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**COLLOQUIUM PROCEEDING:** Forging a Latino Identity

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**BIO:**

+ I graduated from Harvard Law School in 1981. I served as an Assistant U.S. Attorney in Boston from 1983-1986. I am now a Professor of Law at Northeastern University School of Law where I teach criminal justice, advanced criminal procedure and evidence.

I would like to dedicate this article to my son, Michael and my daughter Rachel.

**SUMMARY:** ... For instance, in Chicago, African-Americans live on the south side, and Latinos live on the west side. ... Latinos constitute the largest minority population within Massachusetts, almost 5% of the population, and yet we are invisible. ... For example, although Blacks comprise 40% of the minority population in Massachusetts, Latinos and Asians combined make up the remainder: that is, 60% of the minority population is either Latino or Asian. ... In California, 43% of the population are people of color and by the year 2000, non-Latino Whites will be a minority. ... In order to be admitted, an Asian applicant must score between 59-66. ... The court had to decide whether to make the new Senate district predominately African-American, predominately Latino, or predominately minority, but with neither group having control. ... Basically, the court said that the Voting Rights Act, and practically every affirmative action statute on the books, proceeds from the premise that there is one majority group and one minority group. ... The Asian community, meanwhile, is arguing that the consent decree as instituted denies Asian children equal access to education and that this denial is on the basis of race, a protective characteristic. ...

[\*61] My name is Debra Ramirez. I would like to thank Frank Valdes and Michael Olivas for their work in organizing this symposium. I also wish to explain why, on a personal level, forums like this one today have been so important to me and my personal development. As I was listening to the previous speakers, I noticed some common themes in their presentations. One of the most common of these themes has focused on our struggle for self-identification: who are we? Where and how do we fit within the larger society? Michael Olivas began the discussion by talking about his childhood in the 1950s and how embracing of his ethnic identity was viewed as something bad, something the white majority would not accept. Others talked about recovering their ethnic identity and discovering where their heart lies. But are we all really talking about the same thing? Again I ask, who are we?

I find panels such as the one here today extremely important because they remind me of my own personal experiences. I am a Latina. I am a Mexican-American. I grew up in the Midwest, in Glenview, Illinois. Glenview, Illinois, at least when I was growing up, and as far as I know now, is the home of the John Birch society. I did not grow up in a community in which there were a lot of people who resembled either me or my family. We were different. Being different became part of my identity. Although I am Latina, I grew up in an English-speaking home. I still struggle to accept the fact that in our home we were only permitted to speak English. Even as a child, I knew on an intellectual, as well as on an emotional level, the origins behind our speaking only English.

At the time that my mother attended school, there were no bilingual education programs. As some of you may know, the Midwest is known for its segregated communities. For instance, in Chicago, African-

Americans live on the south side, and Latinos live on the west side. My mother grew up on the west side of Chicago in a Spanish-speaking community. When she went to school for the first time, she spoke only Spanish, no English. That first day of school was a big deal for my mother. She got up especially early to make sure she was not late and she wore her best clothes. Although the neighborhood schools had some Spanish-speaking children, my mother was going to be attending a Catholic school. None of the teachers at that school spoke Spanish, nor did any of the other students. My mother was isolated.

My mother tells this story about what was supposed to be a milestone [\*62] in her life. My mother told me that on that first day of school, she went to her classroom and sat quietly at her desk. Her teacher approached her and said something in English to my mother. Not understanding what the teacher said, my mother just smiled in response. And then, in front of the rest of my mother's classmates, this teacher raised her arm and slapped my mother across her face. My mother was simply a child, she did not know what she had done. She did not understand why this teacher had slapped her. Of all of the stories my mother has told me over the years, this story remains one of the most vivid for me.

