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## Mascaras y Trenzas: Reflexiones. Un Proyecto de Identidad y Analysis a Traves de Veinte Anos (Masks and Braids: Reflections, A Project on Identity and Analysis Over Twenty Years)

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# MÁSCARAS Y TRENZAS: REFLEXIONES UN PROYECTO DE IDENTIDAD Y ANÁLISIS A TRAVÉS DE VEINTE AÑOS\*

MARGARET E. MONTOYA\*\*

ON MÁSCARAS

*Using Spanish to Wrestle Brown Space into White Space*

*On the street at night I whistled popular tunes from  
the Beatles and Vivaldi's Four Seasons. The tension  
drained from people's bodies when they heard me.  
Brent Staples, quoted by Claude M. Steele<sup>1</sup>*

From their inception, names—including first names, surnames, names of groups, and even story, book, and academic article titles—are embedded with meaning and coded with identity, and over time, they become layered with nuance and memory. In 1992, when I wrote my original article, I named it “*Máscaras, Trenzas, y Greñas*,” using Spanish to embed a rhetorical signal to the reader that s/he was being invited into the lived experiences (and legal reasoning) of a Latina.<sup>2</sup> The first of several narratives begins with me as a seven-year-old child in Las Vegas, New Mexico.<sup>3</sup> Thus, the article begins in “Brown space”<sup>4</sup>—that is, the location, the perspective, the idioms,

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<sup>1</sup> CLAUDE M. STEELE, WHISTLING VIVALDI: AND OTHER CLUES TO HOW STEREOTYPES AFFECT US 6 (2010) (quoting BRENT STAPLES, PARALLEL TIME: GROWING UP IN BLACK AND WHITE 202–03 (1994)). Steele's story about New York Times columnist Brent Staples provides the title for his book. *Id.* at 6–7.

<sup>2</sup> Margaret E. Montoya, *Máscaras, Trenzas, y Greñas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse*, 17 HARV. WOMEN'S L.J. 185 (1994) [hereinafter Montoya, *Máscaras HWLJ*], concurrently published in 15 CHICANO-LATINO L. REV. 1 (1994) [hereinafter Montoya, *Máscaras CLLR*].

<sup>3</sup> Montoya, *Máscaras HWLJ*, *supra* note 2, at 186.

<sup>4</sup> My colleague and collaborator Professor Christine Zuni Cruz and I have borrowed and extensively used the concept of “White space” (and its counterpart, “Brown space”) throughout our scholarship and teaching. See Peter Goodrich & Linda Mills, *The Law of White Spaces: Race, Culture, and Legal Education*, 51 J. LEGAL EDUC. 15, 16 (2001) (describing “the law of white spaces” as that which institutes a norm of “nonrecognition, silence, or denial” in relation to non-white law students). Throughout this Article, I have capitalized colors when I am referring to racial categories.

and the cultural references are intentionally racially and ethnically “Brown,” with skin color and phenotype serving as a synecdoche for the Latina/o racial category.<sup>5</sup> I further explored and expanded Brown space in the *Máscaras* article by introducing Spanish words and Latina/o voices in epigrams, text, and footnotes. The voices of the Latina poets in the epigrams echo my personal voice in the stories. Similarly, my professional voice in the expository text echoes the voices of predominantly Latina/o social scientists, linguists, and other scholars in the footnotes. The use of Spanish and the Latina/o voices expose and disrupt the hegemony of the White space of the legal academy. Here, “White” encompasses not only the racially dominant group, the dominant cultural norms of the law school classroom and legal discourse, including law journals,<sup>6</sup> but also the whiteness of the blank page that entices the writer. My intent is to change the White space of classroom and the journal into multicultural, cross-racial, and multilingual canvasses.

In this Section, titled “*On Máscaras*,” I am grappling with race (and gender secondarily) in public space—un/masking my professional persona. In using the word “wrestle” in the subheading I am referring to this struggle over a re-allocation of the social power that inheres in racial hierarchies, namely, the back-and-forth exchanges involved in changing the racial ambience by exposing and transforming the presumptions, especially regarding

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<sup>5</sup> Using “Brown” to refer to Latinas/os is admittedly reductionist because Latinas/os can be of any skin color or race, but using “Brown” as a self-identifier is a convention among different Latino subgroups, including Chicanas/os and Mexican-Americans. See generally MARTHA MENCHACA, *RECOVERING HISTORY, CONSTRUCTING RACE: THE INDIAN, BLACK, AND WHITE ROOTS OF MEXICAN AMERICANS* 20 (2001) (explaining that an early goal of Chicano scholars, such as Alurista, was to “invert the stigma attached to being a Brown people living in the United States and transform that racial heritage into a legacy of pride”). It is also true that Latinas/os, like other racial groups, construct their identities in many contradictory ways, choosing among many racial identifiers. This is complicated by Spanish and Latin American immigrants who do not share the racial histories of native-born Latinos/as and thus often disrupt racial categorization and racial rhetoric. See generally SUZANNE OBOLER, *ETHNIC LABELS, LATINO LIVES: IDENTITY AND THE POLITICS OF (RE)PRESENTATION IN THE UNITED STATES* (1997) (describing why and how Hispanics/Latinos exhibit cultural, linguistic, and nationalistic diversity). Ethnic labels for the population with ancestry from Latin America are used idiosyncratically. I use “Chicana/o” as a label with political and ideological overtones, connected to the historical period of the 1960s Chicano civil rights movement. It is a label that I have largely replaced with “Latina/o,” a pan-ethnic label more recently in widespread usage. I use “Hispana/o” as a label referring to New Mexican families whose time in the United States precedes the U.S.–Mexican War. I usually eschew the use of the term “Hispanic” because of its English inflection and its perceived genesis in the processes of the federal government.

<sup>6</sup> The editors of the Harvard Women’s Law Journal (“HWLJ”), the forerunner to the current Harvard Journal of Law and Gender, discouraged me from using Spanish in the title of the article. Fortunately, and somewhat surprisingly, I was not dissuaded. My recollection is that the editors of the Chicano-Latino Law Review (“CLLR”) objected to edits of the original article recommended by the HWLJ editors to which I acceded (this was my first interaction with journal editors), which led to an admonitory foreword by Maria A. Salas-Mendoza, the CLLR Editor in Chief. Maria A. Salas-Mendoza, *Foreword*, 15 CHICANO-LATINO L. REV., at v (1994) (“We wondered whether the article might be losing its ‘flavor.’”).

notions of inferiority, that cabin our thinking and restrain our relationships. My original paper was something of an outburst, challenging the silence all around me about my Latina reality. Thinking back, it was more oppositional than I knew. Specifically, I did not realize the extent to which I was challenging White space by just beginning the original article in Spanish. Race scholars were coming to voice, and many of us were “outbursting.” My objective in the process of learning from the original article is to un/mask in more strategic ways to achieve complex ends: I say “strategic” because I have explicit rationales. In the original article I was situated in the classroom as a student and my unmasking was often involuntary and fraught with the fear of being seen as inferior. My masking had to do with the negotiations that Outsiders engage in to assimilate and resist assimilation. However, in these years since I wrote *Máscaras*, I have been in the classroom as a teacher and scholar, with significant authority over the classroom’s discursive protocols. I used un/masking to focus on the choices pertaining to identity expression and as an analytical tool to ferret out the silencing and coding of legal discourse. Admittedly, there have been moments of unmasking, related to those I experienced as a law student, that remind me that institutional power is denied to those who act oppositionally, especially to those who insist on advocating on issues of racial subordination within the legal academy or the legal profession.

In order to introduce Brown space into the law school classroom or the academic conference, I begin each class and academic talk in Spanish: with a greeting, with thanks, and sometimes with a sentence or two. In speaking Spanish, I am not assuming that my audiences, or even that Latinas/os, speak Spanish; this is instead a racially coded rhetorical and pedagogical device.

*It’s November 2012 and I am teaching my Máscaras paper to the first-year class at UNM for perhaps the eighth time.<sup>7</sup> Professor Chris Fritz invites me to his legal history course toward the end of the semester as the students are turning from Legal Realism to Critical Theory.<sup>8</sup> I begin with “Buenos Días,” as I do each time I*

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<sup>7</sup> According to data provided by the UNM School of Law’s Office of the Registrar, the first-year class is evenly split by gender (61 males and 60 females). Email from William Jackson, Registrar, UNM Sch. of Law, to author (Jan. 25, 2013, 07:12 MST) (on file with author). Also, 29% are Latina/o, 9% are Native/American Indian, 5% are Asian, 3% are African American, and 54% are White or unknown. *Id.*

<sup>8</sup> I publicly thank Professor Fritz for extending me the opportunity to engage with the students on Critical Race Theory and the related issues raised by my original article and thereby contributing to the evolution in my thinking. For a description of Professor Fritz’s class and his own discussion of the *Máscaras* article, see Christian G. Fritz, *The Perils and Promise of Teaching Margaret Montoya’s Máscaras Article in the First Year Law School Curriculum*, HARV. J.L. & GENDER (Feb. 25, 2013), <http://harvardjlg.com/wp-content/uploads/2013/02/Fritz-Montoya-Response.pdf> (reflection on Montoya, *Máscaras HWLJ*, *supra* note 2, and Montoya, *Máscaras CLLR*, *supra* note 2). Readings for the class also included Duncan Kennedy, *Legal Education as Training for Hierarchy*, in *THE POLITICS OF LAW* 40 (David Kairys ed., 1982), and Ann C. Scales, *Surviving Legal De-Education: An Outsider’s Guide*, 15 VT. L. REV. 139 (1990). In the title to her article,

