushed into positions of marginality and disempowerment in this Anglocentric society." *Id.* at 85 CAL. L. REV. at 1096; 10 LA RAZA L.J. at 10). Like Anglocentric culture, our Latinocentric culture, proud, supreme and dominant in our home countries marginalizes and disempowers the foreigners (primarily of African descent) in its midst. Consider the conclusions of Jameelah Muhammed who argues that "in spite of [the] impressive historical, social and cultural legacy [of Afro-Mexicans], Afro-Mexicans exist today as a marginalized group. They are arguably, the least represented and most oppressed of all of Mexico's ethnic groups, and have yet to enter the mainstream and be recognized as full citizens." Jameelah S. Muhammed, *Mexico*, in NO LONGER INVISIBLE: AFRO-LATIN AMERICANS TODAY 163, 164 (Minority Rights Group eds. 1995). More telling are the problems associated with the celebrations of the 500th anniversary of the beginning of the European colonization of the Americas.

During the nationalist buildups to the 1492-1992 quincentennial celebrations in Ecuador and Columbia, cultural images of a distinct 'Latin American-Iberian' unified identity became very important. The elite in these nations, who identify themselves as *blanco*, stressed that the national identity symbol should be that of *mestizaje* (racial intermingling) to emphasize Latin America's heritage in the 500th year since the European 'discovery' and 'civilizing conquest' began. In direct opposition to this elite-sponsored nationalist identity problem, black spokesmen and spokeswomen rejected 'Hispanic' (Iberian) designations and stressed 'Afro-Latin-American culture' as their preferred designation.

Norman E. Whitten, Jr. & Diego Quiroga (with the assistance of P. Rafael Savoia), *Ecuador*, in NO LONGER INVISIBLE, *supra* at 287, 311. "Ecuador is today governed by an ideology of *mestizaje*, which is itself driven by the spirit of *blanqueamiento* -- ethnic, cultural and racial whitening." *Id.* at 310.

10. Thus, for example, commentators seeking ways of incorporating non-dominant, that is, non-stereotypically Latinos/as, into their systems of governance, suggest that lessons from the experiences of the United States might be useful, but worry that "charges of Americanization and, implicitly, denationalization suggest that individual societies, eager to protect themselves against corrupting influences from extraneous sources, may well justify establishing a *cordon sanitaire*." Anani Dzidzienyo, *Conclusions*, in NO LONGER INVISIBLE, *supra* note 9, at 345, 346. Perhaps it should not surprise us that Anglocentric culture exhibits a similar cultural reaction.

11. See discussion below at Section A, *How We Define Ourselves*. For a discussion of the difficulty of understanding what we mean by culture, see Naomi Quinn & Dorothy Holland, *Culture and Cognition*, in CULTURAL MODELS IN LANGUAGE AND THOUGHT 3 (Naomi Quinn & Dorothy Holland eds. 1987).

12. See, e.g., Juan F. Perea, *Demography and Distrust: An Essay on American Languages, Cultural Pluralism, and Official English*, 77 MINN. L. REV. 269 (1992); see generally discussion *supra* note 1 & 6.

13. See, e.g., Alex M. Saragoza et al., *History and Public Policy: Title VII and the Use of the Hispanic Classification*, 5 LA RAZA L.J. 1 (1992). Issues centering on immigration policy in the United States have energized both the Latino/a community and the dominant groups as well. For a taste of the debate from the perspective of the American non-Latino/a elite, see, e.g., PETER D. SALINS, ASSIMILATION, AMERICAN STYLE 185-197 (1997). For Latino/a perspectives, compare LINDA CHAVEZ, OUT OF THE BARRIO: TOWARD A NEW POLITICS OF HISPANIC ASSIMILATION (1991), with Bill Piatt, *Born as Second Class Citizens in the U.S.A.: Children of Undocumented Parents*, 63 NOTRE DAME L. REV. 35 (1988), and DAVID G. GUTIERREZ, WALLS AND MIRRORS: MEXICAN-AMERICANS, MEXICAN IMMIGRATION, AND THE POLITICS OF ETHNICITY (1995).

14. Like the People of Israel, we fear assimilation. For us, as for them, assimilation may amount to little more than a form of living extinction. We fear even more that our children (or their children) will fear this sort of extinction less. See

challenges as a "family problem." Family coherence now seems to require us to count heads and exact compliance with norms in the face of the challenges of becoming more intermingled. Specifically, we might worry about whether there is a place within our family for gay men and lesbians,¹⁵ people who descended from non-Spanish immigrants,¹⁶ females resisting traditional gender norms,¹⁷ and people of *sangre impura* (impure blood). Should we reject them when they seek affirmance as part of our sub-cultural mainstream?¹⁸

I believe the enterprise of critical theory which focuses on Latinos/as in the United States "in their individual and collective struggles for self-understanding and social justice,"¹⁹ LatCrit Theory,²⁰ provides the necessary substantive and methodological framework for approaching these questions.²¹ LatCrit Theory ought to specifically focus us on a project requiring the excavation of the history of how the notion *Latino/a* has been variously constructed, understood and punished, and how it can be reconstructed, celebrated and *lived*.²² More importantly, LatCrit Theory should

RICHARD RODRIGUEZ, HUNGER OF MEMORY: THE EDUCATION OF RICHARD RODRIGUEZ (1981) ("Rodriguez. The name on the door. The name on my passport. The name I carry from my parents – who are no longer my parents, in a cultural sense." *Id.* at 4); Richard Delgado, *Rodrigo's Fourteenth Chronicle: American Apocalypse*, 32 HARV. C.R.-C.L. L. REV. 275, 294-97 (1997) (on elimination of Latino consciousness through assimilation).

15. *Maricones, maricas y tortilleras, pájaros* in the traditional vernacular. Castilian Spanish is as rich in the pejoratives for sexual non-conformity as is American English.

16. For example *los chinitos* in Cuba, or the German Mennonite families of Paraguay, or the Japanese in Perú.

17. See discussion *infra* at Section C, *Sites for Self-Examination*.

18. We have begun to *understand* the vastness of our diversity. We must now incorporate that knowledge in our political response to difference in this country. See, e.g., Leslie G. Espinoza, *Multi-Identity: Community and Culture*, 2 VA. J. SOC. POL'Y & CULTURE 23 (1994) (on the promise of multi-identity).

19. Elizabeth M. Iglesias, Foreword: *International Law, Human Rights, and LatCrit Theory*, 28 U. MIAMI INTER-AM. L. REV. 177, 178 (1997).

20. LatCrit theory is in its infancy. Its meaning and scope has not yet been bounded by a *Credo*, or subject to an ideological test for purity. These deficiencies constitute its strength as a means of approaching problems of American law in contemporary society. For a discussion approaches to the "meaning" and "scope" of LatCrit Theory, see, e.g., Valdes, *supra* note 9. For a discussion of the early history of LatCrit Theory, see Francisco Valdes, *Poised at the Cusp: LatCrit Theory, Latina/o Pan-Ethnicity and Latina/o Self-Empowerment*, 2 HARV. LATINO L. REV. 1 (1997).

21. I agree with Frank Valdes when he argues that "for a legal theory to work – to be 'worth it' – it must embrace and perform four interrelated and overlapping functions." Valdes, *supra* note 9, at 85 CAL. L. REV. at 1093; 10 LA RAZA L.J. at 7. These Professor Valdes identifies as (i) the production of knowledge; (ii) the advancement of transformation, (iii) the expansion and connection of struggles, and (iv) the cultivation of community and coalition. *Id.* at 85 CAL. L. REV. at 1093-94; 10 LA RAZA L.J. at 7-8. See also Francisco Valdes, Foreword: *Poised at the Cusp: LatCrit Theory, Outsider Jurisprudence and Latina/o Self-Empowerment*, 2 HARV. LATINO L. REV. 1, 53-59 (1997). I do not, however, believe in the reality of transformation. See Larry Catá Backer, *Constructing a "Homosexual" for Constitutional Theory: Sodomy Narrative, Jurisprudence, and Antipathy in the United States and British Courts*, 71 TUL. L. REV. 529, 538-53 (1996). I also believe that the project of "struggling" can suggest no more than that social elites constantly struggle over the "value" of the variables which constitute our conceptions of "justice" and "fairness." See Larry Catá Backer, *Poor Relief Welfare Paralysis, and Assimilation* 1996 UTAH L. REV. 1, 6-10.

