

Cluster IV

**\*441** KILLING ME SOFTLY, WITH HIS SONG: ANGLOCENTRISM AND CELEBRATING  
NOUVEAUX LATINAS/OS [FN1]

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I. INTRODUCTION [FNd1]

Popular media are currently celebrating the nation's apparently new, exciting embrace of Latina/o culture. The meteoric ascent of the now-ubiquitous Ricky Martin and Jennifer Lopez, and the hard-won, overdue recognition of Carlos Santana suggest that something new is happening. These now-popular media figures, we are told, herald a new acceptance and embrace of Latina/o culture by the American public. In its year-end issue featuring the twenty-five Most Intriguing People of 1999, *People* magazine featured both Ricky Martin and Jennifer Lopez. [FN1] *Diós Mío!* This is truly the year of the Latina/o. Merengue is in. Ricky and Jennifer are in deep. Get out your dancing shoes, your leathers, and mambo.

**\*442** O God, I could be bounded in a nutshell and count myself a king of infinite space, were it not that I have bad dreams. [FN2]

I confess that I have bad dreams. Where others write about the current celebration of Latina/o culture, I see and hear something else. Ricky Martin, neé Enrique Morales Martin, did not become a successful singer in this country until he began singing in English. His *Livin' La Vida Loca*, sung in English, has little that my ears recognize as Latin in its music or its sound. It sounds to me like mediocre rock music. It is perhaps no accident that the hit single "Smooth" from Carlos Santana's terrific album, *Supernatural*, has Rob Thomas, lead singer of *Matchbox 20*, as vocalist and principal audio mouthpiece. At least Santana's signature sound, his piercing guitar, and his wonderful band remain even as the vocals propel him into new territory. I interpret the recent success of Martin and Santana less as a celebration of Latino/a culture and identity than as a strong affirmation of Anglocentrism. Only when these artists present themselves in English, or with English mouthpieces, do they become celebrated. In the end, America celebrates not its diversity, but the Anglo-conformity of prominent Latina/o artists.

The most ubiquitous Latina/o presence in the media today, however, is not Ricky Martin. It is Gidget, the ubiquitous Taco Bell dog. [FN3] "Yo quiero Taco Bell." "Drop the chalupa." So says the dog in unmistakably Mexican-accented Spanish and English. Gidget gets plenty of airtime during the football season, the Super Bowl, and other

prime-time settings, more airtime than Ricky. It is impossible to walk or drive down the street without encountering a bus plastered with a larger-than-life likeness of that infernal dog. Gidget is at least as popular as Ricky and Jennifer.

The trouble with Gidget, and her popularity, is that she continues the tradition of insulting depictions of Mexicans as small animals, such as Speedy Gonzalez, the small, Mexican-accented cartoon mouse. Gidget's extraordinary popularity shows how much people like to laugh at the image of Mexicans depicted as amusing little creatures. Ricky and Jennifer may be attractive, sexy, and talented. At least they are human. We must reckon with the troubling popularity of the dog. [FN4]

In sharp contrast to the acceptance enjoyed by English-singing Ricky and Jennifer, consider the audience's reaction to Linda Ronstadt when she sang in Spanish:

*\*443* When Linda Ronstadt brought her "Canciones de Mi Padre" tour to Massachusetts recently, hecklers disrupted the evening with chants of "English. English." ... After a few songs [an audience member] grumpily stomped down an aisle and shouted to no one in particular, "Remember the Alamo, Mex!" Several people walked out of the Massachusetts concert. [FN5]

Some members of her audience felt betrayed when Ronstadt sang classic Mexican songs in Spanish to honor her Mexican father.

Consider Judge Samuel Kiser's treatment of a Mexican-American mother, Martha Laureano, and her daughter. Ms. Laureano, bilingual in Spanish and English, spoke Spanish to her daughter at home. The judge felt that this was "abusing that child" and "relegating her to the position of a housemaid." [FN6] Judge Kiser ordered Ms. Laureano to "start speaking English to that child because if she doesn't do good in school, then I can remove her because it's not in her best interest to be ignorant." [FN7] Remarkably, yet unsurprisingly, in Judge Kiser's view of the world, only fluency in English constitutes knowledge. Fluency in Spanish constitutes ignorance.

Spanish speakers are treated as children of a lesser god. In this Essay, I will describe the contradiction that exists between media celebrations of some Latina/o artists and the very harsh treatment received by less Anglicized Latinas/os in the workforce. While many writers proclaim a national celebration and a new acceptance of Latina/o culture and artistry, simultaneously most Latinas/os are struggling against powerful movements hostile to their languages and cultures. [FN8] In contrast to the celebration announced in the press, I will show how legal developments in the courts and the Official English movement have consistently attacked the public legitimacy of non-anglocentric manifestations of Latina/o identity, particularly the use of Spanish in private and public forums.