*speaking in a professional setting. I have thought carefully about my máscara—I am wearing black denim slacks, a black sweater, and a cobalt jacket with a contrasting wooden bead necklace, not unlike what other female law professors might wear. Without thinking—because it’s so ingrained—I perform other gestures of cultural and racial assimilation. However, my greeting spoken in Spanish is a cultural calculation. Once again, I am knowingly carving out Brown space in the legal academy.*

Over the years, I’ve come to realize that, like the *Máscaras, Trenzas, y Greñas* title of the original article, this Spanish salutation of “*Buenos Días*,” sparse as it is, is about Brown space emerging from identity performance, reinforcement, and consolidation. It is both an expression of personal identity and an invitation to others to situate themselves within a consciousness of Otherness and, as such, an exploration of social power and subordination.<sup>9</sup> The Spanish greeting is one of many racial markers that I employ in the work of the construction of identity and Brown space. Psychologist Claude Steele calls these choices we make, either because we have to or because we choose to, “identity contingencies,” meaning “the things you have to deal with in a situation because you have a given social identity.”<sup>10</sup> In my experience, law students and professors expect that, even in New Mexico, in a professional setting whether in a classroom or at a conference, one will speak English, and when one does not, when expectations are prodded, when codes are switched, it is a revealing moment—both a temperature-taking and a temperature-changing moment. In greeting my audience and, in retrospect, in naming the article, I am checking to see whether there is an opening for experimentation with racial and linguistic codes. In other words, with the use of Spanish and other racial markers, I am checking to see if the audience is open to moving out of White space. Spanish and other strategic racial stances (such as autobiographical narrative) can be used to wrestle Brown space into White space, where “wrestle” refers to the intentionality and the affective aspects of this struggle—namely, the personal and

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Professor Scales uses the term “Outsider,” as have I throughout this article. Scales, *supra*. I use this term to refer to persons who identify with traditionally marginalized or subordinated groups, such as gays and lesbians, people of color, women, and/or those who live in poor and underserved communities, often called “the poor.” I use it instead of the term “minorities,” which is a misnomer, as demographics change at different rates in different places.

<sup>9</sup> The concept of the “Other” is borrowed from, among other discourses, anti-colonial studies, feminism, and postmodernism, and is used here to demarcate relationships of inequality and assumptions about inferiority. I am alerting the reader to the nuances of language, knowledge-production, and identity performance to try to expose their effects on our cognition through stereotypes and other unconscious mental processes.

<sup>10</sup> Steele, *supra* note 1, at 3 (fully defining “identity contingencies” as “the things you have to deal with in a situation because you have a given social identity, because you are old, young, gay, a white male, a woman, black, Latino, politically conservative or liberal, diagnosed with bipolar disorder, a cancer patient, and so on”).

collective engagement with and discomfort from race that is required to confront the invisibility, silence, and salience of Whiteness.

*Reversing/Inverting “Whistling Vivaldi”*

Claude Steele’s narrative about Brent Staples, from which I draw the epigram that begins this essay, depicts a young African American man walking at night through the streets of the Hyde Park neighborhood in Chicago.<sup>11</sup> Home to the University of Chicago and the Obamas, this affluent neighborhood is also close to low-income, high-crime areas with a high density of African Americans. Staples learns that if he whistles Vivaldi, he can seem less threatening and avoid being stereotyped as a scary black man by the people around him.<sup>12</sup>

*Almost every year pockets of students respond to my “Buenos Días” with silence and furrowed brows. Understandably, some law students, late in the first semester, are wary about raising their voices in a classroom even if it’s only as a greeting, especially one that begins in Spanish. Other students eagerly respond with their own “Buenos Días”; I read eagerness in their postures, eye contact, and knowing smiles. I conclude that we share a space and a code. This year, however, I hear some remonstrative “Good Mornings.” I interpret the scornful or scolding tone and hard eyes that accompany their English greetings as pushback to what I have to say. I also interpret the tone as resistance to my identity performance, namely as a Brown law professor, or as their preference for who I should be, namely a Colorless, identity-lite law professor.*

Unlike Brent Staples whistling Vivaldi, I am not stepping out of a stereotype to make White people more comfortable. I am not moving into White space; instead, I am creating a small and tentative Brown space and inviting collaborating students and faculty to enter and embrace the discomfort of racial difference. What about those students of different backgrounds who are turned off by this approach? I begin with the assumption that law schools exist in White space and thus are more accommodating and better learning environments for those students who conform to Whiteness. My outreach is to those students who are largely neglected in most classrooms—the ones who want to bring their complicated identities and cognitive diversity<sup>13</sup> into

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<sup>11</sup> *Id.* at 6.

<sup>12</sup> *Id.* at 6–7.

<sup>13</sup> See SCOTT E. PAGE, *THE DIFFERENCE: HOW THE POWER OF DIVERSITY CREATES BETTER GROUPS, FIRMS, SCHOOLS, AND SOCIETIES* 7, 13 (2007) [hereinafter PAGE, *THE DIFFERENCE*] (identifying four components of cognitive diversity, which he claims go hand in hand with identity diversity: diverse perspectives, diverse interpretations, diverse heuristics, and diverse predictive models).

the classroom discourse. I am not rejecting students with White perspectives; instead, by reaching out to the racially and ethnically marginalized, I am attempting to create a more complex discursive and linguistic landscape that is inclusive for all students.

Because Spanish is a racialized language,<sup>14</sup> speaking it in certain spaces is an exercise in racing<sup>15</sup> oneself; in other words, it is a self-conscious donning of racial markers and a marking of space with racial meaning.<sup>16</sup> Because of current overtly negative attitudes toward Mexican immigrants,<sup>17</sup> speaking Spanish in today's climate is allying oneself with those who are seen by many as lazy, dumb, uneducated, and immoral. From the moment I open my mouth and speak the greeting in Spanish, I am constructing myself as Latina, as a Brown woman,<sup>18</sup> and triggering the stereotypes that accompany those identities. By speaking Spanish and deliberately using other racial and gender markers, I am surfacing stereotypes about Latinas in order to debunk them and expand the performative choices available to us in legal and academic spaces and in the work of lawyering.

Claude Steele's work is a major advancement in understanding how stereotypes impede and thwart the performance of those to whom negative stereotypes are applied and who have internalized those assumptions. I accept

<sup>14</sup> I am using "racialized" in a constructivist sense. As race is socially and legally constructed, different characteristics or markers are used at different times and in different places to identify those who are subordinated within the current racial hierarchy. See, e.g., IAN F. HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE*, at xiii–xiv, 10 (1996); MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES* 3, 54–56 (2d ed. 1994). The political discourse and policy debates of the last presidential election are replete with racial opprobrium directed at Latinos, especially undocumented immigrants, for whom Spanish becomes a marker. See, e.g., Rachel Kay Albers, *Speak Spanish? At Your Own Risk: Minority Languages and Anti-Immigrant Fever in the United States*, MULTILINGUAL MANIA (May 4, 2011), <http://multilingualmania.com/speak-spanish-at-your-own-risk-minority-languages-and-anti-immigrant-fever-in-the-united-states/>. For example, there are many stories of immigration agents racially profiling Spanish speakers. See *id.*

<sup>15</sup> The use of race as a verb places an importance on the intentionality of choices in identity performances. I am *performing* through a speech act by choosing Spanish rather than English.

<sup>16</sup> Marjane Satrapi's graphic memoir, *PERSEPOLIS* (L'Association trans., Pantheon Books 2003) (2000–01), expresses in words and drawings that both men and women in Iraq could vary the way they wore their clothes as an ideological sign. For example, women could pull hair out of their veil to show opposition to the regime. *Id.* at 75.

<sup>17</sup> See Albers, *supra* note 14; Heidi Beirich, *Essay: The Anti-Immigrant Movement*, SOUTHERN POVERTY LAW CENTER, <http://www.splcenter.org/get-informed/intelligence-files/ideology/anti-immigrant/the-anti-immigrant-movement> (last visited Mar. 28, 2013) (describing the rise of nativism fueled by demographic change and focused on Latinos).

<sup>18</sup> At times, Spanish is a more accurate linguistic code for the concept of intersectionality. With the label "Latina" I am at each moment both raced and gendered. In English, the words Brown and woman have separate valences and can complicate the indivisibility of the different aspects of identity, even though at times analyzing the strands of identity can be useful. For a general discussion of the concept of intersectionality, see Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 *STAN. L. REV.* 1241 (1991); see also Leslie McCall, *The Complexity of Intersectionality*, 30 *SIGNS: J. WOMEN CULTURE & SOC'Y* 1771 (2005).

that at times we have to whistle Vivaldi (or wear our hair in braids and mask ourselves); we need to lower the fears and skepticism of White people and bolster our defenses with our assimilation strategies. I am, after all, teaching in a law school and writing articles in law journals using academic English. But if we are to create Brown space, we also need to learn how to move out of our assimilation behaviors and embrace the discomfort that we introduce to ourselves as well as White people (and many resistant, assimilated people of color) and this wrestling too will enhance our performance and achievement.

