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ESSAY: BUILDING BRIDGES III - PERSONAL NARRATIVES, INCOHERENT PARADIGMS, AND PLURAL CITIZENS

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BIO:

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SUMMARY: ... In this Essay, I purport to eschew any divisive strategy such as Professor Graglia's and instead propose that the way to empowerment and full participation for communities of color, and indeed for all members of society, is to work together to build coalitions and maintain alliances. ... Such a model permits and facilitates our claims on the social contract and thus, enhances the lives and spirits of persons and communities of color. ... Drawing from such indivisible and interdependent commonalities, this Essay, in three parts, explores bridge building among communities of color with the purposes of creating, maintaining, and developing alliances. ... In the last part of the Essay I will endeavor to build a bridge between and among all communities of color by taking a different look at the Black, Latina/o and Asian/Pacific communities, suggest how much we have in common, and articulate some of our shared stories, histories, truths. ... This also hurts other communities of color who are "blamed" for their own impoverishment - economic, educational, and moral, for their lack of skills attainment, and for not being as successful as others. ...

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Because we never had a chance to talk, to teach each other and learn from each other, racism had diminished all the lives it touched... Our young must be taught that racial peculiarities do exist, but that beneath the skin, beyond the differing features and into the true heart of being, fundamentally, we are more alike, my friend, than unlike.

- Maya Angelou n1

The constitution does not provide for first and second class citizens.

- Wendell L. Willkie n2

In recent times, nativist feelings and animus against "others/outsideers" have started to run rampant in a public and clamorous fashion. A country's collective mood is reflected in the prevalent moves toward adopting initiatives that will curtail the exercise and enjoyment of civil, political, economic, social, and cultural rights of persons - citizens and non-citizens alike. Examples of these "populist" movements abound. n3 One is the now infamous Proposition [*304] 187 n4 in California which is based on shaky legal ground n5 but strong popular support. n6 The Proposition sought to deny any access to health (except emergency care but including pre-natal and post-natal maternity services), education n7 , and welfare benefits to some, though on the face of the initiative, not all, undocumented foreigners. n8 Similar to Prop 187, the federal immigration n9 and welfare n10 "reforms" purport to fix the "immigration" problem by keeping out undesirables and getting rid of "illegals." These federal laws also deny social welfare benefits to citizens and non-citizens alike. n11

[*305] One particularly odious example of the attempted tyranny of the so-called moral majority against the rights of an "othered" group is the now formally-declared unacceptable Amendment 2 in which Colorado citizens succeeded in their "populist" movement to prohibit localities within the state from passing measures to protect sexual minorities. Amendment 2 specifically prohibited any municipality from enacting an ordinance that proscribes discrimination against its gay, lesbian and bisexual population in housing and employment. n12 Even after the pronouncement of illegality from our Supreme Court, the ultimate adjudicator of constitutionality of such laws, n13 the hostility and animosity of the self-proclaimed architects and guardians of our morality and rectitude - who claim not only to be the readers of our moral compass but also to have the ability to set its proper course - has not ceased. Rather, subsequent attempts to pass similar anti-gay/lesbian rights laws seek to test the depth and stability of the legal reasoning that invalidated the Colorado amendment. n14 Indeed, it appears that instead of clarifying the existence of [*306] rights of gay and lesbian persons, the Romer decision has fueled the animus against them.

Certainly, any analysis of the emergence of nativist, racialized animus is incomplete without mention of the prevalent, pernicious attacks on affirmative action that are infecting the country n15 and creating a backlash against the ability of persons of color fully to exercise their participatory prerogatives in all corners of this so-called democratic society from the classroom, n16 to the workplace, n17 from the trenches, n18 to the voting booth. n19 The consequences of these efforts are nowhere as evident as in the composition of law school and medical school classes in the public California universities with the most striking and stark manifestation being at Boalt Hall where only a single Black n20 student enrolled in the entering first year law school class. n21

[*307] In the legal education field, University of Texas Professor Lino Graglia's anthropological and ethnographic musings on the Black and Mexican cultures have come to represent the heart of the anti-affirmative action debate. His now-infamous observations described the Black and Mexican cultures as being ones "that seem[] not to encourage achievement [and in which] failure is not looked upon with disgrace," n22 thus, perhaps inferring that failure is expected and even acceptable. These pronouncements while unforgettable, unamusing and uninformed, certainly reflect the widespread, epidemic climate of cultural supremacy that views differences through the lens of stereotypes and myth which are then presumed to be, and are anointed as, truths and objective fact. Unapologetic at, and unperturbed by, the negative reactions to his remarks, Professor Graglia further explained himself stating that while he did not believe that minority students were genetically or intellectually inferior, "there is a cultural factor at work." n23 He simply sought to provide the "least controversial, the most congenial response" to rationalize why such students did not perform en par with White students. Undaunted, the constitutional law professor continued: "It appears to be the case that somehow some races see to it that their kids are more serious about school. They cut less and they study more." n24

In this Essay, I purport to eschew any divisive strategy such as Professor Graglia's and instead propose that the way to empowerment and full participation for communities of color, and indeed for all members of society, is to work together to build coalitions and maintain alliances. This piece, entitled "Building Bridges III" builds upon two previous works that have wrestled with the theme of cooperation within and between communities. Building Bridges I n25 was the first time I wrote on what could be labeled identity themes. In that work I focused on the Latina/o communities in the United States and, while recognizing, accepting, and embracing our pan-ethnic diversity, I emphasized our common grounds, our merged and shared fields of interests, goals, and languages that would, could, and should encourage and facilitate our working together to build bridges among ourselves with the intent of aiding and promoting our collective conditions vis-a-vis the majority community. n26

In Building Bridges II, n27 I suggested the building of a different type of bridge - one between the global and the local, using international human rights norms to establish our entitlement not only to civil and political rights but also social, economic, cultural and solidarity rights. Such a model permits and facilitates our claims on the social contract and thus, enhances the lives and spirits of persons and communities of color. n28 This second article identified three areas in which our domestic laws failed to provide protection that international human rights norms afford: gender biases, n29 the death penalty, n30 and the panoply of curtailments that some of the referenced state initiatives have effected. n31 The enhanced international protections also include the rights to language and culture contained in human rights instruments but absent in our local jurisprudence n32 as well as some indirect deprivations of the related rights of association and education. n33

[*309] The second bridge proposal coincided with the emergence of the LatCrit movement - a recently denominated tributary of critical thinking and conversations - initiated by Latina/o scholars and their friends just a couple of years ago when some of us were lamenting the absence of Latina/o voices from critical legal discourses. n34 We thought about the diversity within our comunidad as, after all, we are men and women; blond and brunette; tall and short; lesbian/gay and straight; Buddhist and santera/o; monolingual, bilingual, multilingual; and of Black, White, Asian, and Native/indigenous roots. n35 Could we and our friends - who are men and women; blond and brunette; tall and short; lesbian/gay and straight; Buddhist and santera/o; monolingual, bilingual, and multilingual; and of Black, White, Asian, and Native/indigenous roots n36 - coalesce around issues of justice, democracy and true participatory citizenship? n37 In just a short period of time the movement has exhibited great potential. n38 To be sure, we have had successes and stresses. n39 However, honest, caring, humanitarian discourse that taxes our own abilities to sympathize and empathize with, and learn from, each other and our collective similarities and differences in experiences and knowledges ultimately succeeds in the quest to create a more diverse, inclusive environment. It is a wholly satisfying endeavor, not to mention a daunting challenge, to work towards building a community that values everyone's history, culture and languages. This piece suggests [*310] the building of yet another bridge - one between and among communities of color, communities which pave the way for these conversations because of their natural interlockings, built-in commonalities as embodied in, and represented by Afro-Latinas/os, Native/Latinas/os, and Latina/o-Asians.

Drawing from such indivisible and interdependent commonalities, this Essay, in three parts, explores bridge building among communities of color with the purposes of creating, maintaining, and developing alliances. The first part, Personal Narratives, shares with readers some cuentos (stories) as a method and path in which to position the lectors: to contextualize my frontiers and familiarize them with my daily travels through diverse and varied borderlands; the many communities with which I intersect and interact, and in which I live - all of them my communities; and in all of which I am both insider and outsider. n40 Part II, Incoherent Paradigms, suggests that the prevailing race-based legal Pdigms are, today, n41 imperfect and under-inclusive because they force an epistemological perspective that is not adequate or appropriate for the inspection and study of the myriad identity issues permeating present day society and consequently law

- from the classrooms to the courtrooms, from the prisons to the boardrooms, from the streets to the bedrooms.

Finally, in *Plural Citizens*, the Essay proposes a globalization of our interests, views, and positions. We are increasingly complex beings, communities, and societies. In prior works I have proposed that we shift from a myopic single-trait analytical framework to a multidimensional framework that moves those who are most at the margins to the center of identity discourse. n42

In order to promote understanding of the margins, this work proposes that we continuously engage in, and regularly practice, polilocal hermeneutics, n43 a process in which we keep firmly planted [*311] holds on all defining aspects of identity and community, in which the sources of knowledge and meaning of identity components/community are "collective, interactive, inter-subjective, and networked." n44 Only by engaging in such multilingual, multicultural, multiracial discourses within ourselves and between and among our various and varied communities, where intellectual analysis is grounded in all of our worlds not only part of them, will we be able to understand and work within our cultural, racial, gender, sexuality, ethnic, religious differences with a goal of strengthening and respecting all the pertinent communities, rather than seeking to silence and subordinate some peoples and citizenries in favor of the existing hegemonic hierarchical Pdigm. n45

I. Personal Narratives

Recently, Maya Angelou explained the voice of her narratives. n46 That account, a description of her writing process, expressions, representations, inspirations, and expositions, helped me understand a lot better what I do, why I do it, and why I do it the way I do. She writes about Black people because that is what she knows. That is her life, her experience, her identity and her community. She continued to explain and expand that observation by underscoring that the anecdotes her poetry and other writings, including screenplays, relate are constituted from her understandings, knowledges, and insights. Her stories are, in the end and in their foundation, stories about people, about communities and societies, about humanity and human nature and all the emotions, feelings, passions and needs of the human spirit. Thus her chronicles, her histories are in essence [*312] stories about and for all of us, simply plaited with her yarn, there for all of us to experience, enjoy, grasp, discover, and learn. The manner, method, and style in which the chronicles are casted and framed simply reflect and resonate her voice. This Essay's objective and aspiration is that different and diverse persons and communities reading my meditations will be able to engage in polilocal hermeneutics to analyze, translate and pronounce, in turn in myriad voices, my hope to form an emancipatory cross and multicultural alliances that can and will result in a harmonious and thriving coexistence among us.