When I talk to my mother about why our family did not speak Spanish at home, she would tell me stories like the one I just told you. She would tell me about what it was like to grow up speaking only Spanish in a country where those in charge spoke only English. And, of course, she would joke with me and say, "Honey, I have raised five kids. They all got through college, four of them got through law school. When you have done the same, then you can come and tell me how to raise kids. I did the best I could." But her real message was that she grew up in a community and in a time and place where she did not believe that her children could go out into the world and succeed if we embraced what she embodied. Undoubtedly, this was a very difficult decision but my mother truly believed that by only permitting English to be spoken at home, she was saving us from having to experience for ourselves the confusion and humiliation she felt on that first day of school.

My mother always remembered what it felt like to be poor and different. Though she never taught me Spanish, she taught me something more important: that those of us lucky enough to shatter the bondages of poverty and discrimination must reach back to help those who have been less fortunate.

It was in that spirit that I became a Latina activist in my own community. This is a local story about Massachusetts, where I am now living. Although a lot of people are familiar with, or at least have heard about, the large Cuban population in Florida, or the Puerto Rican population in New York, or the increasing Mexican-American population in the West, very few people are familiar with the Latino population in Massachusetts. Yet, Massachusetts has the tenth largest Latino community in the country. Unfortunately, we also have the poorest Latino community in the country. For example, Massachusetts ranks fifty out of fifty in terms of unemployment rates for Latinos and fifty out of fifty in terms of poverty rates.

One of the struggles that I have faced has been trying to understand my community. Latinos constitute the largest minority population within Massachusetts, almost 5% of the population, and yet we are invisible. If one were to visit Massachusetts or read the Boston Globe one might never know that there is a significant population of Latinos living there. Neither the local newspapers nor the local media reflects this reality. In fact, there is not a single elected Latino who holds an official position within our State Legislature.

One of the first bridge building exercises I engaged in here in Massachusetts was to try to bridge the great chasm that existed between the world of lawyers that I now inhabit and the world of the poorest of the poor, the Latino community. I struggled to understand why Latinos in [\*63] Massachusetts were doing so poorly. Part of the problem, as I saw it, was that the decision makers, the people in power, largely saw the Massachusetts community as simply being made up of Blacks and Whites. They would tell me that there were a lot of existing programs designed to advance minority concerns. My response was to agree, but to also point out that existing programs were based on a Black/White paradigm. These programs were staffed by, and served members of the African-American community. Furthermore, it is the African-American population that the white community of Massachusetts think of as the minority population. For the most

part, Latinos and Asians are ignored. I told these decision makers that they needed to be more inclusive, that they needed to expand their view of "minority." For example, although Blacks comprise 40% of the minority population in Massachusetts, Latinos and Asians combined make up the remainder: that is, 60% of the minority population is either Latino or Asian. Yet, the concerns of these communities were not being addressed.

To remedy this situation, Governor William Weld asked me to head the Hispanic Advisory Commission which held a series of public hearings in communities with significant Latino populations. The commission heard testimony in Spanish and English about the problems of Latino residents and their proposed solutions. I asked community members what they needed to be empowered. I wanted to know if they believed that the governor and/or the legislature needed to do something to enable them to succeed. The response I received from these communities was that the government needs to recognize that while there are a lot of similarities between the African-American community and the Latino community in terms of poverty and economic development, there are also some fundamental differences, such as linguistic and cultural barriers, that Latinos must also face. They wanted the government to recognize not just that these differences exist, but that we as a community also exist. Basically, they asked for recognition of Latinos.

During one of these hearings, a man from Chelsea, one of the poorest communities in Boston with a Latino population of 40%, stood up and, in broken English, said to me, "Madam Chairperson, I want you to know something. All of what you are talking about in terms of the Latino community comes down to one word, and one word only: jobs, jobs, jobs. The rest is all bull-shit." I had to admit that there was some truth in what he said. His comments emphasized the fact that we need to focus on economics. We, us Latinos, must empower our own community. We have to make sure that there are business opportunities and good jobs with benefits for everyone.