In performing my identity in a racially explicit manner, my primary audience is those students of all backgrounds who want to grapple with “identity contingencies.”<sup>19</sup> Some students<sup>20</sup> and many law professors continue to reject and devalue the salience of classroom discussions about race

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<sup>19</sup> Steele, *supra* note 1, at 3.

<sup>20</sup> About one month after I taught the class pertaining to my *Máscaras* article (the class is described by Professor Chris Fritz in an essay written for this Retrospective, Fritz, *supra* note 8), I learned that there had been a confrontation between White students who were passing notes during the class and Native students who objected to their behavior. Only recently, after other disruptive incidents had occurred in other classes, a first-year Native student wrote to several faculty members, myself included, with specific information about the incident in the class I had taught. I have since corresponded with another first-year student, Josett Monette, a member of the Turtle Mountain Band of Chippewa Indians in North Dakota, who had witnessed the note passing. She had texted a friend in order to memorialize the specific words, which read: “Don’t we all want to move up?” “OMG, these people act like they come from fucking Uganda.” “Why are we bound by what they want?” “I’m pissed about this class. Poor fucking minorities.” “We should start a WALSA or AALSA—Anglo-American Law Student Association.” “Capitalism says survival of the fittest.” The students did not deny writing these notes; they claimed it was a joke. When such inflammatory comments are described in writing, they are like insects frozen in amber, captured for our inspection and contemplation. I have included these details in this footnote because they add a dimension of complexity to my story and the analysis of this race-conscious pedagogy that is highly relevant. I have also included these disturbing details because it allocates space to the voices and acts of the Native students who were aggrieved by these slurs, and thus uses what power attaches to academic scholarship to support those with less social power. Moreover, I do not want to leave the impression that creating a variegated learning environment is either easy or without risk. I conclude that the note-passing students either did not trust that their resistance to or rejection of what was being discussed could have been shared openly, albeit in different words, or that I would have responded respectfully. This is a form of silence and silencing that is akin to what some Outsider students feel in many of the traditionally White-dominated classes; in other words, silence and silencing is experienced on both sides of the color line or the ever-moving Insider/Outsider barrier. One White male student wearing a T-shirt emblazoned with the words “Atlas is shrugging” (invoking the Objectivist politics of Ayn Rand), in fact, gave voice to this feeling of voicelessness during the class in question when he said that, in discussions about race, he felt silenced. The law school’s response to these incidents is ongoing; more discussions with law students are planned. The student who first wrote to me expressed her gratitude to me for the classroom presentation and said she drew power from it. Josett Monette wrote that she wished there were more presentations like mine in law school. This incident is emblematic of the challenges we face and insights we gain when discussing race in the law school classroom and in the larger society. E-mail from Anonymous Native Student to author (Feb. 20, 2013, 1:39 PM MST) (on file with author); E-mail from Josett Monette to author (Mar. 6, 2013, 11:24 PM MST) (on file with author).



(as a woman of color I mean race/gender) and aspects of Outsiderness.<sup>21</sup> Moreover, many dismiss the contention that being an effective lawyer in an increasingly multicultural society requires the capacity to sustain effective conversations about and policy engagements with race, White supremacy, and inequality with colleagues, judges, legislators, friends, and family members.<sup>22</sup>

For me, the *Máscaras* article developed into a scholarly project about knowledge and narrative-based epistemology, skills, and attitudes relating to race, gender, and identity.<sup>23</sup> The article initiated an examination of such concepts as voice and silence, assimilation and resistance, different forms and expressions of power, narrativity, and identity as performance. My colleague Christine Zuni Cruz and I use the term “racial literacy” to refer to the communication, dramaturgical, and problem-solving tools and skills you need to function as a lawyer in a multicultural society, such as the U.S.<sup>24</sup> In using the

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<sup>21</sup> On December 28, 2012, Bill Moyers interviewed Dominican writer and MIT professor Junot Díaz, who described the difficulty his MIT students have talking about race, especially when it comes to talking about Whites as a racial category. *Moyers & Company: Junot Díaz on Rewriting the Story of America* (Public Affairs Television television broadcast Dec. 28, 2012), available at <http://billmoyers.com/episode/full-show-rewriting-the-story-of-america/>. Díaz opined that the silences around race in our society have a corrosive effect on social relations and social justice. *Id.*; see also Calanit Tsalach, *Between Silence and Speech: Autoethnography as an Otherness-Resisting Practice*, 19 *QUALITATIVE INQUIRY* 71 (2013) [hereinafter Tsalach, *Between Silence and Speech*] (giving a narrative-based analysis of the intersections connecting and the silences separating the academic identity and the Mizrahi (Jewish people who immigrated to Israel from West Asian and North African countries) ethnic identity as Outsider). See generally Calanit Tsalach, *Two Women with Trenzadas Across Time and Space*, *HARV. J.L. & GENDER* (Mar. 11, 2013), <http://harvardjlg.com/2013/03/two-women-with-trenzadas-across-time-and-space/> [hereinafter Tsalach, *Two Women*] (reminiscing about her own and her mother’s memories of her excitement as she prepared for first grade). A Mizrahi, Tsalach finds echoes in the *Máscaras* article with her childhood experiences as a “tidy” child and her current feelings of “ethnic otherness” in academic spaces. *Id.*

<sup>22</sup> Silences about race in part grow out of commitments to color-blindness as judicial and moral stances. See Mark Ladov, *How a “Color-Blind” Supreme Court Ignores the Realities of Race*, *NAT’L L.J.* (August 16, 2012), [http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202567735664&How\\_a\\_colorblind\\_Supreme\\_Court\\_ignores\\_the\\_realities\\_of\\_race&slreturn=20130112161552](http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202567735664&How_a_colorblind_Supreme_Court_ignores_the_realities_of_race&slreturn=20130112161552) (arguing that, despite claims that the U.S. is “post-racial,” racial issues will remain intractable if the government, through the federal courts, stifles honest conversations about race among its citizenry).

<sup>23</sup> Since I started working in the health sciences, I have become aware of the importance of learning outcomes in terms of knowledge, skills, and attitudes (“KSA”) as a threshold pedagogical question. Unlike in legal education, syllabi for courses in medicine often include KSAs. See, e.g., Syllabus Template Document, *TUL. U. SCH. MED.*, <https://tulane.edu/som/ome/upload/TU-SOM-Syllabus-Template-v-2011-2012.doc> (last visited Mar. 28, 2013). KSAs also figure prominently in interviews for some federal jobs, such as with the Centers for Disease Control and Prevention. See CDC, *The Importance of KSA’s (Knowledge, Skills and Abilities) in the Federal Application Process*, *CENTERS FOR DISEASE CONTROL & PREVENTION*, <http://www.cdc.gov/hrmo/ksahowto.htm> (last visited on Mar. 28, 2013).

<sup>24</sup> See Margaret Montoya & Christine Zuni Cruz, *Narrative Braids: Performing Racial Literacy*, 33 *AM. INDIAN L. REV.* 153 (2009) [hereinafter Montoya & Zuni Cruz, *Narrative Braids AILR*], concurrently published in 1 *FREEDOM CENTER J.* 60 (2009) [hereinafter Montoya & Zuni Cruz, *Narrative Braids FCJ*] (describing and analyzing a

word “literacy,” we are emphasizing the notion that race is both imputed and performed; in other words, it is both in the mind of the observer (the “reader”) and in the acts—which are, at times, intentional—of the observed (the “read”). Our racial literacy project, as yet largely unpublished, remains performance art. The two of us enact a series of narratives that embody conversations between a Mestiza and an Indigenous Pueblo woman about such issues as un/masking and un/braiding of hair, stories, and analyses in different settings. This includes collective racial narratives such as the Santa Fe fiestas, which have celebrated the “bloodless re-conquest” of the Pueblo Indians by Hispanas/os in New Mexico every year going back to 1712,<sup>25</sup> and motherhood stories that recount racial incidents involving my daughter Diana and Professor Zuni Cruz’s son Immanuel.<sup>26</sup>

Introducing identity into the classroom is ideological, as is maintaining colorblindness as the default framework for racial analysis. The goal is not to persuade students to emulate any one way of performing identity—the goal is to bring the range of choices (about identity and when and how we talk about issues such as race and gender) into focus to understand that these choices have consequences in ways that are related to law and public policy. Not focusing on these consequences maintains the status quo of racial inequality. Because this work on race talk implies re-allocations of social power, it is not small-bore and self-involved, nor is it abstract and theoretical. If we do not talk about race, including our own identities, family histories, community traumas, etc., then we will not have the tools or the skills to talk about the race dimensions of austerity policies<sup>27</sup> or the tremendous hit that communities of color took in the housing debacle.<sup>28</sup>

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performance of *Narrative Braids* at the Harriet Tubman Theatre at the National Underground Railroad Freedom Center in Cincinnati, Ohio, on Oct. 26, 1997).

<sup>25</sup> Montoya & Zuni Cruz, *Narrative Braids AILR*, *supra* note 24, at 189.

<sup>26</sup> *Id.* We recount these incidents in other articles. Margaret E. Montoya, *Border/ed Identities: Narrative and the Social Construction of Legal and Personal Identities*, in *CROSSING BOUNDARIES: TRADITIONS AND TRANSFORMATIONS IN LAW AND SOCIETY RESEARCH* 129, 145–46, 149 (Austin Sarat et al. eds., 1998) [hereinafter Montoya, *Border/ed Identities*] (narrating the story of Diana, my nine-year-old daughter, being called “cholo” by boys in her elite elementary school); Christine Zuni Cruz & Margaret Montoya, *Race as Stereotype and Slur*, in *NARRATIVE BRAIDS* (Apr. 13, 2009) (unpublished script) (on file with author) (performance art project staged at CUNY School of Law in which we both narrated the stories about Diana and Immanuel).