Thus the first question that immediately might surface and beg for an answer is: what is her voice? What are the translations, pronunciations, and analyses in which we have to engage? Who is talking to us: the lawyer; the daughter; the sister; the law professor; the friend; the lover; the writer; the woman; the Latina in the United States; the naturalized "American;" the Cuban-born, Puerto Rico-raised exile; the normativa; the outsider? The answer is, and must be, the indivisible amalgamation of those tongues, experiences, knowledges, spaces, times, and places, because all those are my worlds - mundos through which I journey every day - each exposing race, color, ethnicity, gender, nationality, culture, sexuality, and language fronteras that I encounter, travel, and inhabit daily. These complicated mappings are routine excursions for me, representations of the moving in and out of worlds of language and culture; nationality and ethnicity; normativity and outsidersness; privilege and subordination; and race, sex, and sexuality. The outlook, perspective, and positionality associated with, entrenched in, and intrinsic to such multilingualism, multiculturalism, polilocalities are performed instinctively, unnoticed, subconsciously - without patent, palpable, abrupt changes, but rather fluidly as if one were slowly pouring honey or molasses from one vessel to another.

Yet, in such world traveling, context is defining, constitutive. The course or path I track is related to, and determined by, not only the theme of the chronicle, the journey, the history that we are tracing or designing, but also with whom I am traveling, deliberating. Comfortable chats with Spanish-speaking friends may, unnoticed, flow and mutate gradually into English if the conversation shifts to fields, such as law or computers or diplomacy, where English retains an (unconscious, impenetrable) hegemonic, conquering hold.

At times these transitional passages and transformations may instead be conscious and necessary. They also may have anomalous, hurtful and frustrating consequences. For example, I was born in Cuba, and after a brief eighteen-month sojourn through Miami, lived in Puerto Rico through high school. During this time, and I must confess, during my time in college and law school, I was clueless [*313] about the racial/ethnic politics and policies of the United States. Unlike persons raised within the dominant society and whose early experiences with exclusion and derision were part of their formative process, constitutive of their identities, n47 I was wholly ignorant and unaware that I would be considered an "other," an "outsider," once I crossed into the U.S. borders. I was unaware I was considered different simply because of my name, of where I was born, what my mother tongue is, or because of my brownness. I attribute my lack of knowledge and comprehension to the fact that, during my formative years, my family existed in an environment where, except for my sex, people like me constituted the norm. We were all Latina/o, spoke Spanish, and as such came in all shapes and colors. Indeed, within our borders we would marvel at the *estado unidenses* - within these U.S. borders the *normativas/os* n48 - who came to our land in largely failed attempts to attain our brownness, the very hue that is a central tenet of our subordinated and colonized status within these *fronteras*. n49

Growing up *normativa* there was never a question as to whether I, or the rest of the children like me, were capable, intelligent or deserving of an education. There was never a whisper or an insinuation about whether we would be pushed to our potentials. All my teachers - Mr. Castro, Mrs. Carrasquillo, Mr. Garcia, Sister Mary Nadine - always expected me to excel in math, science and languages. They thought speaking English and Spanish was good, and that adding a "foreign language" requirement to the mix, meaning French, was even better. They encouraged us to do our best, and enabled us in overcoming all academic challenges. Contrary to Professor Graglia's suggestion, I never heard, witnessed, or otherwise understood, experienced, or perceived, among all the Latina/o families (immediate and extended), communities, and teachers surrounding me, throughout my life, the most minuscule of hints or whispers that in our culture failure would not be a disgrace, that education was not valued, that achievement was not encouraged, or that we were not competitive in any and all institutions.

[*314] But of course there was the matter of sex. I was supposed to be docile, respectful, quiet, self-effacing, retiring, and domestic in my life. n50 At the same time, I was supposed to be the smartest, the fastest, the strongest in class. Somehow this was never congruent and I rebelled in my tame girl sort of way and eschewed gender-subordination. For example, when *mami* decided I should start doing chores and decided that making my bed was a good place to start, but did not require the same of my brother, I simply refused. And the tactic sort of worked - in those days *abuela* who lived with us and who would make Ernesto's bed, started to make mine, too. Similarly, I insisted that Ernesto and I take turns riding in the front seat of the car with *mami y papi*, participated in sports, kept up my good grades, kept my pony-tail, climbed trees, and wore hi-tops way before it was the accepted or appropriate thing for girls to do.

But aside from being a girl, I was the norm - until I arrived in this country and suddenly became an "other." I know this now; I did not know it then. I did not know it when I was in law school - although I should have had a clue here and there such as the time when a teacher suggested that course evaluations might provide creditable and believable information if the students were required to state their class rank. This, supposedly, would provide the boundaries between credible and not credible commentators. I could not for the life of me, then or now, figure out what class rank has to do with the ability to critique or evaluate a teacher.

But time has passed and I have learned my civics lesson. I now understand the roadmap of what some perceive is my proper place and space in this society of ours. Yet that knowledge alone does not change or impede journeys in my worlds nor does it soften the blows associated with them. For example, the first LatCrit meeting, which took place in conjunction with the Hispanic National Bar Association's Annual Meeting, was held in Puerto Rico - the island Pdise where I was raised in an extended, loving family. In order to attend the gathering and hear our presentations, Mami y papi flew down from Miami and stayed with tia y tio - the aunt and uncle who were like my second set of parents. Of course, they got all dressed up - you know how parents are like that - and came to the conference. They were there in the room, so proud. When it was time for me to speak I, imperceptibly to all but myself, traveled a million worlds in a matter of moments. Because mi familia was there, I was forced deliberately, consciously, premeditatedly to choose a language for my presentation. Now remember we were in Puerto Rico, where I was raised speaking Spanish at home - a language that is [*315] still the only one we use in mi familia, in part because my tia y tio do not speak English. To be sure they can get by in a restaurant, or ask for directions, but fluency to understand a speech they simply do not have, or need, as Spanish is the official language in Puerto Rico. So there I was in their home, in their country, speaking at a Hispanic Bar meeting to a room full of Latina and Latino law professors, having had mi familia travel to see me talk about Latinas and Latinos and our communities, unable to use my mother tongue - the language with which they raised me, one that they will understand - for to do so would have resulted in the exclusion of many of my colleagues. I suppose that had I had time to contemplate this dilemma, this language frontera that I faced, I might have opted for delivering the talk in French so that I would have ended up talking to myself, my mom, and perhaps a couple of others in the audience. That linguistic choice patently would have presented to all the point and the pain of exclusion. World traveling is never easy. And I posit it is made even harder by the incoherence of the legal Pdigs vis-a-vis many of our communities.

II. Incoherent Paradigms

In the United States, the dominant legal Pdigm to analyze race, the apparent essence of difference or otherness, n51 is the binary Black/White Pdigm. n52 This dichotomous approach presupposes that there is only one race: the Black race, n53 and that the aspirational goal is the normative non-raceness of Whiteness. No other reason can explain the outcome in the early citizenship-prerequisite cases studied by Ian Haney-Lopez in which, as he notes, courts simply bend over backwards to show non-Whiteness of all persons other than those who are Anglo-Saxon/Western European. n54

[*316] The predominance of this legal perspective is evident in the reasoning courts have used in analyzing civil rights laws. For example, in studying whether Arabs and Jews could state a claim under civil rights laws, rather than conclude that civil rights laws protect all persons from acts of discrimination, the Court opted to racialize Arab ancestry and Judaism in order to find discrimination against these classes actionable. n55 Thus the racialization of discrimination is so embedded in our legal thinking that instead of stating that a democratic society finds any invidious discriminatory treatment of persons intolerable, our legal system has opted to racialize religion and nationality - two classifications that, to be sure, may coexist with race, meaning Blackness, but are different and apart from it. In the context of such Black/White Pdigm, discrimination against Latinas/os is not analyzed as discrimination on the basis of nationality or ethnicity, or even language. In order to find illegality in certain treatment of Latinas/os, the prevalent model racializes their ethnicity or national origin in order to locate such differentiation on the familiar topography of racial discrimination. As might well be expected, this incoherence has led to anomalous results such as the cases in which a Black Cuban, n56 but not an individual described by the courts as a Caucasian of Cuban descent, n57 was deemed to have stated a prima facie case of race discrimination.