It is premature, then, to claim that the nation is somehow celebrating its Latina/o culture when, simultaneously, the use of Spanish is being curbed in important arenas. In employment, courts have allowed employers to fire and discipline employees merely for speaking Spanish in the workplace. [FN9] In *\*444* the state legislatures and in Congress, promoters of the Official English movement continue to campaign with success to formalize the legal status of English as the official language of the United States. Less than half of the states have, either by referendum or by legislative action, adopted English as the official language of their jurisdictions. [FN10] Congress has recently considered legislation making English the official language of the federal government. Furthermore, in California, popular referendums have curtailed the availability of bilingual education, prohibited affirmative action, and restricted the access of undocumented immigrants to public services and education. Such initiatives have, in the

past, been harbingers of similar legislation likely to be enacted in other states and perhaps, by Congress.

And, while all of these developments also affect speakers of Asian, Native American, and other languages, there can be little doubt that their principal target is the growing population of Spanish speakers, which constitutes, by far, the largest linguistic group in the United States after English speakers. According to the 1990 Census, approximately 31.8 million people spoke languages other than English in their homes; of these, 17.3 million, over half, spoke Spanish at home. [FN11]

So how can we understand the apparent increase in the desire to regulate the use of languages other than English and to enhance the relative stature of English through the creation of "official" status for the language through law? Advocates of Official English stress the importance of a common language, English, to create and preserve national unity. They also argue that knowledge of English is essential for academic achievement, economic success, and mobility. With respect to the national unity argument, with or without Official English laws and legal support, English is obviously the dominant and common language of the United States. [FN12] Recent census figures show that approximately ninety-seven percent of United States residents surveyed rated themselves as speaking English well or very well. [FN13] To the extent that language is a proxy for national unity, we have currently just about as much national unity as the English language can provide. History suggests, however, that language is a poor proxy for national unity. Our most significant national struggles, such as the Revolutionary War, the Civil War, and the civil rights movement, have all \*445 been fought by people speaking the same language and sharing much of the same culture.

Alternatively, the country has never been threatened in any significant way by the presence of other languages within its national borders. For example, during the nineteenth century, several states, including Pennsylvania, Louisiana, California, and New Mexico, were officially bilingual in English and German, French, and Spanish, respectively. [FN14] By "officially bilingual," I mean that in their state constitutions and statutes, these states required that their laws and other official proceedings be published in more than one language. If, as argued by advocates of Official English, linguistic uniformity was necessary for national unity, we would expect that the country would have fallen apart due to the manifest linguistic diversity apparent during the nineteenth century. While the country came apart during the Civil War, this was a war made and fought by English speakers. Language is, therefore, a poor proxy for national unity.

Advocates for Official English argue that mastery of English is necessary for academic achievement and success. This merely restates the obvious--we live in an English-dominated society. And, while Official English advocacy organizations can always parade a recent immigrant of color to provide a testimonial about the importance of English for achieving success (a point that no one disputes), everyone, particularly recent immigrants, knows that mastery of English is important. I note, however, that the English-language mastery of the U.S. English "poster-people" has been achieved without Official English. Just how necessary is official status for English in the face of overwhelming economic and social incentives to know the language? Advocates of Official English should spend their ample funds subsidizing scarce English-language instruction if their aim is truly to enhance the English-language skill of immigrants.

## II. THE CONTEMPORARY REALITY OF ONLY ENGLISH [FN15]

A more likely reason for the legislative war on Spanish and Spanish speakers lies in recent demographic trends. Current demographics show an increasing Latina/o population within the United States, which currently \*446 constitutes approximately

eleven percent of the population. [FN16] Future projections of the Latina/o population estimate that early in the next century, Latinas/os will become the largest minority in the United States. [FN17] Other demographic projections indicate that by the year 2050, people of color, counted together, will outnumber White Americans for the first time. [FN18]

These projections have caused great concern among persons who conceive of the United States as a static, White, English speaking country for all time. For example, Peter Brimelow's *Alien Nation* argues for immigration restriction explicitly based on the notion that the United States must preserve what he claims is the country's White ethnic core. [FN19] Brimelow, however, is hardly the first to make such arguments. Indeed, it was this concern about demographics that gave birth to U.S. English, a principal proponent of the Official English movement, and to the Federation for American Immigration Reform, a leading proponent of immigration restriction. In 1986, Dr. John Tanton, founder of both organizations, wrote the following:

Gobernar es poblar translates "to govern is to populate." In this society where the majority rules, does this hold? Will the present majority peaceably hand over its political power to a group that is simply more fertile? ...

How will we make the transition from a dominant non-Hispanic society with a Spanish influence to a dominant Spanish society with non-Hispanic influence? ... As Whites see their power and control over their lives declining, will they simply go quietly into the night? Or will there be an explosion?

Will Latin American migrants bring with them the tradition of the mordida (bribe), the lack of involvement in public affairs, etc.? ...