<sup>27</sup> For a brief critique of austerity policies, see Paul Krugman, Op-Ed., *The Austerity Agenda*, N.Y. TIMES, June 1, 2012, at A27, available at <http://www.nytimes.com/2012/06/01/opinion/krugman-the-austerity-agenda.html?r=0> (explaining that policies of slashing government spending during an economic slump, also advocated fiercely by the Republicans, is self-defeating and particularly punishes the poor).

<sup>28</sup> See RAUL HINOJOSA OJEDA, WILLIAM C. VELASQUEZ INST., *THE CONTINUING HOME FORECLOSURE TSUNAMI: DISPROPORTIONATE IMPACTS ON BLACK AND LATINO COMMUNITIES* (2009), available at [http://www.wcvi.org/data/pub/WCVI\\_Publication\\_Homeownership102309.pdf](http://www.wcvi.org/data/pub/WCVI_Publication_Homeownership102309.pdf) (finding, *inter alia*, that Black and Latino/o homeowners in selected regions were at much greater risk of defaulting or vacating their homes, and two to nine times as likely as Whites to hold high-cost mortgages).

After twenty years of teaching law, without seeming trite, I think there is a direct line between the personal and the political. That is what this identity work is about. Ultimately, I am trying to get to better and fairer distributions of health care, jobs, and education; consequently, I have combined my scholarly work with years of activism in law schools, public schools, and local communities. But I agree with Heather McGhee of Demos that we are in the third stage of Republican political operative Lee Atwater's account of the Southern Strategy,<sup>29</sup> in which we starve the beast of Big Government; that is, we destroy the safety net, social programs associated with people of color in poverty. The policy debate is therefore coded. There is no mention of race, which is intentional and strategic; nonetheless, the changes that are sought, such as Medicaid cuts, are meant to diminish government assistance to people of color. So when we do not talk about race in the law school classroom, we preserve the efficacy of this strategy by obfuscating and eliding both the idea that race and law are mutually constitutive and the centrality of lawyers in maintaining the racial status quo. For women/race scholars/mothers of color, these policy debates require braiding the private with the public. Such debates are not abstractions. My family members are in need of the safety net. Many of us are only one generation into the middle class, and most of us have not accumulated significant amounts of inheritable wealth beyond the family home.

*Un/Masking as a Shared Reality Within the Power, Politics, and  
Pedagogy of Racial Silence*

The most unexpected lesson from the *Máscaras* article was how recognizable my experiences and responses were to persons from many backgrounds. Initially, I wasn't sure that I would even find concurrence from my sister, Mari, who shared my early life experiences, and I was elated when she liked what I had written (I don't mention my older brother in this context because his experiences as a young boy were much different than ours). I was deeply gratified to hear from other Latinas, in law schools but also in non-legal disciplines, that my stories resonated with their lives. It was very moving that my colleague Christine Zuni, an Indigenous Pueblo woman, also connected with the article. But in the early years after the article was published, I was repeatedly surprised to hear from many different women of color, White women, gays, lesbians, disabled persons, and yes, some White men who found that my stories reflected their stories and/or informed their introspection.<sup>30</sup> These connections seem obvious now, but I didn't know this

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<sup>29</sup> *UP with Chris Hayes* (MSNBC television broadcast Feb. 10, 2013) (discussing the connection between austerity economics and race). Heather McGhee is the vice president of policy and outreach at the progressive think tank Demos. *Heather C. McGhee*, DEMOS, <http://www.demos.org/heather-c-mcghee> (last visited Mar. 28, 2013).

<sup>30</sup> I recently had this experience once again when I was contacted from Israel by Calanit Tsalach. She emailed me in 2010 to ask for a complete version of my *Máscaras*

twenty years ago. Simply put, I didn't recognize myself in other Outsiders. Un/masking *is* a shared reality within the power, politics, and pedagogy of racial silence. I now more often recognize my un/masked self in un/masked others.

Today there is a substantial and growing body of Critical Race Theory ("CRT") and related critical-theory literature on issues implicit in the *máscaras* trope, such as cultural assimilation, identity performance, and imposter syndrome. Scholars such as Kenji Yoshino,<sup>31</sup> Devon Carbado, and Mitu Gulati,<sup>32</sup> and many others have provided enthralling narratives and illuminating analyses about the choices available in our dress, speech, movements, and facial expressions to convey information about ourselves, including how we want to be seen within racial and gender dynamics. When I wrote the *Máscaras* article, despite having studied Erving Goffman<sup>33</sup> and Frantz Fanon,<sup>34</sup> I thought my racial masking, my pieced-together identity performance, was a solitary ritual of self-care. As a result of the discussions that I have enjoyed relating to the *Máscaras* article and related scholarship, I re-learned that masking is a relational and social phenomenon amid a set of personal and professional skills and rituals.

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article and then again in 2013 to share a copy of her article about Outsider identity and silence. See Tsalach, *Between Silence and Speech*, *supra* note 21. Calanit Tsalach has also contributed to this Retrospective, for which I am grateful. See Tsalach, *Two Women*, *supra* note 21.

<sup>31</sup> Yoshino's use of the concept of covering is related to the *máscaras* trope and its threads of assimilation and resistance to assimilation. See generally KENJI YOSHINO, COVERING: THE HIDDEN ASSAULT ON OUR CIVIL RIGHTS (2006) (using Erving Goffman's concept of covering to describe one type of identity performance, in which stigmatizing characteristics are deemphasized, or "covered up").

<sup>32</sup> Carbado and Gulati delve into the specific racialized behaviors that are available to people of color as they perform their identities and provide a counterpoint to the stories I tell in the original *Máscaras* article. E.g., Devon W. Carbado & Mitu Gulati, *Conversations at Work*, 79 OR. L. REV. 103 (2000); Devon W. Carbado & Mitu Gulati, *The Fifth Black Woman*, 11 J. CONTEMP. LEGAL ISSUES 701 (2001); Devon W. Carbado & Mitu Gulati, *Interactions at Work: Remembering David Charny*, 17 HARV. BLACKLETTER L.J. 13 (2001).

<sup>33</sup> E.g., ERVING GOFFMAN, THE PRESENTATION OF THE SELF IN EVERYDAY LIFE (1959); ERVING GOFFMAN, STIGMA (1963) [hereinafter GOFFMAN, STIGMA]. My various masks, including my braided hair, echo Goffman's description of how members of groups such as the disabled or obese, manage their identities by what he calls "covering," i.e., "mak[ing] a great effort to keep the stigma from looming large." GOFFMAN, STIGMA, *supra*, at 102. What I have re-learned subsequently is that these insights about identity performance have many iterations, as is evident from that scholarship of Yoshino, Carbado and Gulati, and other scholars, as well as from the personal stories that have been shared with me.

<sup>34</sup> See FRANTZ FANON, BLACK SKIN, WHITE MASKS (Charles Lam Markmann trans., Grove Press 1968). Fanon influenced me, consciously and unconsciously, both through his use of the mask metaphor and his analysis of the overly practiced behaviors of the upwardly mobile Black Subject who fears exposure. While I was acutely aware that my experience as a Latina had parallels to that of Fanon, an African man, I was surprised many times that my stories and metaphors overlapped the experiences of many other Outsiders. Such surprises have happened even recently (as when Prof. Tsalach contacted me) and make me wonder whether Fanon would have been surprised by his effect upon me. See Tsalach, *supra* note 21.

The *Máscaras* article is about finding one's voice and speaking one's truths, however unconventional, and, in doing so, challenging the epistemological and ideological constraints of traditional legal discourse. I employ the *máscara* image to explore how we manage interactions that are circumscribed by relations of power and powerlessness and presumptions of superiority and inferiority. The article also describes silence (around issues of race and identity) as a mask and with Josephine Chavez's case<sup>35</sup> I explore the difficulty of introducing racial and gender knowledge into the classroom dialogue. To quote the original article:

Speaking out assumes prerogative. Speaking out is an exercise of privilege.<sup>36</sup> Speaking out takes practice.

Silence ensures invisibility. Silence provides protection. Silence masks.<sup>37</sup>

This juxtaposition of my recollection of speaking out and holding silence in the Harvard Law School classrooms is an enactment and an analysis of the "politics and power" of silence, the reluctance, sometimes experienced as fear or terror, of coming to voice felt by many law students of different backgrounds, especially about issues of identity. Some students long to say things that may be culturally and racially relevant, but also fear being stigmatized for "disrupting" the serious enterprise of learning law. Time in the law school classroom is scarce, and speaking up is an act of seizing this precious social resource and assuming that your voice and viewpoint are assets.