This absurdity is exacerbated if one considers that the various different cultures constitute racial normativity in deeply divergent manners. For example, the Latina/o, particularly the caribe<tild n>a/o, and the "American" construction and perception of race (and color) are dramatically different. n58 In the

United States, driven by its mono-racial perspective of Black as the race, the central, essential, axiomatic Pdigm that courts religiously accept, believe in, and impose is the rule of hypodescent - the so-called "one drop" rule. n59 [*317] This model dictates that, regardless of phenotype, one drop of Black blood makes a person Black. There is no amount of whitening that can make someone with the proverbial one drop the normative, the one entitled to full benefits of citizenship in society. "The metaphor is one of purity and contamination: White is unblemished and pure, so one drop of ancestral Black blood renders on Black. Black is a contaminant that overwhelms white ancestry." n60

In contrast, caribe<tild n>as/os subscribe to the notion of blanqueamiento, n61 whitening, ironically also a one drop rule of sorts. However, this version of the one-drop rule provides that one drop of White blood starts you on the route to Whiteness, in all events the desirable condition. Indeed it is this rather different perspective that has Latinas/os, who by Non Latina/o White ("NLW") standards are 95% non-White, self-reporting at a rate of 95% to be White. n62 The significant item is that the caribe<tild n>as/os identify by ethnicity and culture rather than by the NLW conception of race. In the Caribbean, the reality of racial admixtures evolved the notion of race into a fluid continuum, rather than the absolute Black-White Pdigm. n63 In the fluid model, the construction of race is imbued with values based upon class, education, economics, and culture. Unlike the dominant Pdigm, the fluid model lacks rigid borders and allows traveling in and out of categories. Outside our communities, with the application of the dominant norm regardless of whether a Latina/o appears White, s/he nevertheless is othered - because of the racializing of his/her latinidad which can be reflected in a person's name, ethnicity, language, color, nationality, and/or accent. Significantly, and this is something I keep trying to explain to my father to this day, in the United States, within these fronteras, he cannot be White because he is Latino.

[*318] This is not to say that racial discrimination does not exist within Caribbean communities - it does and it often goes unpronounced, or more accurately, it is deemed unpronounceable. For example, we have a "bad hair" test - one that only makes sense in the tropics: if one sits under a ceiling fan and one's hair moves it is "good hair;" otherwise, it is pelo malo. And when someone is acting too uppity - too "blanquita/o" - the comment is "ense<tild n>ame a tu abuela" - show me your grandmother. The unpronounceability of the reality of racism within our communities became patent during one of the talks I delivered and upon which this Essay is based. One young Latina law student approached me and noted that she was rather shocked and could not believe that I dared utter these things about our community in public. While emphatic about her view that each should say/do what s/he believes is right, she was obviously uncomfortable with my revelations and questioned the propriety of such public airing of our "dirty laundry" - insinuating that these notions are best kept quiet, to be discussed only in private, in familia. Certainly, the Latina/o community does not have the corner on the market with respect to the "unwritten rule" that we do not talk about color issues in public. For example, when a professor of color who was describing to a group of colleagues of color a work in progress tackling the issue of color discrimination in the Black and Latina/o communities, they questioned the wisdom of writing on such a topic. n64

I firmly believe that in order to build community and alliances we must resist, thwart, and repel not only the racism confronting our communities from the outside but also the racism, sexism, and homophobia infecting our communities from within. However, the point here is not one of the absence or presence of racism within la comunidad Latina. Rather, the epistemological challenge is that in the prevalent monolingual discourse on race, the master narrative's version of the one drop rule obscures and silences the other languages. The hegemonic story has designed the way race is constructed. n65 For example, while to many Latinas/os it is perfectly understandable that there are dramatically varying hues among siblings, the concept is a strange one for the normativos/as. So a pair of siblings in which one appears to Black and the other appears [*319] to be Anglo/a is a confusing scenario to the normativas/os that the dominant discourse (dis)solves by rendering both non-White by virtue of one of their non-Whiteness. n66

One dramatic example of the divergent perceptions, understandings, and constructions of race comes from Piri Thomas' book *Down These Mean Streets*. n67 The narrator is a second-generation Puerto Rican raised

in East Harlem who gets involved with drugs and crime and ends up in prison in Lexington, Kentucky. While he is in the food line waiting to eat and having a conversation with a fellow Puerto Rican inmate, the line divides into two: the Black line and the White line. The main character is engrossed in his conversation and not really aware of, or paying attention to, the division, or the basis for the division. As the line moves, he follows his Puerto Rican friend in line as they continue their chat. Suddenly a guard stops him and asks him, "Where do you think you are going?", shoves him into the Black line and separates him from his Puerto Rican brother. This pointedly reflects the imposition of the race order by the master narrative. The prison guard defines the narrator by race and not, as the narrator would have described himself, by culture or ethnicity. Such alien borderlands which impose an unfamiliar system of identity may lead to great confusion in the subordinated peoples. This is clear in the questions Piri Thomas's character asks himself after his racialization. He questions the foundation of his identity and wonders if the world is really designed along a racial divide; whether he is a person who belongs in the other line; whether his whole life he has been someone other than who he thought he was. To be sure, the character felt ire and rage at the denial of his identity as he perceived it. When a purely racial identity was imposed on him, it led to perceptual dissonance and much confusion. Of course, in a jail in Puerto Rico, he could have followed his *hermano puertorrique* in line. In La Isla they both would have been traveling the world of prisons. In the United States, the journey was in narrowly defined racialized worlds; in his realm, in the spheres and environments familiar to him, he would have taken a different journey.

In sum, the normative's hegemonic construction of race results in the confusion and conflation of race with the different concepts of [*320] ethnicity and national origin. Such a model fashions a myopic construct that ethnicizes/nationalizes race and racializes ethnicity/national origin. The few cuentos I have related effectively depict the divide between the different narratives. These silhouettes, and many others like them, emphasize the schism between the Latina/o and NLW realities and imaginations about race. Folks of color in the United States are constructed by rules which, in their own world views, are meaningless, incomprehensible and foreign. Having to travel such pre-defined roads is confusing and causes perceptual dissonance reflected in Thomas's character because the external constitution of our identities is contested and protested by our internal maps. Are we required to understand and assimilate the NLW text of normativity to determine our identities? Do these experiences simply inform us as to how the dominant Pdigm re/constructs and re/presents our identities? Does a difference exist between who we are and the majority's re/vision of who we are, in particular when the dominant construct is the adopted text? The most destabilizing question, but ultimately the one with the greatest emancipatory potential is whether we are not who we think we are but who the dominant Pdigm makes us?

III. Plural Citizens

These questions simply re/present the problematic: so long as we work with and within the adopted normative text, the master narrative, we cede its authenticity and dominance, and our text, knowledge and experience will remain subordinated. So long as the status quo prevails, our voices will be heard only in translation, our language will remain unpronounceable, and the monolingualism of law will reign. Only by building coalitions and maintaining alliances will we be able to develop a model that celebrates our multidimensionality, that maps our multiple journeys, and that makes us full citizens in society.

In this final part, I suggest that our common interests are far richer than our differences, that many of those differences exist solely because of the adoption of the foreign text, and that together we can re/constitute a model that will enable, enhance, and promote our participation within all communities. To do this, we must find our own voices, speak our own languages and write our own histories, journeys, and realities.

The Latina/o and Black communities have identified and articulated common interests in the struggle for civil rights n68 and in the [*321] development of legal theories. n69 The interests of Asians/Pacific Islanders and Latinas/os, on the one hand, and of Asians/Pacific Islanders and Blacks on the other hand,

however, have been largely perceived and presented as divergent and oppositional. One need only do a mental replay of the Los Angeles riots with the national portrayal of Blacks and Latinas/os looting stores while strongly armed Asian store-owners stood at their storefronts to defend them to get a powerful image of this racial divide. Or alternatively, one can do an instant replay of the affirmative action debate where Asians are presented as the smart, hard-working, deserving minorities who earned rightful places in our classrooms and whose participation is threatened by lower-testing, less industrious, less deserving Blacks and Latinas/os.

In the last part of the Essay I will endeavor to build a bridge between and among all communities of color by taking a different look at the Black, Latina/o and Asian/Pacific communities, n70 suggest how much we have in common, and articulate some of our shared stories, histories, truths. By doing so I propose to create the foundation for the bridge to join all our communities.

Initially, while it is appropriate to recognize, respect, and embrace our differences, some of which I will articulate below, let me urge that we utilize them constructively. If we engage in polilocal hermeneutics we can and will learn from each other's issues, struggles, and successes rather than permit these differences to cause schisms between or among our communities. With a broad harmonious perspective we can seek to globalize solutions, answers, and clarifications in order for the collective interpretations and resolutions crafted, designed, and executed to benefit not only all of our communities within these borders, but global communities that might face similar dilemmas as well.

[*322] To be sure, major differences exist between and among Black, Latina/o, and Asian/Pacific groups. Indeed, one should question whether with the panethnicity of such groups a homogenizing, one-word label for the diverse grouping is even desirable or appropriate. n71 For one, historically there have been dramatically different immigration patterns, as well as enormously divergent reasons for Latina/o and Asian immigrations. n72 Of course, for Blacks the first immigration - slavery - was unique and involuntary. As a result, one of the dramatic differences between mainland African-Americans and Afro-Caribbeans, Asian/Pacific Americans, and Latinas/os is that they do not have any space or geography where they are, in fact, the normativa/o - where they have mapped and designed their own country, history, and culture. However, more recent Black immigrations share common patterns with Latina/o and Asian/Pacific persons who come for work, to better the living conditions of their families, or to escape totalitarian political regimes. One interesting consequence of these changes is that while the panethnicity of Latinas/os and Asian/Pacific groups have been subject of much discussion, n73 recent immigrations have rendered the Black community increasingly diverse. These immigrations include not only immigration from many different African countries and [*323] cultures, but also from the Caribbean countries with cultural heritages as different as Jamaica, Haiti, Cuba, and the Dominican Republic. Such increased diversity increases the commonality and intersection of issues of Blacks with those facing Latina/o and Asian/Pacific groups, such as the right to retain cultural traditions and to speak different languages.