After I submitted that report, the governor did agree to a series of measures that I believe will ultimately help the community. He established a Latino Economic Development Center and a Latino Economic Development Fund. We received a guarantee that more Latinos would be placed in judicial and political positions. We were also able to make an agreement with the Boston Globe to provide front page coverage of the hearings and the report on the findings. Front page coverage was important to me because as a mentor and tutor to Latino children in the inner city, I have heard these children speak of feeling invisible. They talk about how the only faces they ever see in the media that resemble [\*64] their own usually belong to gang-members or other persons accused of committing crimes. These children do not believe that their community is recognized or that their issues are discussed.

The second part of this talk is about building bridges in a different way. Shortly after I finished my work with the Hispanic Advisory Commission, Stanford Law School invited me to participate in a symposium on multiculturalism. I accepted with the condition that I could ground my discussion in my experience with the Latino community in Massachusetts. Stanford agreed. That symposium was the beginning of my examination of the Black/White paradigm. The title of my article from that symposium is "Multicultural Empowerment, It's Not Just Black and White Anymore." n1 Michael Olivas, among others, has asked, was it ever just Black and White? Historically, America has never been simply Black and White. In that article, I examined three demographic trends that are essential to creating a multicultural mechanism that includes everyone. These trends are: 1) the increase in the number of people who are not Black; 2) the increase in the percentage of people of color; and 3) the increase in the number of persons who have self-identified as multiracial. These trends are important because as the number of subgroups within the moniker "people of color" grows, the risk of conflict among and between those groups escalates. For example, if your employer wants to engage in affirmative action, may that employer meet that goal simply by hiring Latinos, or must the hiring be allocated among Latinos, Asians, and African-Americans?

Although its true that America has never been simply Black and White, just 35 years ago, in 1960, approximately 10% of the population was African-American, and the remaining 90% of the population was

seen as White. n2 According to the U.S. Census, Blacks constituted 96 percent of the minority population in 1960. n3 Obviously there were Latinos and Asians in the country. However, in 1960, Latinos were not counted as Latinos. n4 There was supposedly no mechanism, no methodology for counting our population. The census count of Asians was .5, that means 0.5%. n5 For Latinos, the best that we could do was to say that we existed in larger numbers. It was not until the 1970 census, that we were finally counted as a group. It is clear that at this time the country certainly perceived itself and counted itself as if it were simply Black and White. It was in this context that color conscious remedies emerged and it is within this context that these remedies have been implemented. Today African-Americans make up only about 50 percent of the population of people of [\*65] color. n6 Moreover, current projections indicate that early in the twenty-first century, Latinos will be the largest group of color in the United States. n7

The second trend involves the increase in the number of people of color. In 1960, approximately 10, 12, perhaps 15% of the population were people of color. n8 Yet that percentage is changing dramatically. In 1990, one out of four Americans viewed himself or herself as a person of color. n9 In New Mexico, for example, the percentage of people of color exceeds 50%. n10 In California, 43% of the population are people of color and by the year 2000, non-Latino Whites will be a minority. n11

The third demographic trend is the increase in the number of multiracial people, that is in people who do not self-identify as being wholly Black, White, or Latino, but instead, as a combination of these groups. This third trend leads us towards erasing the premise of a single racial identity. Between 1970 and 1990, the number of children living in families where one parent is white and the other a person of color has tripled. n12 Clearly there is an increasing number of children who are not of one race, but of several. Should that matter?