In subsequent scholarship, I began to explore the politics of racial silence and posited that, as a way of maintaining the power of White supremacy, law students are taught not to talk about race and thus do not learn how race and law are mutually constitutive.<sup>38</sup> In *Silence and Silencing*, I describe the cultural and gendered dimensions of silence,<sup>39</sup> contend that holding silent can also be a communicative strategy that disrupts the hegemony of Whiteness,<sup>40</sup> and posit that the silencing of race in the classroom and

<sup>35</sup> *People v. Chavez*, 176 P.2d 92 (Cal. Dist. Ct. App. 1947). My insights regarding the *Chavez* case were only possible because of the unique casebook written by Professor Weinreb that included pleadings, newspaper clippings, and other case materials. LLOYD L. WEINREB, *CRIMINAL LAW: CASES, COMMENT, QUESTIONS* 15–41 (1st ed. 1969) (including, for example, the complaint, several newspaper articles, and the judgment). I take this opportunity to thank Prof. Weinreb for providing these background materials, for creating space for my voice in his classroom, and for planting the seeds that led to this decades' long project.

<sup>36</sup> Today, I would add: "Speaking out is an exercise of power."

<sup>37</sup> Montoya, *Máscaras HWLJ*, *supra* note 2, at 209 (footnotes omitted).

<sup>38</sup> Margaret E. Montoya, *Silence and Silencing: Their Centripetal and Centrifugal Forces in Legal Communication, Pedagogy and Discourse*, 33 U. MICH. J.L. REFORM 263 (2000) [hereinafter Montoya, *Silence UMJLR*], *concurrently published in* 5 MICH. J. RACE & L. 847 (2000) [hereinafter Montoya, *Silence MJRL*].

<sup>39</sup> *Id.* at 275.

<sup>40</sup> *Id.* at 327.

the larger society is a strategy knowingly deployed to maintain the current distribution of racial power that subordinates people of color.<sup>41</sup> Consequently, breaking the silences around race and other issues of identity becomes a pedagogical and ideological issue in the law school environment. Moreover, racial silences are neither the exclusive domain nor the personal *bête noire* of racial minorities and other Outsiders; racial silence corrodes legal education generally, as well as the legal profession and the society at large. This was an inchoate insight that I first had when I wrote the article, and time has only made it more concrete and urgent as an educational and political issue.

In addition to race- and identity-conscious scholarship, there is a growing body of work using complexity studies<sup>42</sup> to think about thinking. The writings of Professor Scott Page<sup>43</sup> and Lesley Kuhn<sup>44</sup> use complexity to suggest new directions for scholarship like mine about becoming more adept at using identity-coded information in classroom discussions about legal and policy analysis. Page, a social scientist trained in mathematics, uses complexity research to make the general argument that diversity in complex systems brings “inescapable benefits.”<sup>45</sup> In his scholarship, Page specifically discusses identity—including culture, race, and ethnicity<sup>46</sup>—as an important indirect cause of cognitive diversity.<sup>47</sup> He concludes that, depending on the

<sup>41</sup> *Id.* at 269.

<sup>42</sup> I am using complexity to refer to the studies that seek to understand phenomena that emerge from complex adaptive systems (“CAS”). See, e.g., SCOTT E. PAGE, *DIVERSITY AND COMPLEXITY* 25 (2011) [hereinafter PAGE, *DIVERSITY*]. Page defines CAS as “collections of diverse, connected, interdependent entities whose behavior is determined by rules,” *id.* at 6, and “in which the entities adapt.” *Id.* at 25. Some of the less precise characteristics (there are highly precise mathematical representations) of CAS phenomena include the following: whether the numbers of parts and linkages are non-trivial, the system has memory or feedback, the system adapts to feedback, the responses between the system and its environment are non-linear, and the system is highly sensitive to initial conditions (the so-called “butterfly effect”). See, e.g., Gary M. Grobman, *Complexity Theory*, 29 PUB. ADMIN. Q. 350, 356–57 (2005); Nick C. Ellis & Diane Larsen-Freeman, *Language Emergence*, 27 APPLIED LINGUISTICS 558, 576 (2006); Morris B. Holbrook, *Adventures in Complexity*, ACAD. MARKETING SCI. REV. 2 (2003), <http://www.amsreview.org/articles/holbrook06-2003.pdf>. Lesley Kuhn, a cross-disciplinary scholar in complexity science, writes, “A complexity view of organisations illustrates that the small things of everyday life really matter because by this means societies are created, developed and maintained. How we speak to and treat one another . . . shape[s] individual consciousness as much as organisational emergence.” LESLEY KUHN, *ADVENTURES IN COMPLEXITY: FOR ORGANISATIONS NEAR THE EDGE OF CHAOS* 121 (2009).

<sup>43</sup> Page writes explicitly about the benefits of diversity in complex systems. See PAGE, *DIVERSITY*, *supra* note 42.

<sup>44</sup> Kuhn offers suggestions about how to understand organizational arrangements and improve organizational relationships, see KUHN, *supra* note 42, *passim*, using ideas and metaphors such as the butterfly effect and fractals. *Id.* at 14, 56.

<sup>45</sup> PAGE, *DIVERSITY*, *supra* note 42, at 167–68. See generally *id.* (assessing the beneficial effects of diversity, broadly defined, on complex systems, such as robustness and innovation).

<sup>46</sup> PAGE, *THE DIFFERENCE*, *supra* note 13, at 305–06.

<sup>47</sup> *Id.* at 300. Page cautions that the connection between identity diversity and cognitive diversity can be improperly conflated, *id.* at 14, and clarifies that identity diversity

type of problem, identity-diverse groups can be better at solving problems and making predictions.<sup>48</sup> One way to empirically ascertain cognitive differences attributable to culture is to use “pile sorting,” an exercise in which people are asked to sort familiar items or terms into piles.<sup>49</sup> People from different cultures make different associations and thus create different piles.<sup>50</sup>

Thus, when I engage in storytelling of the sort found in the *Máscaras* article or perform my identities, making various choices about assimilation, I now recognize that I am accessing this cognitive difference of perspective and interpretation. With stories and race-based analysis, I am trying to make manifest that, as a racialized Latina, when engaged in legal work, my pile of legally relevant facts and my interpretation of legal doctrine are *at times* likely to be different than the respective piles of someone who adheres to traditional White culture. For example, my interrogation of Josephine Chavez’s culpability in the death of her newborn child in Professor Weinreb’s classroom was also an attempt to introduce a different pile of facts and doctrinal interpretation into legal analysis.<sup>51</sup> Because making piles of relevant facts, law, and interpretations is at the heart of legal work, learning how to incorporate Outsider perspectives would improve public policy-making, judging, and other legal tasks. I emphatically agree with Page that working collaboratively in groups with people from different backgrounds, perspectives, and experiences, with the resulting different cognitive tools, yields more robust discussions and better outcomes when we are involved in complex problem solving and prediction, as is the case in much of the legal work we do in the classroom and in the profession. My aspiration is that, with training and practice, we can get much better at using the cognitive tools that arise out of race and other Outsider experiences to solve legal and political problems and to minimize the “noise” that accompanies our efforts to do so.

Lesley Kuhn’s work on complexity and use of fractals<sup>52</sup> (mathematical sets that exhibit patterns of self-similarity, seen for example in the branching of ferns<sup>53</sup>) are of particular applicability to my discussion of cognitive tools and especially the use of race-conscious narratives. I concur as Kuhn exhorts her readers to learn to use complexity as a habit of thought, as a framework

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*can* improve group work “provided it correlates with cognitive differences and . . . the task is one in which diversity matters,” *id.* at 15.

<sup>48</sup> *Id.* at 13–14. Page notes that identity-diverse groups bring benefits and costs, which can include differences in preferences and problems with communication and getting along. *Id.* at 314–15.

<sup>49</sup> *Id.* at 308–09. The exercise can also reveal cognitive differences that result from different experiences or training. *Id.* at 309.

<sup>50</sup> *Id.* at 308–09. Page also acknowledges the salience of performativity: “Even in a colorblind society, we would still expect identity differences to correlate with some cognitive differences. Not that color blindness is itself well defined. Many of us can look past skin color but cannot look past scarves and cornrows.” *Id.* at 308.

<sup>51</sup> Montoya, *Máscaras HWLJ*, *supra* note 2, at 201–08.

<sup>52</sup> KUHN, *supra* note 42, at 14.

<sup>53</sup> *Id.* at 64–65.

for making sense of the world, rather than merely for “adding a few new words and concepts to old ways of thinking.”<sup>54</sup> Additionally, she uses stories, narrative accounts, or case studies—what she calls “fractal fragments”—to illustrate theoretical material.<sup>55</sup>

I am making a large claim and a small claim with respect to racial stories as fractals. The small claim is that my story about my mother braiding my hair and simultaneously conveying information about moving in the world as a child who would be subjected to negative racial stereotypes is one that has resonated with many other women who see themselves as Outsiders. Many academic women of color have shared with me that the grooming practices taught to them by their mothers or in turn taught by them to their daughters were also lessons about race, culture, difference, and performativity. Consequently, I see a fractal pattern, a self-similarity in those shared reminiscences.<sup>56</sup> There is also a self-similarity in the identity stories of many Outsiders—women and men of color, gays, dis/abled persons—that, at one level, illuminates relations of subordination and, at another level, expresses experiences of difference with numerous complex interpretations, some of which come without a left-leaning progressive ideological spin.<sup>57</sup> The larger fractal claim that I make is that narrativity, that is, the process of telling and listening to detailed stories about race, ethnicity, gender, etc., especially with an analysis about their historical and collective roots and then finding patterns, resonances, and linkages in such identity stories, fosters and enhances cognitive tools and competencies and engenders better legal communication and problem solving.