However, groups are vastly different with respect to their abilities to integrate into White communities. Demographic data suggests that Asians have been more successful at integrating into White communities than Latinas/os, n74 although that seems not to be the case for Latinas/os who self-identify as White or those who have achieved proficiency in English language skills and who have highly developed skill levels. n75 Asians appear to be the most integrated of any minority group n76 and may explain the fact that Asians have the highest rate of intermarriage of any outgroup. n77 This however, presents a serious problem with respect to the Black community which, notwithstanding the longest standing of roots is "the group least able [*324] to convert skills into income, least able to convert income into integrated neighborhoods, least able to cross racial barriers to marry. And so, by any measure, the group with perhaps the longest history as "real Americans" has the least access to opportunity." n78

Certainly these differences are significant and not ones that we can or should elide. Yet, our communities can learn to travel these differences by engaging in polilocal hermeneutics so that we can learn, discern,

and understand their sources and causes. Such comprehension will allow informed coalitions to emerge, coalitions without the empowerment capacity of which we lose the emancipatory potential of our collective knowledges. This liberatory goal to achieve full participatory citizenship will permit the design and construction of public policies and opportunities that will meet all of our communities' needs, beyond any one community's self-interest.

Moreover, notwithstanding real differences, consider the plethora of similarities, particularly within the problematics of the master narrative. For instance, reflect on the dichotomous Black/White Pdigm. Latinas/os and Asian Americans share a lot in that regard, in the sense that, relationally speaking, both groups are considered neither Black nor White n79 - at least not as the binary concept of race is constructed in this country. n80 In addition, an increasing number of Blacks - ranging from Cuban, Puerto Rican, Dominican, Jamaican, Haitian, and from many African nation-states - do not neatly fit into the infrastructure of a Pdigm that focuses on the common knowledge about skin color and excludes and obscures co-existing realities of culture and language.

There also are some other very fascinating points of convergence - some even that at first blush appear to be points of divergence. Language, for example, plays a salient role in our communities in various ways. For one, language allows community identity. Significantly, within and across the Asian communities, because of its panethnicity and varied tongues, it is ironically the [*325] English language that allows for collective communication. Similarly, Black communities, particularly more recent immigrations, will have to rely on English and its limitations for collective deliberations. On the other hand, within and among the comunidades Latinas the Spanish language plays or can serve that purpose. Nonetheless, we must be mindful that many Latinas/os whose presence within these borders is of long standing, may have, over the years, and perhaps in response to the derision and othering, lost their Spanish language ability.

There is also another interesting twist, a different path, if we consider accents. Accented English is a characteristic of our community's speech that can be used to render us outsiders - our accented English not being erotic or exotic but rather emblematic of our otherness. n81 In thinking of the Afro-American community and language, the recent uproar over Ebonics reflects at least the normatives' perception that these native, real Americans have language issues too. n82

The very otherness or outsidership status is another characteristic that our communities share. Indeed, with respect to the Latina/o and Asian/Pacific communities, not only are we not normative, we are not Black and not White. In addition, we are seen as foreign, alien, not "American." n83 This non-American-ness makes our communities targets of nativistic feelings and initiatives. n84 How many times has one of us, or one of our friends or family member been asked where we are from and been told that "Brooklyn" is not the appropriate answer by the simple follow up of "no, no, I mean where are you from?" Or in unkindier climes, how many times have we been told to "go home" - this incantation frequently uttered if any of us dares be critical of these beautiful and wonderful United [*326] States of America. How many times and how may of us have been complemented on "how well we speak English." Certainly, a name like mine is prima facie evidence of my foreignness. To be sure, more recent Black immigrations, including Francophone and Latina/o Blacks, might result in an increasing number of Blacks facing this foreignness plight.

This attribution of foreignness takes us through travels in convoluted paths which emphasize our alien and different status. For example, recall the destabilizing effect the purchase by some private entity that happened to be Japanese-owned of an interest in Rockefeller Center - an "American" landmark - had on our society. There was a near-hysterical reaction and fear about the Japanese taking over, n85 even though such consequences from the isolated purchase of an interest in one building complex is impossible. Significantly, no similar reaction has ever been exhibited toward the much larger ownerships of American real estate by the British. n86 Although Prop 187 is not a sophisticated business deal, its raison d'etre - the elimination from our country of undeserving Latinas/os who are taking American jobs n87 - plays on similar nativistic emotions. Finally, the near hysteria over the Haitian "boat people" - persons simply

seeking to come to the home of the free and to escape starvation, disease, and torture imposed by a brutal and repressive regime, reveals similar nativistic animus against a Black population. n88

Moreover, although our immigration narratives may be different with respect to specifics, as well as with respect to their colonial or enslavement roots, there are, it appears to me, similar narratives of exclusion that our communities have experienced. For example, as not White, Blacks, Asians/Pacific Islanders, and Latinas/os were largely excluded from citizenship when Congress restricted naturalization to "white persons." n89 Later immigrations were limited by the presence quotas. n90 As not Black and not White, many Asian/Pacific [*327] Islanders and Latinas/os could not obtain citizenship even after the prohibition against Blacks becoming citizens was lifted. n91

The immigration context also serves to indicate another large similarity in our communities: they are panethnic. Interestingly enough, the appellations of the Asian/Pacific American label refers to a diverse community that includes different histories and languages such as Japanese, Chinese, Korean, Vietnamese, Laotian, Cambodian, Hmong and others. Similarly, Latinas/os are a diverse peoples of many races - something finally recognized in the more recent census categories n92 - and national origins including Mexican, Cuban, Puerto Rican, Colombian, Ecuadorian, and more. Finally, Blacks can be African-Americans with roots in many African states, Afro-Caribbean, and Afro-Latina/o.

Another intriguing commonality is the burden imposed on some of our communities by the model minority myth and its intersection with the recently reignited affirmative action problematic. Asians generally are given this model minority label n93 that has been used to create a wedge between Asian communities and other communities of color - Black and Latina/o. The affirmative action debate suggests that Asians will be harmed by being denied jobs or admission to schools so as to accept other "less qualified" minorities. n94 That divisive label, thinly veiled as a compliment, also has been used to refer to Cubans with the unsavory consequences of creating a wedge between Cubans, on the one hand, and other Latinas/os and Blacks on the other. Such "model minority" labeling has the negative and deleterious effects of denying the reality of discrimination against [*328] Asian/Pacific Americans and Cubans and simultaneously legitimizing the oppression of other persons of color. For example, the myth detracts attention from segments of the Asian community that have serious economic and educational disadvantages, like the Hmong peoples. Moreover, this divisiveness allows the race-conscious normativos/as to claim a type of moral high ground by wrapping their nativist sentiments in the blanket of Asian/Pacific American and Cuban worries and concerns. This also hurts other communities of color who are "blamed" for their own impoverishment - economic, educational, and moral, for their lack of skills attainment, and for not being as successful as others. This situation, of course, translates to some communities not being hard-working enough, or not intelligent enough, or not trying hard enough, or some other mythical pretext that becomes transmogrified into the master narrative's (and popular culture's) incontrovertible, factual truth.

Interestingly, for a long time, Cubans at the University of Florida were not considered minorities; in fact, Cubans themselves objected to such designation. At present, the ethnic/racial classifications for Latinas/os applying to the University of Florida include Hispanic/Black and Hispanic/White. n95 This is significant because while it recognizes some of the racial diversity among Latinas/os, it wholly renders invisible, and itself "others" those in our community with Native/Indigenous roots as they do not clearly "belong" under either existing classification. Such are the dangers of ceding the text to the normative; such are the failings of not engaging in the polilocal hermeneutics that validate all the narratives as spoken in their own voices.

Finally, our communities' views of culture and family as well as stereotypical images of Latinas, Black, and Asian/Pacific women work to subordinate women's roles and lives. n96 For instance, in Latina/o and Asian/Pacific cultures women are supposed to be subservient, submissive, servile, self-abnegating beings whose reason for living is to meet the needs of their families. This is their proper role. Yet stereotypes work to sexualize both Latinas and Asian women so that they are viewed as sexually desirable. On the one hand, there is the prevalent image of the passive, exotic Asian woman, there to please, which is the basis for a lot

of the mail-order [*329] bride industry. n97 On the other hand, there is the image of the hot Latina, n98 sure to please, the mala mujer if one contextualizes within the cultura latina. And while Black women have long been seen as strong and independent, they too are viewed as pillars of their families and their image also has been sexualized. n99

Given all these similarities and shared concerns, it is my aspiration that notwithstanding our substantial differences, and without minimizing, obscuring, or eliding these, all communities of color can work together to re/formulate Pdigms and identity narratives in a new, different, positive, inclusive way. Indeed, it is rather puzzling that considering all these Pllelisms and likenesses we have not been able to build, in the course of our histories within these borders, great, strong, supportive coalitions and alliances.

So I conclude with the challenge to all our communities that we work towards doing just that by engaging in conversations with our hearts and intellects bridging our cultures - by way of the process I have labeled polilocal hermeneutics. There will be successes and there will be stresses. There will be times we personally, or our community, might not identify with the issue or concern before us. But it is that very time, that in order to move forward and ensure that each one of us is the beneficiary of the social contract, even if we do not share or identify with our neighbor's concern we learn about it, understand it, and join forces to solve it. Only then will we be able to be the architects of change that will see all of our communities, all of our children, have access to the health, education, employment, housing opportunities in an environment free from racism, nativism, sexism, homophobia, and fear of difference. Only then will our plural citizenry be a full and equal participant in our society with all the rights and obligations that such status demands, promotes, and deserves.