In the California of 2030, the non-Hispanic Whites and Asians, will own the property, have the good jobs and education, speak one language and be mostly Protestant and "other." The Blacks and Hispanics will have the poor jobs, will lack education, own little property, speak another language and will be mainly Catholic. [FN20]

*\*447* Tanton's memo provides evidence of the demographic concerns underlying movements to subordinate Latinas/os through language and immigration policy in the United States.

### III. ENGLISH-ONLY IN THE WORKPLACE

Important battles over the permissible use of Spanish have erupted in American workplaces. Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment on the basis of race, color, religion, sex and national origin. [FN21] The language issue has emerged in litigation over the legitimacy of English-only rules, imposed by private and state employers seeking to restrict the use of Spanish and other languages in their workplaces.

In the early and still leading case of [Garcia v. Gloor](#), [FN22] the court upheld an employer's English-only rule with reasoning that continues to be applied today. In that case, Hector Garcia, a young Mexican-American, was employed as a salesman for Gloor Lumber and Supply, Inc. [FN23] Gloor Lumber had an English-only rule prohibiting employees from speaking Spanish on the sales floor unless they were communicating with Spanish-speaking customers. [FN24] One day, Garcia was asked by a fellow Mexican-American employee whether an item requested by a customer was available. [FN25] Garcia responded in Spanish that the item was not available. [FN26] Garcia's

response was overheard by Alton Gloor, an officer and stockholder of the company. [FN27] Subsequently, Garcia was fired for having spoken Spanish in violation of the rule. [FN28]

Garcia sued his employer, claiming that the English-only rule discriminated against him on the basis of his Mexican-American national origin. [FN29] The court rejected Garcia's arguments and decided that Gloor Lumber's English-only rule did not violate the prohibition against national origin discrimination enacted by Title VII. [FN30] The court reasoned that "[t]he statute forbids discrimination in employment on the basis of national origin. \*448 Neither the statute nor common understanding equates national origin with the language that one chooses to speak." [FN31] The court also wrote that there was no discriminatory impact "if the rule is one that the affected employee can readily observe and nonobservance is a matter of individual preference. [As a bilingual,] Mr. Garcia could readily comply with the speak-English-only rule; as to him nonobservance was a matter of choice." [FN32] The court continued, observing that "the language a person who is multi-lingual elects to speak at a particular time is by definition a matter of choice." [FN33] Thus, in matters of linguistic expression, employers may discriminate freely against employees. More recently, another court followed the Gloor court's reasoning and permitted Spanish-speaking employees to be disciplined for speaking Spanish in the workplace. [FN34]

The Gloor court's reasoning depends on several unwarranted conclusions that have made it practically impossible for plaintiffs to prevail in lawsuits challenging English-only rules. First, the court interprets the term "national origin" in Title VII narrowly so that the statute's protection does not necessarily extend to the racial and cultural traits associated with one's birthplace or ancestry. [FN35] While the court's interpretation of "national origin" conforms to the literal meaning of the words, it is so narrow as to be useless in combating the kinds of discrimination faced by persons whose national origin or ancestry is deemed "foreign" or outside the United States. [FN36] Most prejudice results not because of one's birthplace or national origin, but rather because of the attributed "foreignness" of one's characteristics, such as non-English language, accent, appearance, name, or culture. [FN37] The court's narrow interpretation of "national origin" makes Title VII's prohibition against "national origin" discrimination illusory.

The court also mischaracterizes the "choice" bilinguals make when they speak one language or another. [FN38] This choice is much more complex than the choice of what to wear to work on a given day. A bilingual person's choice of language in a conversation depends on many factors, such as the identity of the participants, their relation to each other, the social setting and its relative formality or informality, and the purpose of the communication. Yet, neither the court, nor many employers, take these \*449 factors into account in their notion of "choice." Hector Garcia's choice of Spanish to communicate with a fellow Mexican-American employee, who presumably understood Garcia, was entirely appropriate based on an understanding of linguistics, even if in violation of the employer's rule.

Even the employer had some sense of the propriety of communicating in the language with which customers felt most comfortable. Gloor Lumber encouraged Spanish-language conversations with Spanish-speaking customers and English-language conversations with English-speaking customers. [FN39] The employer's intuitive understanding of what works best for customers is right. Part of the injustice of English-only rules is that the same intuitive understanding that yields employer accommodation and use of Spanish for its profit maximization does not extend to employees' natural use of Spanish among themselves. Profit maximization also may be at work in decisions to limit Spanish, since restrictions on Spanish cater to the prejudice and discomfort of monolingual English-speaking customers. Gloor Lumber defended its rule in part

because English-speaking customers objected to employee conversations in Spanish. [FN40] But imagine if "customer preference" or "customer discomfort" could have been asserted successfully as a defense with respect to the hiring of African-American employees in the South during the 1960s. Wouldn't such a customer or co-worker preference defense have entirely defeated the equality goals of the Civil Rights Act of 1964? And if we recognize this proposition with respect to race, why do courts fail to recognize it with respect to the regulation of language differences?