*Working in Quantum Identity Spaces to Gain the Benefits of Diversity*

The *Máscaras* article was the basis for my job talk in 1993–94 when I sought a tenure-track position at UNM in my second year as a visiting assistant professor. I got the job, but when I was reviewed for promotion as part of the third-year review, colleagues almost unanimously warned me that I would not get tenure if I did not eschew this style of scholarship and publish more traditional, “analytical” articles. The chair of the review committee

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<sup>54</sup> *Id.* at 16. Kuhn uses the term “fractals” to describe “phenomena that show similarities across different scales of focus.” *Id.* at 14. One example she uses is that of the forking of a tree trunk, repeated in the forking of large branches, and so on, down to the forking of “the tiniest twigs on the same tree.” *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> See, e.g., Tsalach, *Two Women*, *supra* note 21.

<sup>57</sup> See, e.g., RICHARD RODRIGUEZ, HUNGER OF MEMORY: THE EDUCATION OF RICHARD RODRIGUEZ 4 (1982) (referring to his notorious dissent from the traditionally left-leaning stance in favor of affirmative action and bilingual education). Rodriguez recounts stories of his upbringing in a Mexican-American home and his education at Stanford, Columbia, and Berkeley, *id.* at 143, and describes how divided he feels from his family, isolated and lonely and offended by the labels, such as minority student, and stereotypes associated with affirmative action. *Id.* at 175.



told me authoritatively, “You write well, but this is not legal scholarship.”<sup>58</sup> It is difficult for me to discern whether the critique was based on the use of an autobiographical narrative device only or specifically its use to communicate my racialized reality; for me, the two are braided together.

Beginning with the hiring of Professor Cruz Reynoso in 1972, accelerated by the pressure applied by the student ethnic groups such as the Mexican-American Law Student Association (MALSA), and continuing over decades, UNM School of Law has achieved and sustained a remarkable level of diversity among its faculty and students.<sup>59</sup> I was the fifth Latina to be hired at the UNM School of Law, and there had already been at least five Latinos, three of whom were tenured faculty members at the time I was hired. I was, however, the first faculty member to embrace Critical Race Theory and later LatCrit Theory<sup>60</sup> as my epistemic foundation and to use anti-subordination rhetoric in the clinic, the classroom, and in faculty meetings.

Like many law faculty, my UNM colleagues dislike open conflict and greatly value a narrowly defined collegiality<sup>61</sup> that I threaten with my insistence on talking about race and diversity, especially as such issues apply to student admissions and faculty employment. In breaking new ground with my bilingual, autobiographical, racial, and gendered analysis, I was rejecting established professional norms and explicitly claiming Brown space as the location from which I would engage with my colleagues.

With the *Máscaras* article, I staked out Brown space and cultivated my voice of color in legal discourse. My subsequent publications were also

<sup>58</sup> What counts as legal scholarship is contestable, but presumably having an article appear in a legal journal is persuasive evidence. I had numerous offers from law reviews to publish the *Máscaras* article but chose the then-named Harvard Women’s Law Journal to reach other women and women of color in elite law schools. Montoya, *Máscaras HWLJ*, *supra* note 2. The article was also one of the first to be published concurrently when it appeared in the UCLA Chicano-Latino Law Review, which reached my racial-ethnic group. Montoya, *Máscaras CLLR*, *supra* note 2. My decisions were based on audience and readership.

<sup>59</sup> Currently, the faculty of thirty-five members is 54% female and 43% faculty of color, including four Hispanics, five American Indians, three Asians, two African Americans, and one mixed-race person. See E-mail from Susan Mitchell, Assoc. Dean for Admissions, UNM Sch. of Law, to author (Jan. 18, 2013, 13:55 MST) (on file with author) (forwarded from Stephanie Grant, senior business manager at the law school).

<sup>60</sup> For a general discussion of LatCrit Theory, see Francisco Valdes, *Foreword: Poised at the Cusp*, 2 HARV. LATINO L. REV. 1 (1997) (discussing the most important theoretical and practical issues early in LatCrit Theory, Outsider jurisprudence and Latina/o self-empowerment). For an analysis of LatCrit in its more mature stages, see Margaret E. Montoya & Francisco Valdes, “Latinas/os” and Latina/o Legal Studies: A Critical and Self-Critical Review of LatCrit Theory and Legal Models of Knowledge Production, 4 FIU L. REV. 188 (2008) and Margaret E. Montoya & Francisco Valdes, “Latinas/os” and the Politics of Knowledge Production: LatCrit Scholarship and Academic Activism as Social Justice Action, 83 IND. L.J. 1197 (2008).

<sup>61</sup> See, e.g., Sumi Cho, “Unwise,” “Untimely,” and “Extreme”: Redefining Collegial Culture in the Workplace and Revaluing the Role of Social Change, 39 U.C. DAVIS L. REV. 805, 809–10 (2006) (arguing that collegiality is defined by those in power and fails to account for sexism, homophobia, racism, etc.).

about race. Early in my career, when I was teaching primarily in the clinic, I published several articles about connecting the representation of clients with a re-presentation of clients' identities, a retelling of their stories in a way that captures and emphasizes cultural and racial dimensions.<sup>62</sup> Additionally, my classes, including legal writing courses, integrated race as one element of legal analysis.

Apart from direct teaching, my service and organizational work focused on access for students and faculty of color. Over time, I served on the boards of the Society of American Law Teachers (and as co-president from 1999–2000) and the Law and Society Association. I also served on committees and sections of the Association of American Law Schools (“AALS”). In each of these academic organizations, I was widely known for raising issues regarding the lack of diversity within governing boards and organizational memberships,<sup>63</sup> as well as leading discussions, conference presentations, and other activities to create access to and success in law schools for students of color and other Outsiders. For example, in January 1999, Professor Sumi Cho of DePaul University and I spearheaded the organizing of a march in San Francisco in support of affirmative action. Some 1500 law professors in academic garb, lawyers, judges, and law students marched from the lobby of the San Francisco Hilton Hotel to Union Square, led by Mayor Willie Brown and the presidents of AALS and the American Bar Association. In February 2003, I organized a group of UNM alumni/ae and students to write and submit an *amicus* brief in the *Grutter v. Bollinger*<sup>64</sup> Supreme Court case, on behalf of the local bar associations representing African Americans, Latinas/os, and Native Americans.<sup>65</sup>

This focus on issues of racial justice has never wavered for me. More recently, I have moved to the Health Sciences Center (“HSC”) under the

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<sup>62</sup> See Margaret E. Montoya, *Law and Language(s): Image, Integration and Innovation*, 7 LA RAZA L.J. 147, 147, 151 (1994) (proposing that linguistic norms in law schools can be refashioned through pedagogical innovations to minimize their subordinating effects and improve client relations); Melissa Harrison & Margaret E. Montoya, *Voices/Voces in the Borderlands: A Colloquy on Re/Constructing Identities in Re/Constructed Legal Spaces*, 6 COLUM. J. GENDER & L. 387, 392 (1996) (using borderlands as a metaphor for the spaces where students of different backgrounds can experiment with different tools to bridge cultural divides); Margaret E. Montoya, *Voicing Differences*, 4 CLINICAL L. REV. 147, 156–57 (1997) (calling on clinical teachers to remap the territory covered by the term “Outsider” to allow differences to be voiced and heard).

<sup>63</sup> Raising objections to the lack of diversity in organizational membership and leadership was something I had also done while a student at Harvard Law School, specifically as a member and Vice President of the Board of Student Advisers, a prestigious organization charged with assisting the first-year writing program as teaching assistants and implementing such co-curricular programs as the Ames Moot Court competition. See *About the BSA*, HLS BOARD OF STUDENT ADVISERS, <http://www3.law.harvard.edu/orgs/bsa> (last visited Mar. 28, 2013).

<sup>64</sup> *Grutter v. Bollinger*, 539 U.S. 306 (2003) (upholding the use of race in student admissions at the University of Michigan Law School by identifying diversity as a compelling state interest when used as one factor in a narrowly tailored admissions program).

<sup>65</sup> Brief for N.M. Hispanic Bar Ass’n et al. as Amici Curiae Supporting Respondents, *Grutter v. Bollinger*, 539 U.S. 306 (2003) (No. 02-241), 2003 WL 399046.

sponsorship of the Chancellor Paul Roth<sup>66</sup> and have continued to work on such issues as implementing a refined cultural competence curriculum<sup>67</sup> and creating a diverse faculty. For several years, I served as co-chair of the HSC Faculty Workforce Diversity Committee with Dr. Valerie Romero-Leggott, developing a series of programs to retain and cultivate the faculty of color in the health professions, including a comprehensive mentoring program, a series of videos featuring the personal narratives of faculty of color,<sup>68</sup> and a Visiting Diversity Scholar program.<sup>69</sup>

On the national scene, the *Máscaras* article received positive responses,<sup>70</sup> which prompted me to instantiate its lessons, especially those about the use of social power. I became adept at masking and unmasking as I performed my identities in new venues. I reveled in—and perhaps rebelled by—telling braided narratives, and I looked to expose silences with respect to race. Sometimes I erred in voicing my views when, looking back, I should have moderated my tone or swallowed my words.<sup>71</sup> Over time, I felt simultaneously more adept at contributing a racial analysis but also less persuasive with my colleagues and certain students. It is my experience that if one regularly speaks in the register of race, one loses the capacity of being heard.