FOOTNOTE-1:

n1. Maya Angelou, *Our Boys*, in *Wouldn't Take Nothing For My Journey Now* (1993).

n2. Wendell L. Willkie, *An American Program* 8 (1944).

n3. Modern anti-immigration, anti-affirmative action, anti-welfare movements can only be compared with more classic populist movements of the late 19th century to the extent that they found their greatest strength at the grassroots level. Unlike many of the classic populist movements, modern "populist" movements do not work to secure rights for the underprivileged and under-represented, but, based on nativistic sentiments, attempt to limit the very same. See Sandra L. Jamison, *Recent Developments, Proposition 187: The United States May Be Jeopardizing its International Treaty Obligations*, [24 Denv. J. Int'l L. & Pol'y 229, 230 \(1995\)](#) (referring to the "populist movement in California [seeking] to rid the state of its unfortunate Achilles heel, the undocumented alien").

n4. 1994 Cal. Legis. Serv. Prop. 187 (West) (codified as [Cal. Educ. Code 48215](#), 66010.8; [Cal. Health & Safety Code 130](#); [Cal. Penal Code 113](#), 114, 834b; [Cal. Welf. & Inst. Code 10001.5](#)).

n5. See Berta Esperanza Hernandez-Truyol, *Natives, Newcomers and Nativism: A Human Rights Model for the Twenty-First Century*, [23 Fordham Urb. L.J. 1075, 1132-35 \(1996\)](#) [hereinafter *Natives, Newcomers*]; see also Berta Esperanza Hernandez-Truyol, *Reconciling Rights in Collision: An International Human Rights Strategy* [hereinafter *Reconciling Rights*], in *Immigrants Out! The Nativism and the Anti-Immigrant Impulse in the United States* 261 (Juan F. Perea ed., 1997) [hereinafter *Immigrants Out!*].

n6. See Jamison, *supra* note 3, at 230 (noting that Proposition 187 passed with 59% of the California vote); Paul Feldman & Patrick J. McDonnell, *Prop. 187 Backers Elated - Challenges*

Imminent, L.A. Times, Nov. 9, 1994, at A1 (quoting Alan C. Nelson, co-sponsor of Prop. 187, as calling the vote "a showing of public attitude"). Ironically, the nativist sentiment behind the grass-roots movement supporting Proposition 187 named the ballot initiative SOS - Save Our State. See Punishing Immigrants, Christian Sci. Monitor, Nov. 3, 1994, at 18.

n7. See [Plyler v. Doe, 457 U.S. 202, 221 \(1982\)](#). While the Supreme Court fell short of concluding that education is a fundamental right, the Court did make a strong statement as to the importance of education for an informed and productive society; as a result, and in the spirit of providing all children with an equal opportunity to participate in and contribute towards our democratic society, states cannot exclude undocumented children from the public education system.

n8. The initiative expressly focuses on illegal entry, see 1994 Cal. Legis. Serv. Prop. 187 1 (West) ("Therefore, the People of California declare their intention... to prevent illegal aliens in the United States from receiving benefits or public services in the State of California."(emphasis added)), and, thus, at least facially excludes from its coverage those undocumented persons who are present within the jurisdiction based upon illegally overstaying a visa. See Reconciling Rights, supra note 5, at 264-66; Natives, Newcomers, supra note 5, at 1096-97.

n9. See Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L. No. 104-208, 110 Stat. 2105 (1996) [hereinafter IIRIRA] (reforming immigration by improving border controls, enhancing enforcement mechanisms, detention, adjudication, and removal procedures, and enforcing restrictions on employment).

n10. See generally Personal Responsibility and Work Opportunity Reconciliation Act, Pub L. No. 104-193, 110 Stat. 3009-546 (1996) [hereinafter PRWORA] (restricting access to federal public benefits, including "any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit").

n11. See IIRIRA, Pub. L. No. 104-208; PRWORA, Pub. L. No. 104-193; see generally Berta Esperanza Hernandez-Truyol & Kimberly Johns, Global Rights, Local Wrongs, and Legal Fixes: An International Human Rights Critique of Immigration and Welfare "Reform", 71 S. Cal. L. Rev. (forthcoming May 1998) [hereinafter Global Rights] (examining the validity of such immigration and welfare "reforms" in both the domestic and international legal spheres).

n12. See [Romer v. Evans, 116 S. Ct. 1620, 1623 \(1996\)](#) (describing Amendment 2 as "prohibiting all legislative, executive or judicial action at any level of state or local government designed to protect... homosexual persons"); [id. at 1628](#) ("Amendment 2 confounds this normal process of judicial review... The resulting disqualification of a class of person from the right to seek specific protection from the law is unprecedented in our jurisprudence.").

n13. See, e.g., [Martin v. Hunter's Lessee, 14 U.S. \(1 Wheat.\) 304 \(1816\)](#) (holding that the United States Supreme Court is the ultimate arbiter over federal constitutional review over state laws); [Marbury v. Madison, 5 U.S. \(1 Cranch\) 137 \(1803\)](#) (granting the Supreme Court power to review the constitutionality of federal law).

n14. In 1993, Cincinnati voters passed a referendum popularly known as Issue 3 which eliminated two existing anti-discrimination ordinances and barred any additional laws designed "to protect homosexuals in jobs, housing and public contracts." Lyle Denniston, Appeals Court Upholds Anti-Gay Referendum; Cincinnati Voters Repealed 2 Gay Rights Ordinances, Barred Future Protections, Balt. Sun, Oct. 24, 1997, at 3A. As with Colorado's Amendment 2, Cincinnati's Issue 3 has been the subject of on-going court challenges; recently in a case

remanded by the Supreme Court for reconsideration in light of the recent *Romer v. Evans* decision, the United States Court of Appeals for the Sixth Circuit held that (unlike Amendment 2) based on the local scope of the law, Issue 3 is constitutional. [Equality Foundation of Greater Cincinnati, Inc. v. City of Cincinnati, Nos. 94-3855/94-4280, 1997 U.S. App. LEXIS 29076](#), at *13-14, 20 (6th Cir. Oct. 23, 1997). Opponents of Issue 3 have yet to make a decision concerning possible petition for writ of certiorari, therefore this decision is not final. See Ben L. Kaufman, *Gay-Rights Backers Weigh Legal Options*, *Cin. Enquirer*, Oct. 25, 1997, at B5. At the same time, a much different battle is underway in Maine where the Christian Coalition and the Christian Civic League submitted 58,182 signatures in favor of a referendum on the state's new gay-rights law. See Steven G. Veigh, *Lawsuit Disputes Anti-Gay-Rights Petitions*, *Portland Press Herald*, Nov. 4, 1997, at 3B. This referendum, should it survive court challenges to the petitions, could prove an interesting test for the future of anti-gay-rights legislation as a recent poll of Maine voters showed that the referendum would fail by a margin of 65% to 28% (with 7% reported as undecided). See Susan Kinzie, *Poll Shows Support For Gay Rights*, *Bangor Daily News*, Oct. 30, 1997, available in LEXIS, News Library, Allnws File.

n15. See, e.g., [Hopwood v. Texas, 78 F.3d 932 \(5th Cir. 1996\)](#), cert. denied sub. nom. [Thurgood Marshall Legal Soc'y v. Hopwood, 116 S. Ct. 2580 \(1996\)](#) (holding that University of Texas law school cannot use racial preference system in the admissions process); 1996 Cal. Legis. Serv. Prop. 209 (West) ("The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting."). The ability of anti-affirmative action groups to claim true populist status may have diminished following the recent defeat of Houston's affirmative action ban called Proposition A. See Sam Howe Verhovek, *Voters Turn Back Affirmative Action Ban Much Like the One in California*, *N.Y. Times*, Nov. 5, 1997, at A24 (noting that with 97 percent of the precincts reporting, Proposition A lost 54% to 46%).

n16. See, e.g., 1996 Cal. Legis. Serv. Prop. 209 (West); [Regents of the University of California v. Bakke, 438 U.S. 265 \(1978\)](#) (banning the use of race-based quotas in medical school admissions); [Hopwood, 78 F.3d 932](#) (banning the use of race-based preferences in law school admissions); Rusty Hoover, *U-M Admissions Fight Costly: University Says Defense of Affirmative Action Policy is Worth \$ 1 Million to \$ 3 Million, Critics Call it Waste*, *Det. News*, Oct. 30, 1997, at A1 (discussing recent court challenge brought by two White applicants, and sponsored by the advocates for Cheryl Hopwood - the Center for Individual Rights - and anti-affirmative action legislators, claiming that White applicants were denied admission in favor of minority applicants with "lesser academic records" because of their race).

n17. See, e.g., [Taxman v. Board of Educ., 91 F.3d 1547 \(3d Cir. 1996\)](#), cert. granted sub. nom. [Piscataway Township Bd. of Educ. v. Taxman, 117 S. Ct. 2506 \(1997\)](#) (holding that school districts use of racial preferences in teacher layoff determinations in order to promote diversity rather than address past discrimination is unconstitutional).

n18. See, e.g., [Adarand Constructors, Inc. v. Peña, 515 U.S. 200 \(1995\)](#) (ruling that the use of racial classifications by any federal, state, or local government actor, including as part of public contracting project, requires strict scrutiny analysis).

n19. See, e.g., [Shaw v. Hunt, 116 S. Ct. 1894 \(1996\)](#); [Miller v. Johnson, 115 S. Ct. 2475 \(1995\)](#).

n20. The word "Black" is used in this piece instead of African-/Afro-American because, linguistically, it is more inclusive of Afro-Caribbeans and Afro-Latinos. Thus, it best serves this piece's specific focus.