Furthermore, as Garcia attempted to argue in court, albeit unsuccessfully, language is inextricably tied to one's sense of identity, as much for English speakers as for Spanish speakers. [FN41] An important way to understand such battles over English and Spanish in the workplace is to understand them as struggles for identity: Anglo-owned or controlled workplaces will try to maximize their Anglo identity by emphasizing English and suppressing Spanish; Latina/o employees will try to maintain their identities by using Spanish whenever possible.

Interestingly, it is this conflict over the management of identity in the workplace that underlies the decision in *Gloor*. The decision from which I quoted above was the court's second opinion in the case. The court withdrew its first opinion and omitted some crucial sentences that had appeared in the first version. I reproduce a paragraph from the first, withdrawn opinion, with the subsequently omitted sentences italicized:

*\*450* An employer does not accord his employees a privilege of conversing in English. English, spoken well or badly, is the language of our Constitution, statutes, Congress, courts and the vast majority of our nation's people. Likewise, an employer's failure to forbid employees to speak English does not grant them a privilege .... If the employer engages a bilingual person, that person is granted neither right nor privilege by the statute to use the language of his personal preference. [FN42]

The court is saying that English is the dominant language of the country and that English goes to the core of our national identity. The Spanish language is, however, an important aspect of racial and ethnic identity for the people most affected by English-only rules, and is not simply a "choice." The court thus reinforces Anglocentric norms of language and identity in the workplace, a stance that contradicts Title VII's prohibition against national origin discrimination. In its decision, the court cedes the management of national linguistic identity, at least in workplaces, to predominantly English-speaking employers, who will act to reinforce their preferences for English and for profit maximization.

In response to the *Gloor* decision, the Equal Employment Opportunity Commission (EEOC) issued detailed guidelines making clear that language discrimination is prohibited under Title VII and that, in many cases, English-only rules will violate the statute. [FN43] However, businesses are frequently able to justify English-only rules if they demonstrate to the satisfaction of the court that their rules constitute a "business necessity." Since there are no clear guidelines on what constitutes a business necessity, it will come down to a judge's or a court's opinion on what constitutes a business necessity for a language restriction. Unfortunately, many justifications for language restrictions seem superficially plausible and acceptable to judges who lack experience with, or knowledge about, language differences. Upon close scrutiny, justifications such as the need for safety and efficiency, or the need for effective supervision, turn out not to be particularly persuasive. [FN44]

Remarkably, several courts have ignored the EEOC's guidelines altogether. While courts generally enforce expert agency interpretations of the law, some courts that have

considered the validity of English-only rules \*451 have ignored the EEOC's interpretation of the Civil Rights Act. Following *Gloor*, courts have reasoned that the meaning of the term "national origin" cannot be extended to include the foreign languages of bilinguals. Furthermore, courts have reasoned that the EEOC only has limited power to issue guidelines that are not legally binding, so that the courts need not pay attention to the expert agency's interpretation of its own statute. [FN45] A good example is the fairly recent decision in [Garcia v. Spun Steak Co.](#) [FN46] In the *Spun Steak* decision, the court, applying the reasoning from *Gloor*, decided that an English-only restriction during work hours did not violate Title VII's prohibition on national origin discrimination. [FN47]

#### IV. THE SUPREME COURT AND LANGUAGE DISCRIMINATION

The Supreme Court, like the lower courts, has failed to recognize that language discrimination is a form of race discrimination. In its only recent decision addressing language differences, *Hernández v. New York*, [FN48] the Supreme Court decided that jurors who are bilingual in Spanish and English may be dismissed from juries that will consider Spanish-language testimony. [FN49] In this case, a prosecutor had used peremptory challenges--those used to remove jurors thought to be undesirable for virtually any reason by either side in a court case--to remove two bilingual, Spanish-speaking jurors from a jury. [FN50] The Supreme Court had previously ruled, however, that peremptory challenges could not be used to remove jurors because of their "race," [FN51] a decision that would seem to include the facts in *Hernández*, considering that, in the United States, Latinas/os have frequently been treated as a nonwhite race and have suffered discrimination because of their languages. In *Hernández*, the Court had to decide whether the peremptory exclusion of two Latino jurors was tantamount to exclusion because of race and whether this violated the Equal Protection Clause of the United States Constitution. [FN52]