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<sup>66</sup> I use this space to thank Chancellor Roth for affording me an incomparable opportunity by allowing me to work in the Health Sciences Center where I have applied lessons learned in law schools and learned from others within the health professions environment.

<sup>67</sup> See *What is Cultural Competency?*, U.S. DEP'T HEALTH & HUM. SERVICES OFF. MINORITY HEALTH, <http://minorityhealth.hhs.gov/templates/browse.aspx?lvl=2&lvlID=11> (last updated Oct. 19, 2005) (defining “cultural and linguistic competence” as “a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or among professionals that enables effective work in cross-cultural situations”). For one of the best examples of cultural competency scholarship and pedagogy, see Carol Mostow et al., *Treating and Precepting with RESPECT: A Relational Model Addressing Race, Ethnicity, and Culture in Medical Training*, 25 J. GEN. INTERNAL MED. 146 (2010).

<sup>68</sup> HSC Office for Diversity, *Faculty of Color Videos*, UNM HEALTH SCI. CENTER, <http://hsc.unm.edu/programs/diversity/index.shtml> (last visited Mar. 28, 2013).

<sup>69</sup> Professor of Law Deleso Alford of Florida A&M University was, partly through my advocacy, the inaugural Visiting Diversity Scholar in the summer of 2012. HSC Office for Diversity, *Inaugural Diversity Visiting Scholar*, UNM HEALTH SCI. CENTER, [http://hsc.unm.edu/programs/diversity/visiting\\_diversity\\_scholar.shtml](http://hsc.unm.edu/programs/diversity/visiting_diversity_scholar.shtml) (last visited Mar. 28, 2013).

<sup>70</sup> See, e.g., Devon W. Carbado & Cheryl I. Harris, *The New Racial Preferences*, 96 CALIF. L. REV. 1139, 1146–47, 1187 (2008) (using the *Máscaras* article, *inter alia*, the authors demonstrate that, so long as student admission programs include personal statements, implementing colorblind anti-affirmative action policies that perforce require excising race will not be possible); David M. Engel, *Making Connections: Law and Society Researchers and Their Subjects*, 33 LAW & SOC'Y REV. 3, 10–14 (1999) (arguing that the *Máscaras* article, *inter alia*, illustrates new connections with the racial outsider as subject and new conceptions about the role of the researcher and sociolegal methodologies).

<sup>71</sup> For example, one year, at the end of the annual luncheon for minority professors at the Association of American Law Schools, I asked to be recognized at the end of the program, when I publicly and imprudently chided the organizers for not having a diverse group on the dais. This was one such time when my message would have been better delivered one to one.

When one insists on talking about race, it is as if everything one says is merely banal repetition of what one has said before.<sup>72</sup>

I yearned to see the diversity among students and faculty at UNM transform our relationships and academic decision-making. I yearned to see race, culture, gender, tribe, and other identity characteristics as a source of knowledge and ingredients of legal analysis, consistent with what Professor Page has described as contributing to cognitive diversity.<sup>73</sup> I was enthusiastic, perhaps dogmatic, about wanting to create a variegated law school environment in which we inhabit different identity-marked spaces that abut and overlap in a crazy quilt kind of way and inform our legal discourse and institutional decision-making. I think of these as quantum identity spaces in which observations of small-scale actions, using such cognitive tools as racial literacy, reveal the nature of the identity being marked at any one time and facilitate the interaction.<sup>74</sup> As we become more practiced, these interactions across these quantum identity spaces enhance the locations where we gain the “educational benefits that flow from a diverse student body” and faculty.<sup>75</sup>

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<sup>72</sup> The Teaching Tolerance magazine published by the Southern Poverty Law Center directly addresses the difficulty in talking about race in classrooms. See Jenee Darden, *Talking Race*, 36 TEACHING TOLERANCE 49, 51 (2009), available at <http://www.tolerance.org/magazine/number-36-fall-2009/feature/talking-race> (last visited Mar. 28, 2013) (“Because I was the only teacher of color, it got to a point where, I think, my colleagues expected everything that came out of my mouth was going to be about race, diversity, or social justice.”).

<sup>73</sup> See PAGE, *supra* note 13, at 7, 13.

<sup>74</sup> In using the term “quantum” to refer to identity spaces and employing the “observer effect,” I am borrowing the vocabulary of particle physics. My husband, Charles Boyer, is a mathematician trained in particle physics, and over our thirty-two-year marriage, I have grown to have a strong interest in scientific terminology. Here I am using, perhaps misusing, “quantum” to refer to the personal ways in which we perform our identities, circumscribing a space around the individuality *and intentionality* of those choices. Additionally, I contend that there is an observer effect, such that an identity-educated (i.e., a CRT-educated or racially literate) gaze has a different effect on the quality and precision of the interaction, and therefore on the observer and observed, than the gaze of someone who assumes the stance of colorblindness or identity-free expression. Interactions about identity are more turbulent and potentially more productive depending on who is interacting (in terms of particle physics, the observer effect can be discerned because the measurement of interactions at the atomic level are probabilistic and require more energy as the particles get smaller). Two racially literate persons can have a more textured, turbulent (and possibly more energetic) conversation about race (for example, context and subtext can be intentionally coded and decoded but expressed nonverbally or obliquely) than two persons who are color/race-blind. See also *infra* note 93 (discussing one important influence on my development of the idea of quantum identity spaces).

<sup>75</sup> *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).

ON *TRENZAS**Finding that Scholarship Can Inform Family Life*

Like many other female professionals, I have struggled to integrate my obligations in the workplace with those in the home. One persistent question for me is not how to balance the workplace with the home, but rather how to close the space between, or *braid*, the public and private. This is of particular interest to me as a woman of color. Over time, my scholarship, and specifically the *Máscaras* article, was read and used by my family. I do not know how common this is for other faculty of color, but it was transformational for us. The scholarship that forms the basis for the *Máscaras* article emerged out of my academic work in Chicano Studies as an undergraduate, as well as my own and my family's experience in the Chicano movement and the other upheavals in the 1960s and 1970s.

As I was reaching young adulthood, my family's black-and-white moral, social, and political certitudes, grounded in pre-1960s politics and pre-Vatican II<sup>76</sup> theology, were cracking all around us. My father was active in local racial politics, helping to organize *Los Trabajadores Sociales de la Raza*, a group of Hispano social workers.<sup>77</sup> My brother had been a paratrooper in Vietnam, but slowly we all came to oppose the war. My sister had been a teen bride and would evolve into a single mom raising two kids and earning a degree in mechanical engineering. At San Diego State, I enrolled in Chicano Studies courses and became a teaching assistant for the department. I often joined in marches protesting the war or supporting the local Chicano community and the United Farm Workers led by César Chávez. My

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<sup>76</sup> Vatican II, as the Second Vatican Ecumenical Council came to be called, was an active engagement of the Catholic clergy with modernity. See CATHOLIC UNIV. OF AM., 14 NEW CATHOLIC ENCYCLOPEDIA 407 (Gale 2d ed. 2003). Indeed, part of the doctrinal work of the previous Pope, Benedict XVI (formerly Joseph Ratzinger), has been to reinterpret *Gaudium et Spes*, the principal document of Vatican II, and he has decried the incorporation of contemporary music and dress as "claptrap and pastoral infantilism." Tracey Rowland, *Benedict XVI, Vatican II and Modernity*, ZENIT (July 24, 2005), <http://www.zenit.org/en/articles/benedict-xvi-vatican-ii-and-modernity-part-1>. For those of us who had been schooled in Catholicism, many rituals became more participatory and accessible (for example, Mass was now said in English rather than Latin) and there seemed to be greater tolerance for moral ambiguity as an informed conscience took on greater importance. See, e.g., Rob Agnelli, *On the Forms of Moral Immaturity: The Obedient Toddler & the Rebellious Teen*, 80 NEW OXFORD REV. (Jan.-Feb. 2013), <http://www.newoxfordreview.org/article.jsp?did=0113-agnelli> (also on file with author).

<sup>77</sup> For mentions of this group, see generally *Group Calls for Formation of La Raza*, SANTA FE NEW MEXICAN, July 1, 1970, at B4 (announcing the creation of the *Trabajadores Sociales de la Raza* to initiate programs to affect the lives of Mexican-Americans in New Mexico) (on file with the author); Ernest Ortega, *Taos 'Unique' and 'Conservative' in the Good Sense of the Word*, TAOS NEWS, Sept. 22, 1961, at B6 (describing the work being done on behalf of the poor and powerless by social workers and organizations such as *Los Trabajadores Sociales de la Raza*) (on file with the author); Advertisement for a Conference on Bilingual Education, ALBUQUERQUE J., Oct. 24, 1975, at A10 (listing *Trabajadores Sociales de la Raza* as a sponsor) (on file with the author).

family's racial, political, religious, and gender politics were changing, like those of the larger society. It was a heady time to be alive; our identities were being reconstructed on a national scale in an accelerated time frame. We were embarked on a trajectory that resulted in racial categories inscribed with positive interpretations, new narratives and images, and renewed affiliations. Like many others and because of the social conflict of that period, I claimed Chicana (and later Latina) as a newly vindicated and invigorated racial and gendered identity.