22. LatCrit shares much with the emerging disciplines of critical race theory and queer theory. "The study of how race, ethnicity, and culture join ranks with gender and sexual orientation to erect hierarchical social barriers must be central to Critical Race Theory scholarship if inclusiveness is to be achieved in its project of social transformation." Celina Romany, *Gender, Race/Ethnicity and Language*, 9 LA RAZA L. J. 49, 50 (1996). See also Francisco Valdes, *Latina/o Ethnicities, Critical Race Theory and Post Identity Politics in Postmodern Legal Culture: From Practices to Possibilities*, 9 LA RAZA L.J. 1 (1996). This study must be turned inwards as well as outward. It is not enough to expel the devils of hierarchy and subordination from without. If in fact the hoped for transformation will occur, then hierarchy and subordination, insensitivity

offer a justification for the necessity of considering these questions.²³ Critical theory helps us understand why the consideration of these questions must remain a central part of *being* Latino/a. As such, LatCrit Theory provides us with a basis for approaching *law* in this country; it provides the basis for judging the results of and participating in the political, legislative and judicial life of this country with equality and dignity.²⁴ In this way, LatCrit Theory provides us with a roadmap. It provides us with the means of becoming conscious of the meaning and effect of the choices we make in living our lives as individuals and as part of such multiple communities to which we belong.

It is in this context and with the tools of Latino/a Critical Theory that I want to consider the ways we think about being Latino/a. I will not consider here the good—the family ties, the bonds of language, the way we understand the world, and the relationship of people to each other. I do not propose to examine that from which we can draw strength and of which we should be proud. *That* task is easy, and perhaps better left in the hands of our poets and songwriters.

I want to undertake a more difficult task, a task with which no 'outsider' can provide much help. I want to interrogate two normative questions, which usually get lost in the theoretical and political shuffle. The first centers on identity—who we think we are. Here the critical endeavor involves the way in which we develop and maintain those characteristics necessary to claim membership in the community of Latinos/as in the United States. A related question involves the determination of who among us does the selecting of these characteristics—who ought to have the authority to speak for and about us both inside our communities and to the "outside" world.

The second issue centers on the cluster of mores and beliefs, which evidence our common identity. Related to this set of identity norms is our approach to the issue of *change*. Assuming that the community of Latinos/as is not genetic, but national/cultural and therefore constructed, we ought to figure out whether the "construction" is finished. More importantly, if the construction of the Latino/a identity is an ongoing project, we ought to consider carefully (and continuously) the "where" and the "what" we look to for change. Here we have several choices—among them the countries of origin, the country of settlement, or ourselves separate from either. I argue that each is an important source for the development of our collective identity in this country.

and marginalization, must be confronted within communities as well as between communities. On Critical Race Theory, *see, e.g.,* CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberlé Crenshaw et al., eds. 1995). On Queer Theory, *see* LEGAL QUEERIES, *supra* note 8.

23. *See, e.g.,* Juan Perea, *Five Axioms in Search of Equality*, 2 HARV. LATINO L. REV. 231 (1997) (suggesting LatCrit theory as a basis for shifting emphasis from race to ethnicity for Latina/o empowerment).

24. For just one of a growing number of examples of this type, *see, e.g.,* Yvonne A. Tamayo, "Official Language" Legislation: *Literal Silencing/Silenciando la Lengua*, 13 HARV. BLACKLETTER L. REV. 107 (1997). One should remember, however, that "Law is neither the truth of power nor its alibi. It is an instrument of power, which is at once complex and partial. The form of law with its effects of prohibition needs to be resituated among a number of other, non-judicial mechanisms." Michel Foucault, *Powers and Strategies*, in MICHEL FOUCAULT, POWER/KNOWLEDGE: SELECTED INTERVIEWS & OTHER WRITINGS 1972-1977 134, 141 (Colin Gordon ed. 1980) (Interview by the editorial collective of *Les révoltes logiques*, 1977).

A. How We Define Ourselves

We tend to define ourselves in one of a number of ways. Many of these methods should give us pause. I consider a number of the most significant ways which we use to perceive ourselves. First, though, a few words on the term 'we.' In a sense, there is no 'we,' 'we' are many and different. The references to we, therefore, should be understood as a categorization that is porous. I suggest a loose commonality, understanding that nothing I suggest applies to all people all of the time. The exceptions can be significant in both time and place. Still, the notions I interrogate here are common enough, historically and currently, that they stand out.

The most dangerous way of perceiving ourselves is through the eyes of others. Here critical race theory has helped us understand how, in many respects, non-dominant groups acquire a sense of themselves through the power of the dominant group to define us.²⁵ It is easy to play to the stereotypes of the dominant group. Sadly, we share a significant history of doing precisely that back in our home countries. There are, after all, at least some among us, who were part of a dominant discourse. Recall the way in which our Hispano-European fore-parents constructed and subordinated the "indio" or the "negro" or the "judío" or even the "maricón o tortillera."²⁶ In parts of Mexico, at "one point in history, the words *negra* and 'prostitute' were synonymous. This image has persisted, and is routinely depicted in Mexican comic books."²⁷

It is not easy to resist the dominant's definition than one would think.²⁸ There are rewards

25. George Martinez has recently explained how Mexican-Americans were defined as white by the dominant discourse, yet allowed few of the privileges of "whiteness." George A. Martinez, *The Legal Construction of Race: Mexican-Americans and Whiteness*, 2 HARV. LATINO L. REV. 321 (1997). See also Ian F. Haney Lopez, *Race and Erasure: The Salience of Race to LatCrit Theory*, 85 CAL. L. REV. 1143, 1159-72 (1997); 10 LA RAZA L.J. 57, 73-86 (1998). Queer theory has provided substantial examples of this sort of cultural power. See, e.g., Carl F. Stychin, *Unmanly Diversions: The Construction of the Homosexual Body (Politic) in English Law*, 32 OSGOODE HALL L. J. 503 (1994). Critical Race theory has also interrogated the ways in which dominant discourses tend to define themselves by drawing lines between itself and those who are deemed not to belong, and the way in which dominant discourse affects the way in which subordinated groups speak to each other. See, e.g., Reginald Leamon Robinson, "The Other Against Itself": *Deconstructing the Violent Discourse Between Korean and African Americans*, 67 S. CAL. L. REV. 15 (1993). Christie Davies has shown how groups, especially groups which form a minority within a larger society, have sought to preserve their distinctiveness by hyper-construction of group boundaries. Christie Davies, *Religious Boundaries and Sexual Morality*, 6 ANN. REV. SOC. SCI. OF RELIGION 45 (Fall 1983) (Eng.).

26. I am reminded of the sociology of Argentina of almost a century ago, which attempted an explanation of the political relationship between a White, European elite and the barbarians—Indians and people of "mixed" ancestry—which developed after independence from Spain. "El feudalismo español se continúa en el caudillismo americano: las masas indígenas y mestizas constituyen la materia política que manejan los caudillos. Los núcleos de población blanco y europeizante descienden a usarlas como instrumento de predominio, o son aplastados y proscriptos cuando no se resignan a hacerlo." JOSÉ INGENIEROS, SOCIOLOGIA ARGENTINA 291 (1988) (1918) (Spanish feudalism was reproduced in the form of American "caudillismo;" the Indian and mestizo masses served as the political material directed by the caudillos. The population nucleus of white Europeanized people are reduced by them to serve as instruments of domination, or they are crushed or banished when they did not resign themselves to this role.").

27. Muhammed, *supra* note 9, at 177.

28. The power of the hegemony of a system of norms provides the basis of the disciplines which infiltrate all aspects of

to being the main act in the dominance minstrel show. Consider how conformance to the dominant group norm is rewarded. For example, think about affirmative action as a reward. Consider also that conformance comes with a price. The price of affirmative action is to act deserving.²⁹ Thus, I do not believe that affirmative action is meant to dismantle the edifice of white privilege, as critical theorists sometimes come to believe.³⁰ Instead, my sense is that affirmative action provides a vehicle for socio-cultural colonization. It is a way for dominant society to train and contain, to extract particular forms of behavior from people in need of assimilation. We are expected to conform to the behavior expectations of the dominant group. The price might also be conversion. We do what is required to attain success in a world in which norms we consider important are not dominant and even perhaps always marginalized. Such a price is hard on the collective ego. It ought to be. People do not like to be made to live like caricatures of themselves, and nobody likes to lose one's soul.

Out of this resentment comes a second method of cultural expression, that of anti-dominance culture. We define ourselves as a reaction to the insensitivity and hegemonic tendencies of the dominant discourse.³¹ We reject 'their' learning, 'their' clothing, 'their' food, and 'their' lifestyle. Any copying of such life habits is treasonous. Traitors must be excised from the community, or induced to come back to the fold. Here we arise anew as a *political culture*. But politics and reaction in matters of culture tend to be as hegemonic as the discourse of the dominant group. Politics requires discipline and control. Discipline in matters of culture requires a forced conformity to shared (imposed) ideas of the normal within the culture. That forced conformity may have the effect of either leaving people out or subordinating sub-groups within the culture. Perversely, a culture of reaction is also held hostage to the dominant conceptions. Where culture as politics is meant to combat another group, then the dominant group combatant continues to hold the reins on cultural expression. We retain or adopt habits or norms not because we want to, but as an expression against an "other."