n21. See John E. Morris, Boalt Hall's Affirmative Action Dilemma, *Am. Law.*, Nov. 1997, at 4 (reporting that out of an incoming class of 268 students, only one Black student and 14 Latina/o students enrolled at Boalt Hall); Tracy L. Brown, Law Class's Lone Black in Spotlight Cal-Berkeley Sees Effects of Affirmative Action Vote, *Dallas Morning News*, Oct. 20, 1997, at 1A (noting that minority recruitment is not problematic solely at Boalt Hall; four Black and 26 Latina/o student enrolled at University of Texas Law School - down from 31 Black students and 42 Latina/o students in 1996). Even more striking is the fact that out of the 15 Black and Latina/o students enrolled in Boalt Hall's class of 2000, the single Black student and seven of the fourteen Latinas/os enrolled based on deferred admission. See Morris, *supra*, at 5. The downward trend in the number of minority students admitted to and enrolled in graduate programs is not limited to the law school environment. See Supreme Court Upholds California Prop. 209, *Bulletin's Frontrunner*, Nov. 4, 1997, available in LEXIS, News Library, Curnews File (citing a study by the Association of American Medical Colleges which blames the public fervor over affirmative action for the 11% drop in minority applications to 125 accredited medical schools and a 7% drop in the number of admitted minority students between 1996 and 1997).

n22. Wayne Slater, Black, Hispanic Legislators Say UT Professor Should Resign Over Remarks, *Dallas Morning News*, Sept. 12, 1997, at 28A.

n23. Sam Howe Verhovek, Texas Law Professor Prompts a Furor Over Race Comments, *N.Y. Times*, Sept. 16, 1997, at A1; see also Wayne Slater, Jackson Urges Boycott of UT Professor, Educator Apologizes, Says His Race Remarks Were "Carelessly Put," *Dallas Morning News*, Sept. 17, 1997, at 34A ("I did not mean to say that black and Mexican-American cultures do not place a high value on academic achievement. It does appear, however, that there are some groups, sub-groups or class differences, for whatever reason, in the amount of time children typically spend at school or on school work.") (quoting Professor Lino Graglia).

n24. Verhovek, *supra* note 23, at A1.

n25. Berta Esperanza Hernandez-Truyol, Building Bridges - Latinas and Latinos at the Crossroads: Realities, Rhetoric and Replacement, 25 *Colum. Hum. Rts. L. Rev.* 369 (1994) [hereinafter Building Bridges I].

n26. See generally, Building Bridges I, *supra* note 25.

n27. Berta Esperanza Hernandez-Truyol, Building Bridges: Bringing International Human Rights Home, 9 *La Raza L.J.* 69 (1996) [hereinafter Building Bridges II].

n28. See generally, Building Bridges II, *supra* note 27.

n29. *Id.* at 79; See also Global Rights, *supra* note 11 (arguing that welfare and immigration reforms discriminate on the basis of gender and thus violate international law); Berta Esperanza Hernandez-Truyol, Women's Rights as Human Rights - Rules, Realities and the Role of Culture: A Formula for Reform, [21 *Brook. J. Int'l L.* 605, 630-50 \(1996\)](#) [hereinafter Women's Rights] (finding that international legal documents are imperfectly written and incorrectly enforced).

n30. See Building Bridges II, *supra* note 27, at 73-76.

n31. *Id.* at 76-79; see also Reconciling Rights, *supra* note 5, at 264-68 (focusing on human rights violations contained within the provisions of Proposition 187).

n32. See Building Bridges II, *supra* note 27, at 71-73; see also Reconciling Rights, *supra* note 5, at 266.

n33. See Building Bridges II, supra note 27, at 78-79; see also Reconciling Rights, supra note 5, at 266-67 (discussing rights to education); Global Rights, supra note 11, (examining the deprivation of the right to association by excluding undocumented students from schools, and the denial of the right to health by refusing other than emergency treatment).

n34. Berta Esperanza Hernandez-Truyol, Indivisible Identities: Culture Clashes, Confused Constructs and Reality Checks, [2 Harv. Latino L. Rev. 199 \(1997\)](#) [hereinafter Indivisible Identities].

n35. For a discussion of Latina/o diversity see Building Bridges I, supra note 25; Building Bridges II, supra note 27; Indivisible Identities, supra note 34; Berta Esperanza Hernandez-Truyol, Las Olvidads I - Gendered in Justice/Gendered Injustice: Latinas, Fronteras, and the Law, 1 J. Gender, Race & Just. (forthcoming 1997) [hereinafter Las Olvidads I].

n36. In the last ten years or so, the genre of critical race theory "has enlivened and transformed critical legal scholarship." Francisco Valdes, Foreword: 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). For more information about the diversity of the critical race movement and its scholarship, see id.

n37. See Indivisible Identities, supra note 34, at 229 (highlighting "education, immigration, health care, housing, employment, language, voting, crime, domestic violence, welfare reform, xenophobia, sexism, racism, [and] homophobia" as issues common to communities of color which affect full participation).

n38. In just the short time since its birth, LatCrit has generated a great deal of scholarship including: 9 La Raza L. J. (1996) (symposium volume); 2 Harvard Latino L. Rev. (1997) (symposium volume); 28 Univ. Miami Inter-Am. L. Rev. (1996-97) (symposium volume); [85 Cal. L. Rev. \(1997\)](#), [19 Chicano-Latino L. Rev. \(1998\)](#) (symposium volume); Richard Delgado & Jean Stefancic, *Latinos: No Longer the Silent Minority* (forthcoming 1998).

n39. See generally Angela P. Harris, Foreword: The Jurisprudence of Reconstruction, [82 Cal. L. Rev. 741 \(1994\)](#) (urging that lessons be learned from the tensions arising from modernism to postmodernism theorizing to the benefit of critical race theory).

n40. See Berta Esperanza Hernandez-Truyol, Borders (En)Gendered: Normativities, Latinas, and A LatCrit Paradigm, [72 NYU L. Rev. 882 \(1997\)](#) [hereinafter Borders (En)Gendered] (describing Latinas/os' daily experience of world traveling through the race, gender, color, ethnicity, nationality, ancestry, culture, language, and sexuality borders).

n41. The argument can be made that these Pdigms have always been imperfect as they have not been well suited to legal analysis of race and have resulted not in a construction of what is White and what is Black, but rather have had to use default "not White" categories for classes that do not neatly fit within the binary with the legal reasoning that results being, at best, contortionist. See Ian Haney Lopez, *White By Law* (1996). For a summary of the early cases on the construction of race see id. at 203.

n42. E.g., Borders (En)Gendered, supra note 40, at 923-27; Building Bridges I, supra note 25, at 429-31; Building Bridges II, supra note 27, at 70-71 Indivisible Identities, supra note 34; Las Olvidads I, supra note 35.

n43. This phrase I am varying and borrowing from Boaventura de Sousa Santos, a Portuguese sociologist and human rights activist. See Boaventura de Sousa Santos, Toward a Multicultural Conception of Human Rights, 18.1 Zeitschrift fur Rechts-Soziologie 1, 8-9 (June 1997) (suggesting that for cross cultural dialogue between different knowledges and cultures, i.e.,

different universes of meaning, that consist of strong "topoi" - "overarching rhetorical commonplaces of a given culture," and "to understand a given culture from another culture's topoi," we need to engage in "diatopical hermeneutics [a concept] based on the idea that the topoi of an individual culture... are as incomplete as the culture itself"; thus the objective is "to raise the consciousness of reciprocal incompleteness to its possible maximum by engaging in the dialogue... with one foot in one culture and the other in another").

n44. *Id.* at 12.

n45. See *id.* at 8 ("not all equalities are identical and not all differences are unequal"); *id.* at 13 ("people have the right to be equal whenever difference makes them inferior, but they also have the right to be different whenever equality jeopardizes their identity"); Women's Rights, *supra* note 29, at 650-67 (arguing that hegemonic/dominant culture should not be used as a sword to eviscerate counter-hegemonic/subordinate/subaltern cultures but that neither should counter-hegemonic/subordinated/subaltern cultures use cultural rights as a shield to deny or trammel the rights of other included, subordinated communities or groups - such as women, native peoples, or religious minorities to name a few - within that culture).

n46. See Lawrence Van Gelder, *Chronicle*, N.Y. Times, Aug. 25, 1997, at B2 ("I write about being a Black American woman... However, I'm always talking about what it's like to be a human being. This is how we are, the species to which we belong. This is what makes us laugh, and this is how we fall and how we somehow, amazingly, stand up again.").

n47. See, e.g., Charles R. Lawrence, *If He Hollers Let Him Go: Regulating Racist Speech on Campus*, [1990 Duke L.J. 431, 457-66 \(1990\)](#).

n48. Professor Richard Delgado coined the term "normativo." See Symposium, *The Critique of Normativity: MOVES*, [139 U. Pa. L. Rev. 1071-75 \(1991\)](#).

n49. See Verna M. Keith & Cedric Herring, *Skin Tone and Stratification in the Black Community*, 97 *Am. J. Soc.* 760, 775 (1991) (darker skinned Blacks are more likely to report discrimination than lighter complected Black persons); Carlos H. Arce, Edward Murguia & W. Parker Frisbee, *Phenotype and Life Chances Among Chicanos*, 9 *Hisp. J. Behav. Sci.* 19, 29-30 (1987) (darker-complected, Indian-looking, Mexican Americans reported more discrimination than lighter-complected, European-looking Mexican Americans).

n50. For a discussion addressing Latina/o gender attitudes and expectations, see *Borders (En)Gendered*, *supra* note 40, at 915-18; *Las Olvidadas I*, *supra* note 35.

n51. See Cornel West, *Race Matters* (1993); Haney Lopez, *supra* note 41.