In California, there is currently a controversy surrounding Lowell High School in San Francisco. Several school systems in California are under a desegregation order which came out of a case brought by the NAACP. n13 This desegregation order placed strict racial quotas upon the composition of every school, including magnet schools. Specifically, the consent decree provided that no single group could constitute more than 40 percent of a school population. Admission to the Lowell magnet school is based on a combination of grade point average and standardized test score, so basically, admission is granted just on the numbers. In order to be admitted, an Asian applicant must score between 59-66. n14 For an African-American applicant to be admitted, he or she must score an 56. n15 Latino applicants must also score a 56.

n16 So what about the applicant who [\*66] is half Asian and half African-American and whose score is 86? How that person self-identifies will determine whether or not he or she is admitted to that school. If that person identifies as Asian, then a score of 86 would not be high enough for admission. On the other hand, if the applicant identifies as African-American, then a score of 86 exceeds that which is necessary for admission. Under these circumstances, race becomes a mutable characteristic rather than an immutable one. This allows one to, in effect, change one's race according to the situation at hand. Ironically, the underlying reality is that we are all really multiracial. One estimate indicates that from 75% to 90% of all African-Americans are, in fact, multiracial. n17 So what does this mean in terms of traditional color-conscious remedies? I think it means that courts have trouble when they apply traditional remedies to disputes among and between minority groups. For example, in *Johnson v. DeGrandy*, n18 a case from Florida that went before the Supreme Court, a group of Latinos, predominately Cuban, and a group of Blacks alleged violations of the Voting Rights Act. Both groups were able to prove that their rights had been violated. However, when it came time for the court to fashion a remedy, the court faced a serious problem. The remedy, creating another Senate district, could only accommodate one of the groups. The court had to decide whether to make the new Senate district predominately African-American, predominately Latino, or predominately minority, but with neither group having control.

There was also another problem. Although both groups are viewed as minorities, the Cuban population in Florida, is really very different from the African-American population in Florida. The Cubans in that State generally tend to be conservative and Republican; whereas, the African-Americans generally tend to be

liberal and Democratic. Faced with these differences, the court just threw up its hands. Basically, the court said that the Voting Rights Act, and practically every affirmative action statute on the books, proceeds from the premise that there is one majority group and one minority group. When the majority group claims reverse discrimination under any of these acts, we (the court) can handle that. We simply say that the majority group person does not have protective status since the protective status belongs to members of minority groups. But nothing in the Voting Rights Act, or for that matter in any of the other affirmative action statutes, tells the courts how to resolve disputes among and between minority groups. There is simply no jurisprudence on that subject. There is no controlling law. In fact, there is nothing to guide the court. So what did the court do when faced with this problem? The court dismissed it as a political question and therefore, relegated it to the political branches of the government to resolve. But do we really want the legislature to be resolving disputes between Asians, Blacks, and Latinos? In Massachusetts, for instance, there are no elected Latinos in the State [\*67] house and we are also the poorest minority group within the State. As a result, we have no chance winning in the legislature. If Latinos could win in the legislature, we would not need a Voting Rights Act in the first place. We would have the ability to elect our own persons sensitive to our issues to the legislature.

In the Lowell school situation, the Asian community is now suing the NAACP. The NAACP, who had previously won the consent decree, wants to see the consent decree remain in place. The Asian community, meanwhile, is arguing that the consent decree as instituted denies Asian children equal access to education and that this denial is on the basis of race, a protective characteristic. Their position is that while the quotas ordered by the consent decree may be an inclusive remedy designed to ensure other minority groups access to the school, the quotas act as a restrictive ceiling for Asians and are exclusionary. So what does all this mean for affirmative action? The paper that I wrote for Stanford is just preliminary musing about how we can create multicultural empowerment models that do not pit one group against another. Minority groups have more similarities than differences. While the census may try to categorize us by color and race according to how many drops of blood we may have or by how far back we can trace any particular heritage, we do not categorize easily. The issue is much more complicated. When I look at Roxbury, one of the poorest communities in Massachusetts, I don't see a Latino neighborhood, I don't see an African-American neighborhood, nor do I see an Asian neighborhood; instead, I see the poorest of the poor, Latinos, African-Americans, and Asians, all grouped together. And so I wonder whether the Latino interest in Roxbury is really very different from the interests of African-Americans or Asians. Is there some model for development in which we join hands and employ some kind of mechanism that allows us to empower ourselves without creating barriers among and between groups?