Our definitions of ourselves are suspended in time, defined by memories of the ways of our peoples at the time that we left. We historicize our culture. In this country we began the process of treating culture like an artifact, something to be excavated and studied and copied but

social and economic life. While resistance to the strictures of formal rules and law is possible—the black letter is easy to identity and thus resist. It is far harder to overcome the application of the normative framework underlying those rules. That application exists in virtually every aspect of lives lived. The disciplines, as Michel Foucault has well explained, can wear us down and exact the sort of conformity that the black letter might be incapable of *achieving*. See, e.g., MICHEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* (Alan Sheridan, trans. 1979; Vintage Books 2d ed. 1995 (1978)). For a discussion of the way welfare laws serve as a discipline, exacting conformity on everyday living, see generally Larry Catá Backer, *By Hook or By Crook: Conformity, Assimilation and Liberal and Conservative Poor Relief Theory*, 7 HASTINGS WOMEN'S L.J. 391, 407-29 (1996).

29. This characteristic of dominant culture is endemic to the way we approach lawmaking. Consider, for example, the way in which we expect people to conform to behavioral ideals in order to maintain eligibility for welfare benefits. See Larry Catá Backer, *Welfare Reform at the Limit: The Futility of 'Ending Welfare as We Know It'*, 30 HARV. C.R.-C.L. L. REV. 339, 385-95 (1995).

30. See, e.g., Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1709, 1779 (1993).

31. Angel Oquendo suggests this as a significant basis for the construction of Puerto Rican identity after the Kingdom of Spain transferred control of the island to the United States. See Angel R. Oquendo, *Re-Imagining the Latino/a Race*, 12 HARV. BLACKLETTER L.J. 93 (1995).

never lived. Away from the sources of cultural norm making and the accepted expression of those norms as they change over time, we are left to carry on without the benefit of the changes. How *can* we change? We are never quite sure that the change is acceptable. Worse, we fear that the change will make us *inauthentic*. We fear the process of assimilation, which will leave us without our roots. This would be tolerable, perhaps, for those who look like the people with power in this country.³² But for those who cannot pass, there is no reward for assimilation. In the end, the assimilated brown or black person will become "stateless."³³

And so we create and worship our mythical conceptions of eternal definition of group characteristics. We recall who we were, and adherence to those norms becomes a litmus test of continued affiliation. And two significant ingredients of the glue that holds it all together are language and religion.³⁴

Ironically, the language and religion which serve this purpose are not the religions of our Indian and African ancestors, but rather Castellano, the Spanish of Castilla,³⁵ and the Roman

32. "The response of the dominant, norm-setting, groups in the United States has been evident in the two campaigns which those groups have so effectively waged since the 1970's. The first is that of the "equality of opportunity" crusade. The second is that of expansion, the willingness of dominant society to bring certain portions of the populations of once marginalized groups 'into the fold.' . . . By saying, in effect, "you are white," by arguing that critical basic cultural norms are shared, and by making subtle distinctions based on home country racial hierarchy and economic status, dominant culture can minimize the actual threat to its dominance and isolate more clearly those who would challenge the application of its norms. . . ." Larry Catá Backer, *Pitied But Not Entitled: The Normative Limitations of Scholarship Advocating Change*, 19 W. NEW ENG. L. REV. 59, 63-64 (1997).

33. These tensions are captured well, ironically, in the duet between Rosalia and Anita in the song *America*. Sondheim, *supra* note 3 at Act I, No. 7. On the "statelessness" of Mexican-Americans, see Martinez, *supra* note 25, at 335-38.

34. On language, see, e.g., Perea, *supra* note 12; Oquendo, *supra* note 31. Yvonne Tamayo put it well when she explained that: "Long ago, I assimilated into the fiber of this country. Assimilation, however, did not reduce the powerful influence that Spanish, my native language, continues to have on defining who I am." Tamayo, *supra* note 24, at 121.

Language is more than immigrant vestige for Chicano/as. It is also a symbol and an action of resistance to colonization. The hallmark of resistance still was the maintenance of Spanish. That Mexicans kept their language in the U.S. territory longer than most other ethnic groups is partially due to continuous Mexican immigration but also to the resistance to Anglo domination offers in previous generations.

Leslie Espinoza & Angela P. Harris, *Afterward: Embracing the Tar-Baby -- LatCrit Theory and the Sticky Mess of Race*, 85 CAL. L. REV. 1585, 1645 & n. 78 (1997); 10 LA RAZA L.J. 499, 559 & n. 78 (1998) (quoting in part, F. Arturo Rosales, *Chicano!* 18 (1996)). On religion, see, e.g., Juan F. Perea, *Hernandez v. New York: Courts, Prosecutors and the Fear of Spanish*, 21 HOFSTRA L. REV. 1 (1992). Professor Perea states that Catholicism is to be considered "an integral part of Latino ethnicity." *Id.* at 18. Now here is a notion in need of significant unpacking. This sort of self-stereotyping marginalizes even as it creates boundaries not at all consonant with the realities of Latino existence, either in this country or in the home countries. See discussion, *infra* at note 48 and the papers in MESTIZO CHRISTIANITY: THEOLOGY FROM THE LATINO PERSPECTIVE (Arturo J. Banuelas ed., 1995).

35. What people in this country, of Latin and non-Latin origin insist of referring to the language they speak as *Spanish*, it is not. The language spoken in the Western Hemisphere is derived from the Castilian language. To use the term Spanish to refer to that language, is to marginalize and silence the other vibrant living languages of the modern nation of Spain—Gallego,

Catholicism of our conquering Spanish ancestors. Yet, using language and religion as affiliation fetishes creates a risk of converting us into a museum culture. It is easy to become a culture of *Baile Folklorico*. We see evidence of museum cultures all around us. We have the example of the various European ethnicities now lost except for colorful costumes and habits, and that scares us. Do we want to wind up like the immigrants from Europe?

Ironically, and perhaps paradoxically, we also define ourselves by the standards of our home countries. Thus, Professor Valdes speaks of a

general sensibility, which can be extended to other Latina/o groups in the United States: a continuing care for the people and the society of our ancestral or original homelands. Whether of Mexican, Puerto Rican, Cuban, Dominican, Nicaraguan, Salvadoran or other Latinidad, every Latina/o community in the United States harbors a special interest in relations between this nation and its homeland and a continuing concern for the impact of American policies on its homeland kin. This more general sense of linkage makes for a certain political sensibility, but the particulars of these linkages could also undermine Latina/o pan-ethnicity.³⁶

This linkage, and its effects on the possibilities of pan-ethnicity in the United States, is a cultural phenomenon as well.³⁷

But cultural absorption is at best second hand, and experienced within the lived reality of our lives in this country.³⁸ Yet there also can be perverseness in the linkages between our homelands and us. Unlike the past, when travel was expensive and time consuming, the modern age of cable and satellite has brought the home country back in ever-increasing doses. But here we have to ask ourselves, just what are we receiving. In a sense the television and film versions of the

Catalán, Valenciano. I choose to refer to the language commonly spoken in this Hemisphere as Castillian Spanish—Castellano.

36. Valdes, *supra* note 20, at 15-16.

37. Professor Valdes suggests that "the task awaiting LatCrit theory consequently must be to generate frameworks and postulates of inquiry, understanding and action designed to yield intra-Latino cooperation, accommodation and coordination in various legal contexts." *Id.* at 16. Yet, to the extent that what is suggested is merely union at a political level, it is generalizable to relations with all communities in this country, and not merely other communities of color. At that level of generality the idea may be less interesting jurisprudentially though of great value politically. We share a great number of values with dominant society in this country. But we do not share those values in the same way across the different Latina/o communities here. Even dominant discourse has begun to recognize this. See, e.g., *A Minority Worth Cultivating: America's Latinos are Rapidly Becoming one of its Most Useful Resources*, THE ECONOMIST, April 25, 1998, at 21. On the other hand, to the extent the tasks Professor Valdes identifies are cultural as well, linkage may impede as well as facilitate the possibility of some basic level of Latina/o pan-ethnicity. Such linkages imply a determination to keep Latina/o subcultures separate as a matter of political will (or from a sense of the preservationist, the traditionalist within us) and thus make it impossible to culturally fuse our disparate elements into something approaching a common culture even at the most basic level. Such a fusion would require the abandonment of some of those cultural traits, which make us different from one another, if only at some sort of basic level.