The Court concluded that the peremptory exclusion of bilingual jurors in this case did not violate the Equal Protection Clause. [FN53] Because the \*452 *Hernández* case required some witnesses to testify in Spanish, the prosecutor was uncertain whether the bilingual jurors would adhere to the official interpretation of the testimony into English. [FN54] Despite the jurors' assurance that they would adhere to the official interpretation, the prosecutor "felt from the hesitancy in their answers and their lack of eye contact that they would not be able to do it." [FN55] The Court decided that this was a race-neutral reason for the prosecutor's exclusion of the bilingual jurors, and concluded that there was no violation of the Constitution. [FN56] While allowing the prosecutor to exclude the bilingual jurors, the plurality opinion suggested, paradoxically, that a prosecutor's use of peremptory challenges to exclude Latinas/os because of their ethnicity would violate the Equal Protection Clause. [FN57] Just as paradoxically, the plurality suggested that the prosecutor's actions would have violated the Constitution if his reason had been that he "did not want Spanish-speaking jurors." [FN58]

There is little or no meaningful difference between a prosecutor's discomfort with bilingual jurors hearing translated testimony and exclusion of these same Latino jurors "by reason of their ethnicity," or because the prosecutor "did not want Spanish-speaking jurors." [FN59] Each of these statements amounts to the same thing, the exclusion of bilingual jurors. Therefore, it is hard to understand why the Court did not conclude in *Hernández* that the prosecutor had discriminated unconstitutionally.

One could argue that perhaps the prosecutor was justified because of these jurors' demeanor, their hesitation, and their lack of eye contact. But consider what these jurors were asked to do: they were asked to ignore what they heard and understood (the Spanish-language, original version of the testimony) and to pay attention only to the official, translated version in English. How can one ignore what one has already heard

and understood? And what if the interpreter makes a mistake? Should a bilingual juror adhere to a mistaken interpretation of testimony? These are inevitable questions for a bilingual juror, and would explain the jurors' hesitation in answering the prosecutor. A more troubling question is why the prosecutor and the Court are more concerned with blind adherence to the official interpretation, which could easily be wrong, than with preserving the ability of bilingual jurors to act as a check on the interpreter and to contribute to the accuracy of the truth-finding function of the jury. The Supreme Court thus allowed a prosecutor's concerns over whether bilingual jurors would follow the official interpretation of testimony \*453 (regardless of whether the interpretation was right or wrong) to outweigh the presence of Latina/o jurors on a jury. Since prosecutors can always raise such a concern, it seems quite unlikely that bilingual jurors will be allowed to sit in cases involving Spanish-speaking victims or defendants, when any testimony will be in Spanish and subject to interpretation.

One of the major failures of the courts, then, is their failure to recognize that discrimination against the language of Spanish-speakers and against speakers of other languages is a form of race discrimination. This failure has rendered our most important equality laws virtually useless in redressing language discrimination. Courts must interpret Title VII of the Civil Rights Act of 1964 in such a way that language discrimination is prohibited, either as a form of race discrimination or national origin discrimination, or else this form of discrimination will continue to be deployed against Latinas/os and other linguistic minorities without redress. A plurality of the Supreme Court in *Hernández* wrote that "[i]t may well be, for certain ethnic groups and in some communities, that proficiency in a particular language, like skin color, should be treated as a surrogate for race under an equal protection analysis." [FN60] Having stated this principle, the Supreme Court must begin to interpret the Equal Protection Clause in such a way that language discrimination violates equal protection principles in the same way that overt race discrimination does.

## V. OFFICIAL ENGLISH AND THE FIRST AMENDMENT

On the legislative front, the Official English movement has made steady gains, particularly in the states, enacting legislation or constitutional amendments making English their official language. [FN61] Even states with virtually no Latinas/os have adopted such laws, perhaps on the theory that a pre-emptive strike will discourage any Latinas/os from coming. [FN62] Federal legislation, however, proposing to make English the official language of the federal government (and repealing sections of the Voting Rights Act that require bilingual ballots), appears to have stalled. [FN63]

Legal challenges to restrictive Official English laws based on the First Amendment have recently enjoyed more success than challenges attempted under Title VII of the Civil Rights Act. In [Yniguez v. Arizona](#) [FN64] and [Ruiz v. Hull](#), [FN65] advocates for Spanish-speaking plaintiffs successfully argued that \*454 Official English laws prohibiting Spanish-language speech violate the First Amendment, which protects speech from excessive government interference. [FN66] The recent Ruiz decision by the Arizona Supreme Court invalidated the Official English provisions of the Arizona Constitution, which were enacted by popular referendum in 1988. [FN67]

Despite the early success of the theory that Spanish speech is protected from governmental interference under freedom of speech principles, this represents only a partial legal victory. The First Amendment and the United States Constitution limit only governmental action. There is no First Amendment right to freedom of speech with respect to private employers. Because the courts have failed to protect against language discrimination by private employers, Spanish speakers remain vulnerable to discharge because of their language.

It is foolish to squelch, rather than nurture, the linguistic abilities of Americans. American nativism has often sought the suppression of languages other than English. The Official English movement, and English-only rules in the workplace, replay this tradition of suppression. Current movements for Official English and English-only, advocating and implementing linguistic uniformity and conformity, parallel the Americanization movement of the early twentieth century to an uncomfortable degree. Movements for cultural and linguistic conformity contradict core American values of equality and respect for individual identity and liberty.