n52. See Haney Lopez, *supra* note 41, at 44 (noting that until 1952 "the White-Black dichotomy in American race relations dominated naturalization law."); *Borders (En)Gendered*, *supra* note 40, at 898-902 (examining the impact of the Black/White Pdigm as compared with other racial Pdigms); Juan F. Perea, *Ethnicity and the Constitution: Beyond the Black and White Binary Constitution*, [36 Wm. & Mary L. Rev. 571 \(1995\)](#).

n53. See Barbara Jeanne Fields, *Slavery, Race and Ideology in the United States of America*, *New Left Rev.* 95, 97 (May/June 1990) ("One of the most important of these absurd assumptions [that constitute racial ideology in the United States], accepted implicitly by most Americans, is that there is really only one race, the Negro race.").

n54. See Haney Lopez, *supra* note 41, at 203. Significantly, many cases arose after the prohibition against Blacks becoming citizens was lifted, yet only in one reported case did someone seek to make a claim to citizenship by claiming being Black. See *id.* at 208 (referring

to [In re Cruz, 23 F. Supp. 774 \(E.D.N.Y. 1938\)](#) in which the court held, as Professor Haney reports, that "persons three-quarters native American and one-quarter African are not African.").

n55. See [St. Francis College v. Majid Ghaidan Al-Khazraji, 481 U.S. 604, 613 \(1987\)](#) ("Based on the history of 1981, we have little trouble in concluding that Congress intended to protect from discrimination identifiable classes of persons who are subjected to intentional discrimination solely because of their ancestry or ethnic characteristics. Such discrimination is racial discrimination that Congress intended 1981 to forbid..."); [Shaare Tefila Congregation v. Cobb, 481 U.S. 615, 617 \(1987\)](#) ("It is evident from the legislative history... that Jews and Arabs were among the peoples then considered to be distinct races...."). See generally Fields, *supra* note 53.

n56. See [O'Loughlin v. Procon, Inc., 627 F. Supp. 675 \(E.D. Tex. 1986\)](#) (treating Black Cuban's claim as *prima facie* race-based discrimination under [42 U.S.C. 1981](#)), *aff'd mem.*, [808 F.2d 54 \(5th Cir. 1986\)](#).

n57. See [Mouriz v. Avondale Shipyards, Inc., 428 F. Supp. 1025 \(E.D. La. 1977\)](#) (dismissing White Cuban's [42 U.S.C. 1981](#) claim for lack of racial basis).

n58. See Borders (En)Gendered, *supra* note 40, at 897-902 (reviewing and comparing the differences in racial perspective between the Latina/o and "American" cultures).

n59. See F. James Davis, Who is Black? One Nation's Definition 5 (1991); Haney Lopez, *supra* note 41, at 27; Neil Gotanda, A Critique of "Our Constitution is Color Blind," [44 Stan. L. Rev. 1, 24 \(1991\)](#); see also Borders (En)Gendered, *supra* note 40, at 897.

n60. See Gotanda, *supra* note 59, at 26.

n61. See Eduardo Seda Bonilla, Requiem Por Una Cultura 52, 224-25 (1970).

n62. See Statistical Handbook on U.S. Hispanics 2 (Frank L. Schick & Renee Schick eds., 1991) (estimating that approximately 95% of Latinas/os self-identified as White before the 1980 Census began specifically asking Latinas/os about their Mexican/Puerto Rican/Cuban origins).

n63. See Clara E. Rodriguez, The Rainbow People, in Puerto Ricans Born in the U.S.A. (1989); see also Borders (En)Gendered, *supra* note 40, at 901 (comparing the more fluid racial continuum used in Latin America and the Caribbean with the nativist, absolutist Black/White Pdgim of America). Recently, a number of critical race theorists have written about the problematics of, and have suggested abandoning the binary analysis imposed by, the Black-White dichotomy. See, e.g., Robert S. Chang, Toward An Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space, [81 Cal. L. Rev. 1241 \(1993\)](#); Borders (En)Gendered, *supra* note 40; Deborah Ramirez, Multicultural Empowerment: It's Not Just Black And White Anymore, [47 Stan. L. Rev. 957 \(1995\)](#); Frank H. Wu, Neither Black Nor White: Asian Americans and Affirmative Action, 15 B.C. Third World L.J. 225 (1995).

n64. See Leonard M. Baynes, If It Is Not Just Black and White Anymore, Why Does Darkness Cast A Longer Shadow Than Lightness? An Investigation and Analysis of the Color Hierarchy, 75 Denver U. L. Rev. (1997) (noting how colleagues of color questioned the wisdom of writing about color discrimination within the Black community).

n65. See Haney Lopez, *supra* note 41, at 49-77 (tracing the historical development of the racial prerequisite for citizenship cases and showing how serendipitously the courts defined and

developed and how jealously the courts guarded the concept of Whiteness to conform to their views of what is/should be the "common understanding" of White).

n66. See [Rodriguez, supra](#) note 63, at 51; *Borders (En)Gendered*, *supra* note 40, at 901-02; see also Haney Lopez, *supra* note 41, at 27 (noting that "courts constructed the bounds of Whiteness by deciding on a case-by-case basis who was not White"); *id.* at 51-52 ("'Black' was a generic term encompassing all non-Whites, and thus included Chinese persons"); *id.* at 56 (Race "from the start... was a cultural construct composed of social values and beliefs synergistically related in a comprehensive worldview, integral to the cognitive perceptions that the Europeans and White Americans had of themselves and the rest of the world.").

n67. Piri Thomas, *Down These Means Streets* (1967).

n68. See, e.g., Judy Holland, *Senators Want UC Probe Halted Federal Investigation of New Admissions Policy Politically Motivated*, *Hatch, McConnell Say*, S.F. Examiner, Aug. 14, 1997, at A19 (citing united effort of coalition of civil rights groups representing African-Americans and Latinas/os to change the post-Prop. 209 University of California admissions policies). But see Richard Delgado, *Rodrigo's Fourteenth Chronicle: American Apocalypse*, [32 Harv. C.R.-C.L. L. Rev. 275, 293 \(1997\)](#) (arguing that Latinos and African-Americans alternate between being "at each other's throats... and] working together to challenge oppressive measures that threaten them both, such as the backlash against affirmative action.") (footnote omitted).

n69. For example, Richard Delgado is one of the founders of and a leader in the Critical Race Theory movement.

n70. It is obvious that the American Indians and other native peoples also comprise a significant subordinate population. The subjugation of native peoples, however, stems mainly from conquest and colonialism rather than immigration patterns which is at the heart of this Essay. Therefore, natives, although not completely absent in spirit because of the mestizaje of the Latina/o community, are thus beyond the scope of this piece. For literature concerning the discrimination against Native Americans, see generally Robert A. Williams, Jr., "The People of the States Where They Are Found Are Often Their Deadliest Enemies": The Indian Side of the Story of Indian Rights and Federalism, [38 Ariz. L. Rev. 981 \(1996\)](#); Robert A. Williams, Jr., *Vampires Anonymous and Critical Race Practice*, [95 Mich. L. Rev. 741 \(1997\)](#).

n71. See Rachel Moran, *Remarks at LatCrit Theory and Asian American Legal Scholarship: A Competitive Discussion of Non-White/Non-Black Positionalities Panel Discussion*, LatCrit II Conference, (May 3, 1997) (on file with author) [hereinafter Moran].

For me, one of the difficult things is, I think that there is a way in which the use of these terms belies very important internal differences, as well as, intergroup differences. That may be convenient, but ultimately, may be destructive of any public policy initiatives that we will be seeing in a time of demographic transformation... If I am reluctant to consider Latinos/[as] as a distinct group with a particular identity which we all understand rather than simply a word that we throw around as a convenient label for a variety of circumstances, then I am particularly reluctant to do so with respect to Asians.

Id.

n72. See Pat K. Chew, *Asian American: The "Reticent" Minority and Their Paradoxes*, [36 Wm. & Mary L. Rev. 1, 35 \(1994\)](#) (citing restrictive immigration laws and political events in Asian

nations as reasons behind modern "waves" of Asian immigration); Stephen H. Legomsky, *Immigration, Equality and Diversity*, 31 *Colum. J. Transnat'l L.* 319, 328-29 (1993) (listing factors behind Latina/o immigration as including: geographic proximity, civil wars and persecution in Central America, and use of temporary Mexican agricultural workers; and considering family unity preferences to serve as a factor in immigration from all nations). But see Kevin R. Johnson, *The New Nativism: Something Old, Something New, Something Borrowed, Something Blue*, in *Immigrants Out!*, supra note 5, at 165, 167 (stating that need for cheap labor "spurred Chinese immigration to the United States in the 1800s" which resulted in a strong anti-Chinese sentiment); Nestor P. Rodriguez, *The Social Construction of the U.S.-Mexico Border*, in *Immigrants Out!*, supra note 5, at 223, 235 (tracing historic use of Mexican immigrants as a source of cheap labor for American companies and farms).

n73. See Yen Le Espiritu, *Asian American Panethnicity: Bridging Institutions and Identities* (1992); *Borders (En)Gendered*, supra note 40, at 923 n.117.

n74. See Bill Ong Hing, *Beyond the Rhetoric of Assimilation and Cultural Pluralism: Addressing the Tension of SePtism and Conflict in an Immigration-Driven Multiracial Society*, [81 Cal. L. Rev. 863, 923-25 \(1993\)](#) (detailing the differences in the assimilation of Asian immigrants by their nation of origin); Leti Volpp, *Talking "Culture": Gender, Race, Nation, and the Politics of Multiculturalism*, [96 Colum. L. Rev. 1573, 1590 \(1996\)](#) (noting that under the model minority myth, Asian Americans are expected to assimilate); see also Moran, supra note 71.

n75. See Steven W. Bender, *Consumer Protection for Latinos: Overcoming Language Fraud and English-Only in the Marketplace*, [45 Am. U. L. Rev. 1027, 1032 n.14 \(1996\)](#) (noting that "some observers have speculated the Latina/o immigrants fail to assimilate as quickly as other immigrant groups"); Angel R. Oquendo, *Re-Imagining the Latina/o Race*, [12 Harv. BlackLetter J. 93, 126 \(1995\)](#) (arguing that assimilation is not an option because "Latinas/os, even if... fully conversant in the dominant tongue and ways, will not be willing to give up their cultural distinctness"). Rachel Moran has noted that:

On the issue of race in the Latino[/a] community, it seems quite clear that the evidence demonstrates that Latinos[/as] who self-identify as white have more contact with others who identify as white than they do as Latinos[/as] who identify as black. That is census data... With respect to class, there are very significant differences. If you look at the evidence right now for Latinos[/as] who have achieved English language fluency and high level of skills, there does not appear to be an ethnic tax on their wages. The most privileged Latinos[/as] are doing quite well, compPble to whites... The least privileged Latinos[/as]... compared to Asians... pay a higher tax for their lack of skills and language proficiency...