38. See Max J. Castro, *Making Pan Latino: Latino Pan-Ethnicity and the Controversial Case of the Cubans*, 2 HARV. LATINO L. REV. 179, 192, 195-96 (1997). The most significant exception, and perhaps an exception that alters the rule, involves Mexican-Americans. The common border between Mexico and the United States makes travel between the two easier in some respects than travel between far away points within the United States.

cultures we absorb are as artificial and distorted as that foisted on the dominant groups by mythological "Hollywood." Worse, it reflects the universalification of artistic or expressive culture around the values and tastes of the dominant popular culture of the United States! Indeed, the international culture of technologically driven "human rights" tends to essentialize all core expressions of culture. We are all internationalists now.³⁹ There *is* variation—regionalism is alive and well, but the hoped for and exclusive authenticity is absent. Thus, with a television, radio, newspaper, and telephone, we can participate in our culture as well in East Los Angeles or S.W. 8th Street in Miami.

In the end, we are to a great extent on our own. Yet, we are not on our own together. There are real differences in the local cultures of the various regions which make up what the non-Latino/a Americans perceive as Hispano-America. The differences between a city dwelling Uruguayan of Catalán parentage, a Bolivian Indian, a Puerto Rico mulatto, and a Northern Mexican Mestizo can be significant. The differences are historic, racial, economic, ethnic, religious and linguistic. Of course, as Latino/as we are sometimes heard to marginalize those among us who do not (or never did) speak Castillian Spanish. Consequently, for me, there is a bit of irony to Juan Perea's observation, in another context, that "Language is both our principal means of communication and a social symbol, malleable and capable of manipulation for the achievement of social or political goals."⁴⁰ If this is true, then we also have a troubling history of language repression, as a cultural norm, which we bring with us from our countries of origin.⁴¹ Especially excluded are some of the native and African peoples of Hispano-America.⁴²

39. Celina Romany, *Claiming a Global Identity: Latina/o Critical Scholarship and International Human Rights*, 28 U. MIAMI INTER-AM. L. REV. 215 (1997) (arguing that LatCrit theory ought to be deliberately transnational in its approach to civil and human rights). See also the collected essays of the Colloquium, "International Law, Human Rights, and LatCrit Theory," published at 28 U. MIAMI INTER-AM. L. REV. 223-436 (1997). Cf. Jamie F. Metzl, *Information Technology and Human Rights*, 18 HUMAN RTS. Q. 705 (1996).

40. See, Perea, *supra* note 12, at 350.

41. The Spanish Crown, and Franco thereafter, suppressed the use of Spanish variants other than Castillian Spanish. It was not until after the restoration of democracy on Spain in the 1980's that the Spanish government permitted linguistic autonomy. See, e.g., Jeremy R. Kasha, *Education Under Catalonia's Law of Linguistic Normalization: Spanish Constitutionalism and International Human Rights Law*, 34 COLUM. J. TRANSNAT'L L. 657 (1996). "Other more current examples include the repression of the Ukrainian, Georgian and Belorussian languages by the former Soviet Government, the current repression of the Albanian language in Kosovo (formerly part of Yugoslavia) and the extended repression of the Kurdish language in Turkey." See *Garcia v. Spun Steak Co.*, 13 F.3d 296, 298 n. 3 (1993) (Reinhardt, J., dissenting from denial of rehearing en banc). Thus, we "must confront the diversity of languages and dialects among Latinos/as. "For example, Brazilians and some other Latinos/as speak Portuguese rather than Spanish, while in Mexico and Guatemala alone approximately 260 different indigenous languages are spoken. In Mexico, over five million people speak an indigenous language. Moreover, diversity in dialects among Spanish-speakers raises concerns for reforms that require translations into the Spanish language. Differences in dialect, though in practice not too substantial, may render translations at least partially inaccurate." See Steven W. Bender, *Consumer Protection for Latinos: Overcoming Language Fraud and English Only in the Marketplace*, 45 AM. U. L. REV. 1027, 1070-71 (1996).

42. That marginalization occurs not only here, but in the home countries as well. One gets a reminder of this from time to time. Consider the racial and ethnic divides in the Chiapas insurgency, or the racial stratification in Cuba, Ecuador or Guatemala—white faces in the palace and plantation, darker ones in the field and factory. This is the story throughout the geographical space in which we are dominant. For a valuable discussion, see NO LONGER INVISIBLE, *supra* note 9. That sort of marginalization acquires an official face as well. Russell Barsh describes the reticence of Chile and Mexico to recognize

Historically, we marginalized communities and individuals that did not fit the stereotype of ourselves, as well as those who we marginalized in the home countries.⁴³ But we do that less in this country now. Perhaps that is what makes the English-only movements so painful for us in the United States—we are culturally accustomed to forcing people to conform to our own linguistic hierarchies and find it insulting to be on the other side of that equation.⁴⁴

Yet, in an odd twist of the American slogan, *e pluribus, unum*, the dominant discourse treats us as ONE to the world beyond our cultural borders.⁴⁵ Perhaps we feel that we should oblige, if only for political purposes.⁴⁶ Yet, ironically again, it seems that it is only in this nation that we have the luxury of blending together, if we choose to. But the process of blending, of creating what Leslie Espinoza has described as multi-identity⁴⁷ requires us to look forward not back.

B. Can We Change

It is easy enough, I would argue, to fall into the trap of cultural ossification as an immigrant from a non-dominant culture in this country. To retain our identity, we froze our notion of what it meant to belong to the culture of the country of origin from about the time we entered into the country of settlement. Historical culture becomes our identity anchor. I suggest that we should not tie ourselves so tightly to this historical culture that we sink and drown with it. We must avoid both the *zookeeper's approach to culture* and the *zookeeper's approach to identity*. We must avoid the possibility of what Jurgen Habermas describes as "administrative preservation" of cultures like forms of endangered species.⁴⁸

indigenous people's rights to "self-determination" because of the implied threat to their respective territorial integrity. Assimilation is the order of the day, assimilation into a European Hispanic culture. "Indigenous peoples could remain 'distinct and specific' yet also develop as 'integral parts' of the Chilean nation." Russel Lawrence Barsh, *Indigenous Peoples and the UN Commission on Human Rights: A Case of the Immovable Object and the Irresistible Force*, 18 HUMAN RTS. Q. 782, 797 (1996). There are exceptions, though. Since 1975, Peru has designated Quechua as an official language (along with Castillian Spanish), though Ecuador, where a substantial number of people also speak Quechua, has not done so. Bolivia has designated two native languages — Quechua and Aymara — official languages along with Spanish.

43. See, e.g., Jorge A. Vargas, *NAFTA, the Chiapas Rebellion, and the Emergence of Mexican Ethnic Law*, 25 CAL. W. INT'L. L. J. 1, 7-12 (1994).

44. For example, Nahuatl and Mayan speaking Mexico has designated Spanish its *official* language, as have Guatemala, Honduras and Nicaragua.

45. Truyol, *supra* note 6. "Significantly, the majority does not care one bit if you are Cuban, first wave or not, or Mexican or Puerto Rican or anything else. The funny name, the accent, the different culture and the brown skin are enough...." *Id.* at 411.

46. See, e.g., Berta Esperanza Hernández-Truyol, *Indivisible Identities: Culture Clashes, Confused Constructs and Reality Checks*, 2 HARV. LATINO L. REV. 199, 203-04 (1997) (LatCrit theory itself may evidence possibilities of political pan-ethnicity based on accommodation and coordination respecting difference).

47. See Leslie G. Espinoza, *Multi-Identity: Community and Culture*, 2 VA. J. SOC. POL'Y & CULTURE 23 (1994). See also Richard Delgado, *Rodrigo's Fifteenth Chronicle: Racial Mixture, Latino-Critical Scholarship, and the Black-White Binary*, 75 TEX. L. REV. 1181 (1997) (interrogating the black-white binary for understanding the relationship of racial elites with subordinated groups other than African-Americans, and suggesting alternatives to that antique model).

48. See Jurgen Habermas, *Struggles for Recognition in Constitutional States*, 1 EUR. J. PHIL. 128, 142 (1993). That, certainly is the implication of a cynical reading of Derrida's definition of the European democratic hegemonic norm as including "respecting difference, idioms, minorities, singularities, but also the universality of formal law, the desire for translation, agreement and univocity, the law of the majority, opposition to racism, nationalism and xenophobia." See JACQUES DERRIDA, *THE OTHER HEADING: REFLECTIONS ON TODAY'S EUROPE* 78-79 (1992). In effect we see difference in a cage. It can be given

A zoological approach to culture and identity in the Latino/a realm can be criticized on two grounds: *First*, the very act of *preserving* cultures unmodified and unchanging is an effective means of perpetuating hegemonies and hierarchies which might be better discarded. Preservation eliminates the possibility of growth or modulation, it becomes a trap. It is the cage within which we can perform historically accurate roles for the enjoyment of the outsider. This is the exercise of raw power without contact with the regulated—the power to define and the power to regulate.