## VI. LANGUAGE DIFFERENCES, INTERNATIONAL LAW, AND DOMESTIC POLICY

In addition to violating core American values, much of the discrimination because of language differences as well as the production of second-class citizenship for linguistic minorities in the United States, occurs in stark violation of well accepted principles of international law. For example, Article 2 of the International Covenant on Civil and Political Rights (ICCPR) guarantees to all persons within a nation rights of self-determination and cultural development, "without distinction of any kind, such as race, colour, sex, language ... [and] national ... origin." [FN68] Article 26 of the ICCPR guarantees to all persons "equal and effective protection against discrimination on any ground such as race, color, sex, language ... \*455 [and] national or social origin." [FN69] Article 27 of the ICCPR states that in nations such as the United States, where "ethnic, religious, or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture ... or to use their own language." [FN70] As another example, Article 2 of the International Covenant on Economic, Social and Cultural Rights prohibits "discrimination of any kind as to ... language." [FN71] Article 1 of the Covenant recognizes that "[a]ll peoples have the right of self-determination," including the right to "freely pursue their economic, social, and cultural development." [FN72]

It is striking, then, to consider how the legal sanction given by courts, legislatures, and popular referenda to discrimination against the Spanish language is so remarkably inconsistent with agreed-upon norms of international law. When courts permit language discrimination in the form of English-only rules in the workplace, they create federal policy that violates international norms of non-discrimination on the basis of race, language, and national origin. When the Official English movement seeks to curtail the accommodation of non-English speaking or bilingual citizens and residents by requiring governmental communications to be in English, it sends a powerful message that the only proper form of American identity is an English-speaking, Anglo form. The Official English movement sends a powerful, stigmatizing message that non-English speakers and bilinguals are second-class citizens of this country. Any such message is contrary to domestic equal protection law, as articulated in [Brown v. Board of Education](#), [FN73] and is contrary to international law norms of non-discrimination and equal citizenship.

The official suppression of languages other than English is also bad policy. Language-suppression policies implemented by the government and in private workplaces affect longstanding citizens and recent immigrants. While a national desire to facilitate the acquisition of the English language by recent immigrants is understandable and desirable, the demand that English become the exclusive language of immigrants is self-defeating, destructive, and discriminatory. Will Kymlicka described the implications of a national policy of assimilation that demands complete abandonment of an immigrant's culture and language of origin:

\*456 Current policy has operated on the assumption that the ideal is to make immigrants and their children as close as possible to unilingual native-speakers of English (i.e. that

learning English requires losing their mother tongue), rather than aiming to produce people who are fluently bilingual ....

This is a deeply misguided policy. It is not only harmful to immigrants and their families, cutting them off unnecessarily from their heritage. But it also deprives society of a valuable resource in an increasingly globalized economy. And, paradoxically, it has proven to be counter-productive even in terms of promoting integration. People learn English best when they view it as supplementing, rather than displacing their mother tongue. Moreover, there is an undercurrent of racism in the traditional attitude towards immigrant languages. As Richard Ruiz puts it, "Adding a foreign language to English is associated with erudition, social and economic status and, perhaps, even patriotism ... but maintaining a non-English language implies disadvantage, poverty, low achievement and disloyalty." [FN74]

Demands for the imposition of English monolingualism on immigrants sends a discriminatory and demeaning message to bilingual citizens, whose additional language(s) and cultural heritage are devalued.

## VII. CONCLUSION

Equal citizenship for all people demands equal respect for their languages, cultures, and their full personhood. The discriminatory treatment currently endured by many Latinas/os in their workplaces, as well as national campaigns for Anglo-conformity, are violently at odds with a full conception of equal citizenship. They are at odds with well accepted norms of international law. Yet, the discrimination persists and grows.

So, while some may want to believe that the United States celebrates its Latina/o cultures, I would urge a closer look. As long as Spanish speakers can legally be fired merely for speaking Spanish, it does not matter very much that the media celebrates the fact that Enrique Morales Martín (a.k.a. Ricky Martin) can sing in English. As long as the Official English movement continues its campaign to make Anglocentrism the official government policy, and to make all other American cultures unofficial and second-class, it does not matter very much that people suddenly love Jennifer Lopez.

*\*457* If the government, through the courts, referenda and other legislation, still seeks to silence the Spanish voice, it is far too early to celebrate or proclaim any national embrace of Latina/o culture. For who exactly is the media celebrating? Ricky, not Enrique. Jennifer. And Gidget, the infernal Taco Bell dog.

What is this celebration, if not the same old celebration? At bottom, there is little new here. What is this celebration, if not the ageless celebration of the Anglocentric self?