See Moran, supra note 71.

n76. See Moran, supra note 71.

n77. See Christine B. Hickman, *The Devil and the One Drop Rule: Racial Categories, African Americans, and the U.S. Census*, [95 Mich. L. Rev. 1161, 1265 n.9 \(1997\)](#) (comparing the intermarriage rate of African Americans (approximately 7%) with Japanese-American/White intermarriage (approximately 55%) and Chinese-American/White intermarriage (approximately 40%)); Kenneth E. Payson, *Comment, Check One Box: Reconsidering Directive No. 15 and the Classification of Mixed-Race People*, [84 Cal. L. Rev. 1233, 1260 \(1996\)](#) ("Intermarriage

between Whites and those of Asian descent accounts for most interracial unions."); see also Moran, *supra* note 71.

n78. Moran, *supra* note 71.

n79. See Chang, *supra* note 63, at 1267-68 (opining that Asian Americans are not covered by the Critical Race Theory which tends to focus on the Black/White Pdigm); Borders (En)Gendered, *supra* note 40, at 897-902 (detailing ways in which Latinas/os do not fit into a neat Black/White view of race); Ramirez, *supra* note 63, at 962-64 (exploring differences between racial and ethnic groups to show that there is no single racial minority group); Wu, *supra* note 63, 248-49 (arguing that minority groups are classified "as white, black, honorary whites, or constructive blacks").

n80. Compare Haney Lopez, *supra* note 41, at 61 (noting that a federal court in Texas "admitted to citizenship the 'pure-blooded Mexican' applicant, but remarked that "if the strict scientific classification of the anthropologist should be adopted, he would probably not be classed as white"), with *id.* at 203 (listing cases that include ones deciding that Chinese, Hawaiians, Japanese, Asian Indians, Punjabis, Afghanis and Koreans are not White as well as that "persons half White, one quarter Japanese, and one-quarter Chinese are not White," "persons three-quarters Filipino and one-quarter White are not White... persons half German and half Japanese are not White...").

n81. See Leonard M. Baynes, Who is Black Enough for You: The Stories of One Black Man and His Family's Pursuit of the American Dream, 11 *Geo. Immigr. L.J.* 97, 121-23 (1996) (recounting discrimination encountered by his mother based on her Caribbean accent); Borders (En)Gendered, *supra* note 40, at 907-11; Mari J. Matsuda, Voices of America: Accent, Antidiscrimination Law, and a Jurisprudence for the Last Reconstruction, [100 *Yale L.J.* 1329 \(1991\)](#) (examining relationship between accented English spoken and discrimination).

n82. See, e.g., Tena Jamison Lee, How Can There Be Free Speech if it's Only in English?: The Debate Over Language Rights, 24 *Hum. Rts.* 10 (Spring 1997) (recalling the resolution passed by the Oakland School Board to treat Ebonics as a second language and the resulting "backlash from the media, policymakers and just about everyone else under the sun").

n83. See Chang, *supra* note 63, at 1244-45 (recounting personal experiences of discrimination, including an incident where his citizenship was challenged by the border patrol because of his Asian heritage); Borders (En)Gendered, *supra* note 40, at 907-11 (describing "the prevalent view... in 'American' society of Latinas/os as alien").

n84. See 1994 Cal. Legis. Serv. Prop. 187 (West); Robert S. Chang, A Meditation on Borders, in *Immigrants Out!*, *supra* note 5, at 244-46 (demonstrating continued nativistic racism aimed at Asian Americans); Natives, Newcomers, *supra* note 5, at 1094-97 (reviewing the nativistic intent and effect of Proposition 187).

n85. See Chang, *supra* note 63, at 1257 ("Nativistic racism lurks behind the spectre of "the Japanese 'taking over'" which appeared when Mitsubishi Corporation bought a 51% share of the Rockefeller Center...."); Martin Rosenberg, Japan Fades from U.S. Minds, *Kan. City Star*, Sept. 12, 1997, at B1 (noting that worry over Japanese purchases was based on perception that "as Japan's economic might grew, some say Japan became more arrogant.")

n86. See Ronald L. Hatchett, Let Summit Reveal a "Bush Doctrine," *Safeguarding America*, *Hous. Chron.*, June 24, 1990, at 4 ("Britain alone owns twice as much property in America as Japan, and over all, the European investment portfolio in America is four times that of Japan's.").

n87. See 1994 Cal. Legis. Serv. Prop. 187 (West); see also *supra* notes 4-11 and accompanying text (discussing nativist Proposition 187).

n88. See Deborah Ramirez, U.S. Policy on Haiti Called Racist: Aristide View Wins Support of Black Leaders at Miami Meeting, *Sun-Sentinel*, Mar. 19, 1994, at 1B.

n89. See Act of March 26, 1790, ch. 3, 1 Stat. 103 (1790).

n90. Federal law restricted immigration on the basis of race from the 1880's when Congress passed the Chinese Exclusion Act, ch. 126, 22 Stat. 58 (1882), until the end of the national origin quotas in 1965, see Act of Oct. 3, 1965, 79 Stat. 911. (1965). See *Natives, Newcomers*, *supra* note 5, at 1093-94 (describing the historic, nativistic policy of using a quota system to maintain the status quo of the composition of the population of the United States).

n91. Civil Rights Act of 1866, ch. 31, 14 Stat. 27 (1866). But see [In re Rodriguez, 81 F. 337, 349 \(W.D. Tex. 1897\)](#) (admitting to citizenship a "pure-blooded Mexican" but stating that the admission was based on international law, i.e., a series of treaties conferring citizenship on Spaniards and Mexicans after the U.S.'s acquisition of lands in Florida and what is now known as the Southwestern U.S., and observing that "if the strict scientific classification of the anthropologist should be adopted, he would probably not be classed as white").

n92. Gerado Marin & Barbara Van Oss Marin, *Research with Hispanic Populations* 20 (1991) (noting that the Hispanic label attaches to certain nationalities regardless of race); see also *Borders (En)Gendered*, *supra* note 40, at 903-05 (discussing multi-racial aspects of Latina/o population).

n93. See, e.g., Alfred Chueh-Chin Yen, *The Diversity Among Us*, [19 W. New Eng. L. Rev. 36, 37 \(1997\)](#) (referring to the model minority image attached to Asian Americans); Somini Sengupta, *Academic Progress by Asian-Americans is Found to be Uneven*, *N.Y. Times*, Nov. 9, 1997, at 17 (noting that the model minority image given to Asian American immigrants overshadows the impoverished reality of some).

n94. See Gabriel Chin et al., *Beyond Self-Interest: Asian Pacific Americans Toward a Community of Justice - A Policy Analysis of Affirmative Action* (1996).

n95. E-mail from Professor Pedro Malavet to Professor Berta Hernandez (Sept. 18, 1997) (on file with author).

n96. See *Borders (En)Gendered*, *supra* note 40, at 912-18 (stating that Latinas are taught at an early age that homemaking and child rearing are proper goals for women); Jacquelyn H. Slotkin, *You Really Have Come A Long Way: An Analysis and Comparison of Role Conflict Experienced By Women Attorneys Today and By Educated Women Twenty Years Ago*, [18 Women's Rts. L. Rep. 17, 27 \(1996\)](#) (citing study of twelve Asian American women which described "their traditional cultural values [as] quiet, humble, modest, retiring, more polite, [and]- respectful").

n97. See Maria L. Ontiveros, *Three Perspectives on Workplace Harassment of Women of Color*, C989 A.L.I.-A.B.A. 259, 263 (1995) (describing stereotype of Asian American women as "exotic, submissive, and naturally erotic"); see generally Christine S.Y. Chun, *Comment, The Mail-Order Bride Industry: The Perpetuation of Transnational Economic Inequalities and Stereotypes*, 17 U. Pa. J. Int'l Bus. L. 1155 (1996).

n98. See Ontiveros, *supra* note 97, at 265 (describing the stereotypical Latina as "naturally sexual... evoking the image of the 'hot-blooded' Latina").

n99. See Regina Austin, Black Women, Sisterhood, and the Difference/Deviance Divide, [26 New Eng. L. Rev. 877, 882 \(1992\)](#) ("Before and since slavery, black women's supposed sexual promiscuity and licentiousness have been relied upon to justify the sexual exploitation of black women by white males intent upon rape, cheap sex, harassment on the job, or torment on the streets.") (citing bell hooks, *Ain't I a Woman* 51-67 (1981)).