Second, the resulting culture will inevitably be an artificial construct. It is derivative of something that no longer exists. The artificiality results from the maintenance of cultural norms from the outside, rather than from the exercise of free cultural practice from within. Understood properly, the temporal expression of culture, what I call popular culture,⁴⁹ represents merely an implementation of the *possibilities* inherent within culture, not the totality of the possibilities of culture itself (an impossibility). We necessarily *practice* culture through an endless attempt at replication.⁵⁰ "All the constitutional state can do is make possible this hermeneutic accomplishment of the cultural reproduction of lifeworlds. A guarantee of survival would necessarily rob members of the very freedom *to say yes or no* that is required today to make cultural heritage one's own and to preserve it."⁵¹

C. Sites for Self-Examination

I have been somewhat cynical and critical so far. I have adopted that posture deliberately, as a demonstration of the need to avoid imitation of all that we find so irritating in the attitudes and behavior of the dominant group in the United States. Critical theory and especially LatCrit Theory has a difficult and thankless task to perform. It takes upon itself the role of critic and questioner. This is a role requiring a person to adopt the stance that nothing is sacred except human dignity and respect. It grounds its basis on the notion that culture is constructed and should reflect the highest expression of human aspiration. LatCrit Theory must start with the proposition that culture is not a museum piece. LatCrit Theory must reject the notion that we are all meant to play

effect only within the strong containing walls of a hegemonic foundationalism which prevents much freedom for cultures to be as they may have to be. Where stability and the expression of minority norms is important, this is a desirable outcome, though hardly the leftist or radical politics under which these notions are hawked. What we approach here are the notions of toleration espoused by John Locke read somewhat more generously than in the past. See John Locke, *A Letter Concerning Toleration*, in GREAT BOOKS OF THE WESTERN WORLD I (Robert M. Hutchins ed. 1952) (1689).

49. For a discussion of the meaning of popular culture, as the singular temporal expression of the possibilities inherent in the collection of meta-norms we recognize as culture, see Backer, *supra* note 8.

50. See *id.* In this sense, popular culture can be understood as the "prejudices" (what I would characterize as value choices) of the extant communal tradition. See HANS-GEORG GADAMER, TRUTH AND METHOD 302, 306 (Joel Weinsheimer & Donald Marshall trans., 2d rev. ed. 1989). This is the fundamental nature of our interpretive community. See generally Stanley Fish, *Is there a Text in this Class?*, in IS THERE A TEXT IN THIS CLASS? 303-04 (1980). "[W]e constantly constitute and reconstitute our tradition, our culture, and our community as we engage in hermeneutic actions. Most important, this constant reconstitution is always simultaneously constructive and destructive." Stephen M. Feldman, *The Politics of Postmodern Jurisprudence*, 95 MICH. L. REV. 166, 198 (1996).

51. Habermas, *supra* note 48, at 142.

the role of exotic animals in a zoological park of immigrant culture.

Critical theory seeks to help us understand who we are, and helps us engage in the project of being *living authentic* cultures. As Latinos/as, we must be who we *want* to be. In this project, all norms and normalizing rules are fair game. Dennis Altman has recently criticized the related discipline of Queer theory because

'Queer theory' shares with much of contemporary postmodernism an emphasis on representation as an aesthetic rather than a political problem, a desire to deconstruct all fixed points in the interests of 'destabilizing' and 'decentering' our preconceptions. Given the arcane language within which much theory is written...this theory is almost totally ignored by the vast majority of people whose lives it purports to describe.⁵²

I believe Altman is quite correct in describing the aesthetic orientation of critical theory. I disagree that it tends to deter either political action or the construction of individual lives. Rather, it provides us with the tools through which these goals can be effected through a process of cultural calumny.⁵³

There are a number of ways in which we, as individuals, practice our culture that we should think about as we confront the *lived* reality of what it means to be Latina/o in this country.⁵⁴ I will briefly touch on some of them, as well as their implications for our approach to law making and policy in this country, which we share with many others. I do not suggest this list is complete, I offer no conclusions and I presume no answers. Those are not my tasks here. Nor should we believe it the task of any solitary theorist, or any institution, for that matter, to supply the answer for any of us. *Caudillismo*—whether theological, political or ideological—is a historical weakness against which we must always struggle. I suggest only that part of what it means to exist in some

52. Dennis Altman, *On Global Queering*, 1(2) AUSTL. HUMAN. REV. (July 1996) <<http://www.lib.latrobe.edu.au/AHR/archive/Issue-July-1996/altman.html>>.

53. "I suggest that, indeed, social change of a limited nature may be attained. The means by which such successful change may be accomplished I introduce here as the notion of *subversive calumny*. This project of subversive calumny is critical and realist. It insists that the slow, never-finished project of molding current expression of popular culture must be consciously undertaken. . . . The project of subversive calumny will require resort to law for two purposes. The first is to provide a site for the broadcasting of different iterations of popular culture in an "authoritative" setting. The second is to provide a space for a necessary official *imprimatur*, for the *confirmation*, not the inauguration, of changing interpretations of the possibilities within traditional culture." Backer, *supra* note 8 (on subversive calumny as the means of modulating cultural recognition and acceptance of otherness and the limitations of this enterprise).

54. I am essentializing here a bit. I understand that these norms are neither uniformly observed, nor always strongly tied to what it means to be Latino/a. However, the norms I have chosen to interrogate in this section reflect those culture standard which at one time or another have exerted a substantial influence on the public expression of our cultural "signature." They are also the norms which the dominant culture ascribes to us, usually not entirely correctly, as generalizable cultural traits which we share in common. For an example of this sort of thing, see, e.g., *The Keenest Recruits to the Dream: Four Centuries After Spanish-Speakers Settled in what is Now the United States, How Close Have Latinos Come to Make Their Presence Felt?*, THE ECONOMIST, April 25, 1998, at 25 (noting, for example, that "Latinos, with their work ethic, their religion, and their love of family, might seem natural Republicans" *Id.* at 27).

vital sense as Latina/o in this land of ours should be a readiness to interrogate who we are and what we should be, both as a matter of personal and group expression.

One increasingly notorious life-habit, which we share with our non-Latino/a fellow residents, is the adherence to old-fashioned, traditional patriarchy. If we follow the ancient ways, there is little room for women as people of dignity equal to men. True, Latina women have always been accorded their *special* dignity. We are comforted by the notion of equivalence—separate but equal. This equivalent dignity has always been exercised by women only in a segregated world of their own, centering on the house. “Todas queremos ser damas de casa” is what may be for many of us now the ironically quaint articulation of this notion. Still, I wonder whether we would destroy our culture were we to deviate from the norms we brought with us from the home countries in this regard. Are gender roles for Latinos/as etched in stone? I think not.⁵⁵ Indeed, people in our home countries have begun down the path of rethinking patriarchy.⁵⁶ Also, consider the way many Latinos/as have attempted to abandon the masculinity inherent in the construction of our language.⁵⁷ The political implications of this cultural life-habit, if the notions inherent in patriarchy are strongly Latina/o life-habits, are comforting to Anglocentric as well as Latinocentric traditionalists. Yet here is a vital core area of cultural definition with which LatCrit theorists would seem to wish to modify. It is true that the particular forms through which we attack Latina/o patriarchy may be different from the ways in which “progressive” non-Latinos/as attack such fundamental cultural norms, yet in this area, who we may be does not appear to be who we may want to be. And we here use law in an attempt to remake us in certain fundamental respects.

In addition, gender roles are not limited to heterosexual identities. Latinos/as, like most cultures with strong European roots, traditionally marginalized sexual minorities as well as women.⁵⁸ I wonder whether that cultural trait should be part of the essence of what it means to be Latino/a in this country.⁵⁹ I am reminded that the reality of division within gender transcends the

55. For a thoughtful discussion on this point, see, Margaret E. Montoya, *Máscaras, Trenzas y Greñas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse*, 17 HARV. WOMEN'S L.J. 185 (1994). See also the personal anecdotes in Ana M. Novoa, *American Family Law: HiStory—WhoStory*, 19 CHICANO-LATINO L. REV. 265 (1998).

56. See, e.g., THE WOMEN'S MOVEMENT IN LATIN AMERICA: FEMINISM AND THE TRANSITION TO DEMOCRACY (Jane S. Jacquette ed., 1989); Martha I. Morgan, *The Bitter and the Sweet: Feminist Efforts to Reform Nicaraguan Rape and Sodomy Laws*, 26 U. MIAMI INTER-AM. L. REV. 439 (1993) (and see the literature referenced at *id.* Note 2 at 440); Katherine M. Culliton, *Legal Remedies for Domestic Violence in Chile and the United States: Cultural Relativism, Myths and Realities*, 26 CASE W. RES. J. INT'L L. 183 (1994). On Latina interrogation of patriarchy in the United States, see, e.g., Jenny Rivera, *Domestic Violence Against Latinas by Latino Males: An Analysis of Race, National Origin and Gender Differentials*, 14 B.C. THIRD WORLD L.J. 231 (1994).