## Footnotes:

FN1. Editor's Note: Portions of this Essay are reprinted from the chapter by Juan F. Perea, *The New American Spanish War: How the Courts and the Legislatures are Aiding the Suppression of Languages Other Than English*, in *LANGUAGE IDEOLOGIES: CRITICAL PERSPECTIVES ON THE OFFICIAL ENGLISH MOVEMENT*, Vol. 2, at 121.

FNaa1. Cone, Wagner, Nugent, Johnson, Hazouri & Roth Professor of Law, at the Levin College of Law, University of Florida.

FNd1. The examples used in this Essay were current at the time it was written. Although Ricky Martin may not be as ubiquitous as he was, and although Taco Bell has since dropped Spanish-accented Gidget from its advertising, I still believe that the points made in the Essay are valid.

FN1. The 25 Most Intriguing People '99, PEOPLE, Dec. 31, 1999, at 48.

FN2. WILLIAM SHAKESPEARE, HAMLET, act II, sc. 1, 34 (Cyrus Hoy ed., Norton 1963) (1604-05).

FN3. See, e.g., Guillermo Gómez-Peña, Latin Entertainment, Commentary All Things Considered (National Public Radio, June 3, 2000) (transcript available on Lexis).

FN4. Taco Bell has dropped Gidget from its advertising since this Essay was prepared.

FN5. Joseph Rodriguez, Bubba Faces a Tongue-Tied Future, STAR TRIB., Oct. 3, 1988, at 09A.

FN6. Diane Jenings, Judge Orders Amarillo Mother to Speak English to Daughter: Not Doing So Is "Abusing" Child, He Rules in Custody Case, DALLAS MORNING NEWS, Aug. 29, 1995, at A1.

FN7. Id.

FN8. I run some risk of being accused of essentialism, of viewing Spanish as an essential aspect of Latina/o identity. For the record, I do not consider Spanish to be an essential aspect of Latina/o identity. However, I think the treatment of Spanish speakers reveals the racism experienced by many Latina/o people.

FN9. See, e.g., [Long v. First Union Corp.](#), 894 F. Supp. 933 (E.D. Va. 1995).

FN10. [Cal. Const. art. III, § 6](#); [Haw. Const. art. XV, § 4](#); S.B. 353, 2002 Leg. (Ala. 2002); S.B. 410, 141st Gen. Assem. (Del. 2002); H.B. 996, 146th Gen. Assem., Reg. Sess. (Ga. 2001); S.B. 1469, 56th Leg., 2d Reg. Sess. (Idaho 2002); H.B. 49, 79th Gen. Assem., 1st Sess. (Iowa 2001); H.B. 844, 120th Leg., 1st Reg. Sess. (Me. 2001); H.B. 113, 2002 Leg., Reg. Sess. (Miss. 2002); L.R. 1, 97th Leg., 1st Reg. Sess. (Neb. 2001); A.B. 918, 210th Leg. (N.J. 2002); A.B. 6055, 224th Leg., Reg. Sess. (N.Y. 2001); H.B. 321, 185th Gen. Assem., Reg. Sess. (Pa. 2001).

FN11. 1990 Census, available at <http://factfinder.census.gov>.

FN12. See id.

FN13. Id.

FN14. Juan F. Perea, [Demography and Distrust: An Essay on American Languages, Cultural Pluralism, and Official English](#), 77 MINN. L. REV. 269, 310, 317, 320, 324 (1992) [hereinafter Demography & Distrust]; see also DENNIS BARON, THE ENGLISH-ONLY QUESTION 17, 45, 83, 95 (1990).

FN15. The following sections of this Essay describing legal precedents are a modified version of Juan F. Perea, The New American Spanish War: How the Courts and the Legislatures Are Aiding the Suppression of Languages Other Than English, in LANGUAGE IDEOLOGIES: CRITICAL PERSPECTIVES ON THE OFFICIAL ENGLISH MOVEMENT 121 (Roseann Dueñas González & Ildiko Melis eds., 2001).

FN16. UNITED STATES CENSUS BUREAU, available at <http://census.gov/population>.

FN17. Id.

FN18. Id.; see also Craig Anderson, Hispanic Population Climbing; Latinos in Arizona to Outnumber Anglos By 2040, Figures Hint, ARIZ. REPUBLIC, Aug. 7, 1998, at A1.

FN19. PETER BRIMELOW, ALIEN NATION: COMMON SENSE ABOUT AMERICA'S IMMIGRATION DISASTER 58-59 (Random House 1995).

FN20. Memorandum from John Tanton to WITAN IV Attendees, Paper, at 1 (Oct. 10, 1986), quoted in Antonio J. Califa, [Declaring English the Official Language: Prejudice Spoken Here](#), 24 HARV. C.R.-C.L. L. REV. 293, 326-27 & nn. 217-18, 222 (1989); see also Jean Stefancic, Funding the Nativist Agenda, in IMMIGRANTS OUT! THE NEW NATIVISM AND THE ANTI-IMMIGRANT IMPULSE IN THE UNITED STATES 119, 121-22 (Juan F. Perea ed., N.Y.U. Press 1997) (describing the genesis of U.S. English and FAIR).