One possible solution would be cumulative voting. This solution does not require that Latinos separate from Blacks, or that Asians separate from Blacks and Latinos. It does not argue for a predominately Black district or a predominately Latino district. Instead, where there are multiple seats, all voters, not just Black voters, Asian voters, or Latino voters, receive as many votes as there are seats up for election. A person can cast her vote as she wishes and she can cumulate her votes for a single candidate. The advantage of this is simple: if the issue in your district is really language discrimination, then the Asians and the Latinos, maybe even the Haitians, could all band together and cumulate their votes to their benefit. Such a coalition would not be along racial lines, but along lines of common interests. That, at least, is the theory. Cumulative voting empowers individual decision making and facilitates transracial alliances.

I will leave you with this thought. I am optimistic that we, as a society, are going to come up with multicultural solutions and mechanisms because it is in the long-term economic interests of this country. Although it may not look that encouraging right now, the demographics will ultimately turn in our favor. California cannot continue to ignore the fact that we are now 43% of its population, and we are growing. What will our numbers be in the future? We are the future. The question then is what steps will this country take to build bridges rather than walls?

**FOOTNOTE-1:**

n1 Deborah Ramirez, *Multicultural Empowerment: It's Not Just Black and White Anymore*, [47 STANFORD L. REV. 957 \(1995\)](#).

n2 BUREAU OF THE CENSUS, U.S. DEPARTMENT OF COMMERCE, CENSUS OF THE POPULATION 1960, CHARACTERISTICS OF THE POPULATION, pt. 1, at 154 tbl. 44 (1964) [hereinafter 1960 CENSUS].

n3 *See* 1960 CENSUS, *supra* note 2, at 145 tbl. 44.

n4 "Prior to the 1970 census, the concept of Hispanics as a group barely existed... [None of the identifiers used prior to 1970 could satisfy the need for a definition that could be applied nationwide....]" Cary Davis, Carl Haub & JoAnne Willette, Population Reference Bureau, Incl., *U.S. Hispanics: Changing the face of America.*, 38 POPULATION BULL. 3, 5 (1983).

n5 1960 CENSUS, *supra* note 2, at 145 tbl. 44.

n6 *Cf.* BUREAU OF THE CENSUS, U.S. DEPARTMENT OF COMMERCE, 1990 CENSUS OF THE POPULATION, GENERAL CHARACTERISTICS OF THE POPULATION 323 tbl. 44. (1992) [hereinafter 1990 CENSUS].

n7 BUREAU OF THE CENSUS, U.S. DEPARTMENT OF COMMERCE, WE, THE AMERICAN HISPANICS 2 (1993).

n8 1960 CENSUS, *supra* note 2, at 145 tbl. 44.

n9 1990 CENSUS, *supra* note 6, at 323 tbl. 253.

n10 Felicity Barringer, *Census Shows Profound Change in Racial Makeup of the Nation*, N.Y. TIMES, Mar. 11, 1991, at A1, B8.

n11 *Id.*

n12 *Cf.* Lawrence Wright, *One Drop of blood*, NEW YORKER, July 25, 1994, at 46, 49.

n13 [San Francisco NAACP v. San Francisco Unified Sch. Dist.](#), 576 F. Supp. 34, 53 (N.D. Cal. 1983).

n14 I based this section on two newspaper articles. *See* Sharon Noguchi, *Number-by-Color Integration Isn't Real Pretty*, SAN JOSE MERCURY NEWS, May 13, 1993, at 7B; Lawrence J. Siskind, *In San Francisco, Ethnic Quotas Cripple Education*, SACRAMENTO BEE, July 16, 1994, at B7.

n15 Noguchi, *supra* note 14, at B7; Siskind, *supra* note 14, at B7.

n16 Noguchi, *supra* note 14, at B7; Siskind, *supra* note 14, at B7.

n17 *Cf.* Wright, *supra* note 42, at 46, 48.

n18 [Johnson v. Degrady](#), 114 S. Ct. 2647 (1994).