57. “‘Latinos/as’ is now almost universal among scholars of color.” Espinoza & Harris, *supra* note 34, at 85 CAL. L. REV. at 1645 & n. 74; 10 LA RAZA L.J. at 559 & n. 74.

58. See, e.g., RAMON A. GUTIERREZ, *WHEN JESUS CAME, THE CORN MOTHERS WENT AWAY: MARRIAGE, SEXUALITY, AND POWER IN NEW MEXICO, 1500-1846* (1991).

59. See, e.g., Yxta Maya Murray, *Toward Interest Convergence: Coalition Building Requires Connection Within as Well as Without*, 33 CAL. W. L. REV. 205 (1997) (on overcoming racism and homophobia within the Mexican-American community); Carmen Vazquez, *Bursting the Lavender Bubble*, 40 OUT/LOOK 53 (1991) (“Challenging homophobia in the Latino community is no more and no less a challenge than it is to challenge it in any other community” *Id.* at 54).

simpleminded binary — black/white. Consider Terri de la Peña's experience during a workshop on homophobia given to a staff "mostly Latina, with some Latinos, African-Americans, and Asian-Americans." During the course of her participation, she looks "at the many brown faces before me, some haciendo caras (making faces), repulsed, others stoic, their visages like chiseled bronze, and I feel as if I am revealing myself to my family all over again . . . [B]ut this time I am not teased for being the shy bookworm; this time I proclaim myself a Chicana lesbian, a tortillera, a maricon. To these Latinas who otherwise could be my sisters, I am the "other."⁶⁰ The politics of sexual orientation has significant implications for Latinas/os. If we mean for our peoples to engage in politics, which extends beyond the insular, then we must confront our own cultural attitudes toward issues of sex. Yet, a Latina/o approach to these issues based on traditional cultural approaches may not produce the contribution that "progressive" practitioners of LatCrit Theory may wish. If the "cure" is "education" through coercive imposition of international law principles, then "we" are "contributing" to a general problem of American law and public policy to the same degree (though perhaps manifested in marginally different approaches)⁶¹ as our neighbors of European cultural adherence. Perhaps in this respect we are stereotypically "American" as the dominant culture group in this country—the difference (and perhaps the critical difference) is the nuance which our own sexual non-conformists (a subordinated group within a subordinated group) may bring to the legal issues of the acceptance among us of sexual non-conformity.⁶² But, I suspect many of us will not come willingly down this road.

Another set of cultural norms worth re-examining is our attachment to religious chauvinism. Once, we were not all Catholic, or even Christian, or even Judeo-Christian. We sometimes pretend we were or are or can still be. I wonder whether our culture is so tied to the ancient notions of *pureza de sangre*⁶³ that we cannot escape it without rejecting all that we are. I doubt that is true. Yet there is irony here. We are fond of accusing Anglo-American culture of racializing everything. Yet we are the heirs of a culture which might be said to have done the same thing, substituting religion for race. Are religious converts culture traitors?⁶⁴

60. Terri de la Peña, *Chicana, Working Class and Proud: The Case of the Lopsided Tortilla*, in *OUT OF THE CLASS CLOSET: LESBIANS SPEAK* 195, 203-04 (Julia Penelope ed. 1994). Some have argued for the creation of a separate ethnicity for gay men and lesbians, arguing by analogy to the construction of a Latino/a singular ethnicity in the United States. See Fernando J. Gutierrez, *Gay and Lesbian: An Ethnic Identity Deserving Equal Protection*, 4 *LAW & SEX* 195 (1994).

61. See, e.g., Thomas Almaguer, *Chicano Men: A Cartography of Homosexual Identity and Behavior* in *THE LESBIAN AND GAY STUDIES READER* 255 (Henry Abelove et al. eds., 1993) (a study of the ways Chicano gay males attempt to create a culturally satisfying pattern of behavior blending European or international "gay culture" with Latino/a cultural norms which resist the creation of the category "gay" in the manner it has been culturally constructed among European gay men).

62. See, e.g., Elvia R. Arriola, *Faeries, Marimachas, Queens, and Lezzies: The Construction of Homosexuality Before the 1969 Stonewall Riots*, 5 *COLUM. J. GENDER & L.* 33 (1995) (describing the contribution of Latina/o sexual non-conformists to the struggle for rights for rights for sexual minorities in this country).

63. On the origins and effects of the Hispanic socio-cultural and legal obsession with blood purity, see ANTONIO DOMÍNGUEZ ORTIZ, *LOS JUDIOCONVERSOS EN LA ESPAÑA MODERNA* 137-71 (1992).

64. If the presence of Jews, and crypto-Jews among us is not enough to give us pause about conflating Latino/a culture and Catholicism, perhaps the reality of changing Latino/a religious affiliation should. Consider that some people believe that "Evangelical growth among Latinos has occurred in part at the expense of the Catholic Church, which has been losing an estimated 60,000 Hispanics annually to other church bodies." Andrés Tapia, *Growing Pains: Evangelical Latinos Wrestle With the Role of Women, Generation Gap, and Cultural Divides*, *CHRISTIANITY TODAY*, vol. 39(2), Feb. 6, 1995, at 38. As such, I find disturbing, the tendency among some of us, to view with suspicion, the advances made by mostly Christian evangelical

While the conspiracy theories of the left about the evangelicals as agents of American imperialism are less frequently heard today, the Catholic church continues to be concerned about the advances of what the Catholic bishops at their 1992 Conference in Santo Domingo called "the sects." Referring to the challenge posed by "proselytizing fundamentalism by sectarian, Christian groups who hinder the sound ecumenical path," they accused them of hostility to Catholicism and of resorting "to defamation and to material inducements," adding that, "although they are only weakly committed to the temporal realm, they tend to become involved in politics with a view to taking power."⁶⁵

It troubles me that we can still remain blind to the exclusions inherent in statements such as the following: "Even if one could identify with precision which surnames connote Hispanic ethnicity, the question remains whether the name was obtained through marriage or adoption rather than birth. Moreover, some Hispanic sounding names — such as Cardoza and Perez — are common among Sephardic Jews."⁶⁶ The marginalization of non-dominant religions within our Latina/o cultures has racial overtones, which replicate the patterns of our home countries. Consider that even in officially progressive places like present day Cuba, "African traditions are relegated to the category of folklore, and centuries-old African religious systems are dismissed as cults and sects —

sects in the religious conversion of our neighbors.

65. Paul E. Sigmund, *Religious Human Rights in the World Today: A Report on the 1994 Atlanta Conference: Legal Perspectives on Religious Human Rights: Religious Human Rights in Latin America*, 10 EMORY INT'L L. REV. 173, 179 (1994). But see Jim Jones, *Latino Catholics Boost Graham Crusade Attendance*, CHRISTIANITY TODAY, vol. 41(6), May 19, 1997, at 5. ("Flores, one of the nation's first Mexican-American bishops, met with Graham and taped radio spots in English and Spanish encouraging Catholics to attend the Crusade to help bring them to a closer commitment to their faith.").

66. U.S. v. Changco, 1 F.3d 837, 841 & n. 1 (9th Cir. 1983) (evaluating a challenge to what was asserted to be discriminatory peremptory challenges). The case is mentioned by Professor Johnson in a discussion of the limitation of the utility of "Spanish" surname in identifying Latina/o identity. See Johnson, *supra* note 1, at n. 134; Kevin R. Johnson, "Melting Pot" or "Ring of Fire"? *Assimilation and the Mexican-American Experience*, 85 CAL. L. REV. 1259, 1295 (1997); 10 LA RAZA L. REV. 173, 209 (1998) (Professor Johnson here quotes part of Judge Kozinski's opinion in U.S. v. Changco, quoted above, in wrestling with the question of the utility of surnames as a proxy for ethnic identification). Yet this amazing statement by a judge of Eastern European extraction, outrageous for the unconscious and comfortable (for him) double sets of marginalizations and subordinations running through it, has raised little comment. It ought to. The subtle and perhaps unthinking implication that Sephardic Jews (or for that matter people adopted into Latino/a families) cannot be Latino/a (by some sort of definition) should be rejected. Spanish Jews have never forgotten their *patria* or their language, though marginalized and excluded by their Christian and Muslim neighbors. This they took with them to the New World, as did their Catholic neighbors. See, e.g., the essays in SPAIN AND THE JEWS: THE SEPHARDI EXPERIENCE 1492 AND AFTER (Elie Kedouri ed., 1992). That they have carried their Hispanicity to the Americas as well as to the gas chambers at Auschwitz is well known. See PRIMO LEVI, SURVIVAL AT AUSCHWITZ 79 (1958) (describing the "survivors of the Jewish colony of Salonica, with their two languages, Spanish and Greek"). Compare EARL SHORRIS, LATINOS: A BIOGRAPHY OF THE PEOPLE 3 (1992) (story of a Jewish Latina) thoughtfully recounted in Juan F. Perea, *Los Olvidados: On the Making of Invisible People*, 70 N.Y.U. L. REV. 965 (1995). Yet, one wonders, why an "Argentinean Jew" must by "cultural" reflex, perhaps, exist only as a "fantasy neo-European theory to understand my success. In others' eyes one cannot be both successful and Latino of non-European ancestry." Juan F. Perea, *Suggested Responses to Frequently Asked Questions About Hispanics, Latinos and Latinas*, 9 LA RAZA L.J. 39, 40 (1996).