FN21. [42 U.S.C. § 2000e-2 \(2000\)](#).

FN22. [618 F.2d 264 \(5th Cir. 1980\)](#).

FN23. [Id. at 266](#).

FN24. Id.

FN25. Id.

FN26. Id.

FN27. Id.

FN28. Id.

FN29. Id. at 267.

FN30. Id.

FN31. Id. at 268.

FN32. Id.

FN33. Id. at 270.

FN34. See [Garcia v. Spun Steak Co., 998 F.2d 1480 \(9th Cir. 1993\)](#), cert. denied, [512 U.S. 1228 \(1994\)](#); see also [Tran v. Standard Motor Prods., Inc., 10 F. Supp. 2d 1199 \(D. Kan. 1999\)](#).

FN35. See [Gloor, 618 F.2d at 270](#).

FN36. See id.

FN37. See Juan F. Perea, [Ethnicity and Prejudice: Reevaluating "National Origin" Discrimination Under Title VII](#), 35 WM. & MARY L. REV. 805, 834-40 (1994). See generally GORDON ALLPORT, THE NATURE OF PREJUDICE 109 (1954).

FN38. See [Gloor, 618 F.2d at 270](#).

FN39. [Id. at 266](#).

FN40. [Id. at 267](#).

FN41. [Id. at 268](#).

FN42. [Garcia v. Gloor, 609 F.2d 156, 161 \(5th Cir. 1980\)](#) (emphasis added).

FN43. See [29 C.F.R. § 1606.7 \(2000\)](#).

FN44. See Juan F. Perea, [English-Only Rules and the Right to Speak One's Primary Language in the Workplace, 23 U. MICH. J.L. REF. 265, 272-73 \(1990\)](#); see also Christopher David Ruiz Cameron, [How the Garcia Cousins Lost Their Accents: Understanding the Language of Title VII Decisions Approving English-Only Rules as the Product of Racial Dualism, Latino Invisibility, and Legal Indeterminacy, 85 CAL. L. REV. 1347, 1387 \(1997\)](#).

FN45. Perea, *supra* note 37, at 844-46.

FN46. [998 F.2d 1480 \(9th Cir. 1993\)](#).

FN47. [Id. at 1490](#).

FN48. [500 U.S. 352 \(1991\)](#). See generally Juan F. Perea, Hernández v. [New York: Courts, Prosecutors, and the Fear of Spanish, 21 HOFSTRA L. REV. 1 \(1992\)](#); Deborah A. Ramirez, [Excluded Voices: The Disenfranchisement of Ethnic Groups from Jury Service, 1993 WIS. L. REV. 761](#).

FN49. [Hernández, 500 U.S. at 361](#).

FN50. [Id. at 356](#).

FN51. [Batson v. Kentucky, 476 U.S. 79, 89 \(1986\)](#).

FN52. [Hernández, 500 U.S. at 355](#).

FN53. [Id. at 361](#).

FN54. [Id. at 356](#).

FN55. [Id. at 357](#).

FN56. [Id. at 361](#).

FN57. [Id. at 360](#).

FN58. [Id. at 371.](#)

FN59. Id.

FN60. Id.

FN61. See generally Demography & Distrust, *supra* note 14, at 342.

FN62. Id.

FN63. The Language of Government Act of 1995: Hearings on S.356 Before the Senate Comm. on Governmental Affairs (1996) (statement of Juan F. Perea, Professor of Law, University of Florida Levin College of Law).

FN64. [69 F.3d 920 \(9th Cir. 1994\).](#)

FN65. [957 P.2d 984 \(Ariz. 1998\).](#)

FN66. The Yniguez case, though the first to invalidate an Official English enactment under the First Amendment, was ultimately vacated by the Supreme Court because one of the parties to the case on appeal lacked a sufficient stake in the litigation to have legal standing. See generally [Arizonans for Official English v. Arizona, 520 U.S. 43 \(1997\).](#)

FN67. [Ruiz, 957 P.2d at 1002.](#)

FN68. G.A. Res. 2200A, U.N. GAOR, 21st Sess., Supp. No. 21, at 52, U.N. Doc. A/6316 (1966).

FN69. Id.

FN70. Id.

FN71. G.A. Res. 2200A, U.N. GAOR, 21st Sess., Supp. No. 16, at 49, U.N. Doc. A/6316 (1966).

FN72. Id.

FN73. [349 U.S. 294 \(1955\).](#)

FN74. WILL KYMLICKA, MULTICULTURAL CITIZENSHIP: A LIBERAL THEORY OF MINORITY RIGHTS 97 (Oxford 1995) (emphasis in original).