despite representing the form of religious belief and expression of perhaps most Cubans, including the elite.⁶⁷ The political and legal implications of an "ethnicity" tied to a dominant religious discourse in the United States have already been felt in significant ways. Indeed, what might have been considered an intra-Latino/a conflict in another context has now helped shaped the contours of American notions of the free exercise of religion in this country.⁶⁸ The way the voice of religion silences the voices of "others" in the ongoing dialog about abortion, euthanasia, welfare reform, and other issues with respect to which religion claims an "independent" or perhaps discussion stopping voice remains to be seen. Yet the study of the relation between religion and ethnicity may contain the seeds for helping us separate the strands of our own multi-identities. Latinos/as speaking with or through the voice of the Roman Catholic Church may well be speaking as Catholics, perhaps even as Latina/o Roman Catholics but may not be speaking as Latinos/as. Nor ought the Roman Catholic, or Evangelical or Mormon voice, speaking Castellano, be conflated necessarily with Latino/a voices seeking to be heard with respect to issues of concern to the Latino community as a whole.⁶⁹

Ironically, Latino/a culture *does* preserve a color line. Perhaps we are far less obsessed with color than others, but we are certainly not color blind. Latino/a culture traditionally preserved a hierarchy of color—white on top, blended people in the middle and pure brown or black on the bottom.⁷⁰ Our notions were more democratic than the English. We tend to believe that white purifies all else, "blanqueamiento," rather than the other way around which was the English analogue. However, the notion of *pureza* (purity) in this context was also neither unknown nor rejected.⁷¹ In this country these notions of racial purity have perverse effects. Rather than implying socio-economic status, racialisms are sometimes used as criteria for membership in the community. Does one have to be brown or black to be Latino/a? Certainly the dominant

67. Gayle McGarity & Osvaldo Cárdenas, *Cuba*, in NO LONGER INVISIBLE, *supra* note 9, at 77, 97.

68. See Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 113 S.Ct. 2217 (1993) (Santeria Church brought action challenging city ordinances dealing with ritual slaughter of animals; the ordinances had been passed in the predominantly Latino/a city of Hialeah, Florida, by people long used to the suppression of this form of religious deviance in the home countries. *Id.* at 508 U.S. at 525, 113 S.Ct. at 2222.)

69. Kevin Johnson identifies a number of those issues. See Kevin R. Johnson, *Some Thoughts on the Future of Latino Legal Scholarship*, 2 HARV. LATINO L. REV. 101, 139-41 (1997).

70. See, generally, NO LONGER INVISIBLE, *supra* note 9 at 163, 164 (discussion of the marginalization and invisibility of African-origin citizens of Latin America in favor of a European or Indigenous favored discourse). We prefer to refer to this obliquely, even as we criticize the modern American form of racialization. Thus, for instance Angel Oquendo, in his insightful article on the Latino/a "race" notes that "[t]here simply are no discrete, isolated groups, such as White Latino/as or Black Latino/as. Rather, there are numerous different and overlapping shades, reflecting the individuals' heritage and to some extent correlating with their socio-economic class." Oquendo, *supra* note 31, at 102.

71. Tanya Hernández describes the utility of creating a favored "mixed race" class as a means of subordinating Blacks and maintaining white Supremacy. Tanya Katerí Hernández, "Multiracial" Discourse: Racial Classifications in an Era of Color Blind Jurisprudence, 57 MD. L. REV. 97, 121-23 (1998). She argues that "Latin American race relations are a poor model to emulate. The recognition of a separate class of mixed race persons in Brazil has not led to a genuinely color-blind society, because the desire to avoid being categorized with a denigrated Black populace has resulted in a hyper-consciousness of color gradations and phenotypical traces of African ancestry. In fact, Brazilians describe their race relations as 'veiled apartheid.'" *Id.* at 133-34. Even in post-Revolutionary Cuba, the "higher social status frequently attached to white and mulatto women leads many black and mulatto men to continue the historical pattern consistent with *blanqueamiento* of selecting whiter women as mates." McGarity & Cárdenas, *supra* note 67, at 102.

discourse would have us characterize membership in that way. But should we?⁷² That would be ironic given the pride with which we display the countless ways of the European origins of our common traits—including, most ironically of all, our language. One cannot discard the race and keep the culture. That seems unfair, and perhaps undoable.⁷³ Nor can racializing our origins erase the reality that ours is in some large part an invader's culture. That sort of erasure is a fraud.

Then there is the question of assimilation. Perversely, given our history of "burn and convert,"⁷⁴ Latinos/as have become very much the Jews of North America. We fear assimilation, yet we want to be treated as if we were not different. We hold on to those signs, symbols and manifestation of our difference, yet resent the recognition of that difference by the majority. We despise being despised and still our difference makes us a target of hatred by the majority. We come to this country to better our lives and live like everyone else. Once here, we find ourselves the major character of any number of grand conspiracy theories about how we mean to take over and dominate the other peoples of this country. Perhaps in this we are all Jews. Consequently, how we treat others and recognize differences within our ranks, the dignity that we accord to others, may well reflect on the way in which the dominant group will treat us. Our *orgullo* (pride) as a set of self-consciously inclusive cultures, as *culturas mezcladas* (loosely "amalgamated cultures") requires us to confront any tendency within us to reproduce the stratification and hegemony we have grown to despise when applied against us in this country. The positive sense of our Jewishness in this land is the very openness and inclusion, the malleability, of which we strive to be as a group of many disparate parts.

Lastly, we need to interrogate the notion of culture treason. This is a nasty thing, tied, in

72. Kevin Johnson has expressed this problem in the context of his own personal experiences.

While not subject to discrimination by Anglo-society on account of physical appearance, light skinned Mexican-Americans may suffer "micro-aggressions," such as racial insults of Mexican-Americans in their presence. They may also be challenged by their fellow Mexican-Americans as being "too White." The term *gabacho*, slang for Anglo, has been directed by some Mexican-Americans at other Mexican-Americans. Perhaps it is simply my own self-consciousness, but many Latinos of mixed heritage at various times feel less than fully accepted by the Latino community. Because being rejected by Latinos does not necessarily mean full acceptance by Anglos, such persons may feel as if they do not belong fully in either the Anglo or Latino worlds.

Johnson, *supra* note 66, at 85 CAL. L. REV. at 1292-93, 10 LA RAZA L. J. at 206-07 (for the additional problems of people of "mixed-race", see *id.* at 85 CAL. L. REV. at 1305-06; 10 LA RAZA L. J. at 219-20.

73. See, e.g., Perea, *supra* note 12.

74. For a contemporaneous account of the Spanish genocide of indigenous America, in many respects every bit as bad as the Anglo genocide of centuries later in North America, see, BARTOLOME DE LAS CASAS, THE DEVASTATION OF THE INDIES: A BRIEF ACCOUNT (Herma Briffault trans. 1974) (1542).

many respects to assimilation. Cultural treason suggests socio-cultural apostasy. It sparks extremely strong reaction because, taken too far, assimilation might well imperil the cohesiveness, the differentiated self-consciousness of that bundle of differences that separates "us" from "them" whether by "our" hand or "theirs." I remember growing up and hearing the charge of *arrepentido* (one repentant of one's origin) leveled at people who were moving too fast and too completely into the mainstream. It was meant as a warning and a challenge. Move too far into the mainstream and you will lose your identity; you will also lose your place among us. No one of us is ever unaware of the constant tug of what increasingly is seen as conflicting loyalties to this country and our culture.⁷⁵ Yet I wonder whether the notion of choice implicit in notions of assimilation must always be so. If one can add a second language without losing the first, ought one not be able to develop a facility in another culture without disavowing the first. Participation ensures the authority to interrogate and seek the modification of the communities to which one belongs. It would seem that the emerging notion of multi-identity is compatible with notions on non-exclusive assimilation without the need for the coercive social restraint of "cultural treason."

Cultural treason mattered less for any given individual, perhaps, in the days before culture became political in both dominant and subordinated communities. One could always retain or reclaim one's identity, or not be bothered by thinking that this identity has been "lost." And, in contrast to African-Americans, even partial assimilation is an option with Latinos/as. We have a high rate of intermarriage. And many of us look white, or at least not of noticeably African or indigenous origin. Yet, even for those of us who can, assimilation, which includes a disavowal of what one assimilated from, can be traumatic, and is not always successful.⁷⁶ Moreover, assimilation, and the fear encapsulated in notions of cultural treason, carries with it the dread of a "deal with the devil" of dominant society. Once the source of subjugation and exploitation, "the dominant society has embarked on [a campaign] to divide and conquer. Dominant . . . culture will open the doors to 'whiteness' for those groups of people of color who it deems readily assimilable . . . Critical targets as communities (not as individuals) are light skinned Latinos/as . . ."⁷⁷ It is not

75. RICHARD RODRIGUEZ, *DAYS OF OBLIGATION* 50 (1992) (For Rodriguez's father, American citizenship would have been seen as a betrayal of Mexico....); Johnson, *supra* note 66, at 85 CAL. L. REV. at 1285, 10 LA RAZA L.J. at 199 ("a significant number of Mexican immigrants view naturalization...as the mark of a traitor.")

76. See, e.g. Yxta Maya Murray, *The Latino-American Crisis of Citizenship*, U.C. DAVIS L. REV. 503 (1998). Coming from vastly different political and socio-cultural perspectives, both Richard Rodriguez and Kevin Johnson remind us of the conflation among some Mexican-Americans of declaring allegiance to the *patria nortea*. Compare the journey of Kevin Johnson, Johnson, *supra* note 66, at 85 CAL. L. REV. at 1285, 10 LA RAZA L.J. at 199, with that of Richard Rodriguez, RODRIGUEZ, *supra* note 15.

77. Backer, *supra* note 32, at 64. Indeed, Richard Delgado has suggested that the effects of this loss of identity can have apocalyptic representations at a time when the white elite is preparing for racial subjugation of people of color in the United States. See Delgado, *supra* note 14 ("The phenomenon of right wing Chicanos and Latinos is used by dominant whites to split Latinos off from (especially) African-Americans in an effort to continue white dominance). I agree. And within this cultural matrix, scholarship, such as Professor Delgado's has a favored place:

No society tolerates radical dissent if that society means to survive. To the extent that minorities are painlessly co-opted, controlled, or radicalized, the invitation to engage in what can be characterized as radical scholarship plays a useful role in defense of the disciplining of dominant discourse. Rejectionist and

clear that this project has our best interests at heart; but the carrot is the ability to once again (re)join a dominant group. For some of us, the price we will pay is the acquiescence in the model of subordination created by the current socio-cultural elite. Some of us will be sacrificed so that others can "progress" and the choice of sacrifice will be based on color. Yet, to some extent, this is a price we have already shown a willingness to pay in our countries of origin.

But public membership, in accordance with some sort of public set of norms, seems to matter more now. Where did these norms come from? Who gets to have input into their inclusion, and their relative importance? Who can help change them, at least as public expressions of manifestations of identity? Public expressions of allegiance in accordance with one formula or another seems important for the preservation of ties to the community.⁷⁸ Belonging is an active thing now, a manifestly political project. Cultural expression becomes a political act. As such, it becomes far too dependent on the whims of faction. It becomes artificial again. It serves a purpose other than the purpose of *living and being*. It becomes the charge of those who would represent us, or some of us at any rate. "Acts such as stereotyping, reading the books of groups' leadership, and letting the representatives of blocs speak may do injustice to the transcultural concerns on the one hand and the micro-interests of subcommunities on the other."⁷⁹ Yet, we should worry about the people we permit to determine *belonging*. I agree that culture has political manifestations. One need only read the opinions of Justice Scalia to see the truth in that.⁸⁰ Still, I

separatist discourse, served up in highly demonized form, is used to scare and intimidate dominant group elites seeking dialogue. Perversely, as the tradition rejecting scholars rightly note, past history and current practice offers little hope for real positive change short of what for many would amount to racial suicide or oblivion.

Backer, supra, at 65. Professor Delgado suggests that white *revanche* will ultimately be violent when it comes and will presage the fall of the Republic. I suggest, rather, that the discipline of dominant cultural control has always been in place, has occasionally been violent, and has worked well within the context of our Republic *as the dominant discourse envisions it*.

78. Consider Richard Delgado's notion that it behooves Latinos/as to incorporate class consciousness as a sort of cultural norm when he gently criticizes Judge Garza for "extolling individualism and telling his countrymen and women that they could rise and accomplish the American dream through hard work, just as he had. He detested discrimination . . . but attributed them to individual failures. . . not to anything systematic." Delgado, *supra* note 47, at 1187.

79. MARTIN E. MARTY, *THE ONE AND THE MANY: AMERICA'S STRUGGLE FOR THE COMMON GOOD* 113 (1997). Thus, despising the regimentation and silencing of dominant discourse so much, it is a wonder that we sometimes appear to mimic these despised political traits. Of what relevance, other than to marginalize and subordinate, is a judgment that someone like Linda Chavez is "a traitor who sold her surname to anti-Hispanic causes." JAMES CRAWFORD, *HOLD YOUR TONGUE - BILINGUALISM AND THE POLITICS OF "ENGLISH ONLY"* 155 (1992). Yet, we sometimes give in to treason analysis in confronting conflict between groups as well as within them. That tends to reduce culture to politics, and cultural norms to political cant. See, e.g., Richard Delgado, *Rodrigo's Eleventh Chronicle: Empathy and False Empathy*, 84 CAL. L. REV. 61, 969-70 (1996); Cf. Barbara J. Flagg, *Was Blind but Now I See: White Race Consciousness and the Requirement of Discriminatory Intent*, 91 MICH. L. REV. 953, 969-79 (1993).

80. For recent expressions of these notions, see, e.g., *Romer v. Evans*, 116 S. Ct. 1620, 1629 (1996) (Scalia, J., dissenting); *United States v. Virginia*, 116 S. Ct. 2264, 2292 (1996) (Scalia, J., dissenting); *Employment Division, Dept. of Human Resources of Oregon v. Smith*, 494 U.S. 872 (1990) ("It may fairly be said that leaving accommodation to the political process will place at a relative disadvantage those religious practices that are not widely engaged in; but that unavoidable consequence of democratic government must be preferred to a system in which each conscience is a law unto itself or in which

suggest that cultural expression should not be reduced solely or primarily to a tool of politics. A culture which can be shrunk to mere political discipline has lost its power as *culture* and become something else. Perhaps it becomes closer to our concept of *partido* (political party), and far less attached to our notion of *comunidad* (community). All people have a bad habit of looking for leaders, for the embodiment of truth in some person or other. LatCrit Theory should make us sensitive to the reality that who we are is the sum of all of our parts, and not the product of the manipulation of some. Excommunication is something that should trouble us. Engaging in the project of exclusion and rigidity within our ranks may be a sure way to disintegration. Worse such a project may make the notion Latino/a irrelevant in the long run.

D. Where Do I Leave You

LatCrit, or, for that matter, any critical theory is frequently used to explain the ways in which dominance imposes hegemony. It seeks to interrogate the sources of power imbalances and to suggest sites where such imbalances can be contested. I suggest that LatCrit Theory is also useful *entre nosotros*. It provides with the discipline necessary to view ourselves honestly, and to live authentically but not uncritically within the cultural norms which animate us.⁸¹ LatCrit should offer you a catechism. LatCrit provides the mechanism for cultural truth seeking and for cultural honesty. It provides a mirror. It suggests that you study the mirror carefully, and that you see the truth revealed. LatCrit Theory provides a habit of reflection, which cannot be easily discarded. The habit of looking in the mirror, the critical self-conscious reflection which LatCrit Theory offers us, is a project for the lifetime of the observer.

For Latino/a culture in the United States, that habit will be around, in some shape or other, for a long time. A Latino/a is not an artifact, a creature in the zoological exhibit of immigrant exotica; being Latino is not a daily reliving history. Being Latino/a today requires that we become conscious of the nuances both of who we are and of who we ought to be. It requires a conscious willingness to confront the contradictions of our own system of norms. It also requires a commitment to facing cultural habits, which we may want to interrogate. We expect the dominant groups in this country to engage in this exercise; we expect them to acknowledge the contradictions of their norm systems and to make an effort to accommodate and change in accordance to shared principles of fairness and equity. We can expect no less within our family. Being Latino/a is being, conscious of the past and open to the future. We are a living thing.

judges weigh the social importance of all laws against the centrality of all religious beliefs." *Id.* at 890).

81. Indeed, this is proving to be the case. The LatCrit II "conference, like LatCrit I before it, produced lively and unanticipated forays precisely because LatCrit theory is committed to creating occasions for the engagement of difficult yet pending issues." Elizabeth M Iglesias & Francisco Valdez, *Religion, Gender, Sexuality, Race and Class in Coalitional Theory: A Critical and Self-Critical Analysis of LatCrit Social Justice Agendas*, 19 CHICANO-LATINO L. REV. 503, 507 (1998).