I was in college and law school during the late 1960s and 1970s, a time of historic social upheaval. As I look back, identity issues were largely confined to race and gender, and with respect to race, most people thought only about the issues facing Blacks.<sup>78</sup> However, my perspectives were marinated in the demographic stews of New Mexico and California.<sup>79</sup> I arrived at Harvard Law School with a deeply rooted racial and ethnic identity.<sup>80</sup> Like

<sup>78</sup> The Chicano Movement was in its heyday in both California and New Mexico during the late 1960s and early 1970s. See, e.g., F. ARTURO ROSALES, *CHICANO! THE HISTORY OF THE MEXICAN AMERICAN CIVIL RIGHTS MOVEMENT*, at xv (1996). The land grant struggles in northern New Mexico brought a renewed focus on the Treaty of Guadalupe Hidalgo, *id.* at 154, and César Chávez and the labor organizing of farm workers in California became a rallying point for the Chicana/o community, including university-age students. *Id.* at 140–41. Nonetheless, the popular media and scholarly focus on other parts of the socio-political revolution, i.e., the anti-war, feminist, and Black movements, is evident in the Stanford Encyclopedia of Philosophy's entry on civil rights, which begins with this statement, "the term 'civil rights' is indissolubly linked to the struggle for equality of American blacks during the 1950s and 60s," and, despite the Encyclopedia's revision in 2012, lacks any mention of Latinas/os, the largest minority group in the United States. Andrew Altman, *Civil Rights*, STANFORD ENCYCLOPEDIA PHIL., <http://plato.stanford.edu/entries/civil-rights> (last updated Aug. 1, 2012).

<sup>79</sup> At this time, New Mexico, and to a lesser extent California, was much more Brown than the national population. The 1970 Census (using a 15% sample) reported that Whites were 87.7% of the population, Blacks were 11%, Hispanics were 4.7%, Asians were 0.8%, and American Indians were 0.4%. Campbell Gibson & Kay Jung, *Historical Census Statistics on Population Totals by Race, 1790 to 1990, and by Hispanic Origin, 1970 to 1990, for the United States, Regions, Divisions, and States* tbl. 1 (U.S. Census Bureau, Working Paper Series No. 56, Sept. 2002), available at <http://www.census.gov/population/www/documentation/twps0056/tab01.pdf>. California's Department of Finance compiled these data for 1970: Whites were 77% of the population, Hispanics were 12%; Asian/Pacific Islanders were 3%, Blacks were 7%, and Native Americans were 0.4%. CAL. DEP'T OF FINANCE, REVISED RACE/ETHNIC POPULATION ESTIMATES: COMPONENTS OF CHANGE FOR CALIFORNIA COUNTIES, JULY 1970–JULY 1990 (2007), available at [http://www.dof.ca.gov/research/demographic/reports/estimates/race-ethnic\\_1970-90/](http://www.dof.ca.gov/research/demographic/reports/estimates/race-ethnic_1970-90/). In 1970, New Mexico reported 91% White (although 37% were Hispanic based on Spanish language), 2% were Black, and 7% were American Indian. U.S. CENSUS BUREAU, TABLE 46. NEW MEXICO—RACE AND HISPANIC ORIGIN (2002), available at <http://www.census.gov/population/www/documentation/twps0056/tab46.pdf>.

<sup>80</sup> I thought of myself as a feminist, religiously reading *Ms. Magazine* cover to cover, but I did not consider myself part of the Feminist Movement. *Ms.* was publicized as a title we feminists could embrace and provided a shared space where we could devour articles and stories about how to be/how to become a liberated woman. See generally *Herstory 1971–Present*, *Ms. MAGAZINE*, <http://www.ms magazine.com/about.asp> (last visited Mar. 28, 2013) (giving a brief history of the magazine). It was exhilarating. I remember when Ann Scales and other White students convened the meeting that would eventually evolve into the founding of the *Harvard Women's Law Journal*. I left the meeting without speak-

many of my generation, I was challenging my parents' choices about cultural assimilation and testing my mother's moves toward Whiteness (her lessons about why and how to get along with "Anglos," the term used throughout the Southwest for White people and the term my mother would have used). Like many other Chicana/o students in California, I emphasized my claims to color and performed my identity in starkly racial terms. Brown/Yellow/Red/Black Power and Brown/Yellow/Red/Black is Beautiful were my cohort's mantras. Racial categories and racial aesthetics were still fairly crisp. Boundaries hadn't yet weakened from the combined weight of intermarriage, immigration, genetic research, and the excavation of family histories.

*My family consists of my husband, Charles Boyer, his son Chuck, Chuck's wife Celine, and our two daughters, Alejandra and Diana, Diana's husband Javier, and my new granddaughter, Marisela. Our family is cross-racial, multicultural, polylingual, and phenotypically different. Chuck is tall and light-skinned, has light hair and eyes, and speaks both Spanish and English. Celine is Chinese-American; has light skin, dark hair and eyes; and speaks English, Cantonese, and Mandarin. Diana looks Latina, with brown skin, black hair, and dark eyes, but has Boyer features. With the help of Javier, her Mexican immigrant husband, and her in-laws, Diana is becoming fluent in Spanish. Alejandra appears mixed-race, with a lighter complexion, brown hair and eyes, and Montoya features. She has marketplace fluency in Spanish—able to order in restaurants and assist customers with computer-related problems.*

*Charles and I met in Mexico City. Having lived for about eight years in Mexico, he was bilingual and had a deep affinity for Mexican culture. While we borrow freely from both the White and Latino cultures, we have worked to make our home a Brown space. My daughters acknowledge that they are mixed race, but they identify as Latinas. If you were to visit our home in Albuquerque, you would see that the front of the house is sedate, soft mauve stucco while the walls in the back are a riot of colors à la Luis*

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ing after concluding that my issues were not like those of the White women. Looking back, I was both right and wrong. Many of the issues, both legal and personal, that fell within feminism or the rubric of the rights of women—such as employment opportunity, the Equal Rights Amendment, abortion—were issues of great concern to me. However, I felt then (as I feel now) that such issues have different dimensions for middle-class White women (who were then the dominant cohort of the feminist movement) and women of color. I was reminded of this divide most recently on February 9, 2013, when watching a discussion on the MSNBC program *UP with Chris Hayes* that included Melissa Harris-Perry. Ms. Harris-Perry made it a point to draw distinctions about the different roles women of color occupy in the paid and underpaid workforce. *UP with Chris Hayes* (MSNBC television broadcast Feb. 9, 2013) (featuring Gloria Steinem, Marlo Thomas, and Melissa Harris-Perry).

*Barragán—broad expanses of cobalt, terracotta, yellow. Our home, like our family, is a cultural pastiche.*

*The Máscaras article has become part of our family idiom. The stories in the article are part of our collective memory, and we often use the language of the article to punctuate our conversations. As an example of how the article has influenced my family over the years, when Alejandra has worn a braid in her hair, sometimes she braids only her bangs and other times all of her hair. She and I know that the braid is not just a hair style; it is a symbol. She sometimes asks me to help her with her braid. We both know these are moments framed by my Máscaras article. At times, my eyes well with tears as I remember my mother braiding my hair and interpreting the world for me. My mother died before I became a mother, but she remains Gra'ma Virginia, a phantom presence who braids her memories with mine—and theirs.*

I have worked hard to make my different roles as professor, mother, and wife cohere with and amplify one another. The use of autobiographical narratives, the *trenzas* metaphor of the article, made my scholarship accessible to my daughters early in their lives (Diana was ten and Alejandra was four when I wrote the article). They sometimes accompanied me to professional talks and over time became conversant in the *máscaras* and *trenzas* tropes. My stepson Chuck cited my work in his dissertation defense in 1999 as he completed his Ph.D. in Latin American literature,<sup>81</sup> which was certainly unexpected when I wrote the article. Alejandra majored in Politics and Latino Studies at NYU and studied my *Máscaras* paper in her Latino Social Movements course (for which her professor invited me to present a guest lecture). When she wrote her honors thesis, she also cited my scholarship, including the *Máscaras* article.<sup>82</sup> Today, Diana draws on the article's themes and its connections to cultural competence<sup>83</sup> as she works to expand the edu-

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<sup>81</sup> Charles G. Boyer, *Revolution and Romance: Social Change and Desire in Mexican Narrative, 1955–1989* (May 24, 1999) (unpublished Ph.D. dissertation, University of Kansas) (on file with Department of Spanish & Portuguese, University of Kansas).

<sup>82</sup> Alejandra Montoya-Boyer, *The Senate Confirmation Hearings of a “Wise Latina”*: *Discussing Race in a Period of Denial* (April 2010) (unpublished B.A. senior honors thesis, New York University) (on file with Latino Studies Program, New York University).

<sup>83</sup> My work in the health sciences allowed me to make linkages between pedagogical and conceptual trends in law and medicine. Cultural competence training in the health professions has made significant strides in making physicians, nurses, pharmacists and others more self-aware about culture, identity, bias, and the importance of social determinants to health outcomes. *See What is Cultural Competency?*, *supra* note 67. While law schools are paying some attention to cultural competence in clinical education, medical schools have taken more decisive steps, including through the accreditation process, in requiring cultural competence training. *See, e.g.,* LIAISON COMM. ON MED. EDUC., FUNCTIONS AND STRUCTURE OF A MEDICAL SCHOOL: STANDARDS FOR ACCREDITATION OF MEDICAL EDUCATION PROGRAMS LEADING TO THE M.D. DEGREE 10 (May 2012), *available at* <http://www.lcme.org/functions.pdf> (“[T]he medical education program should be able to document objectives relating to the development of skills in cultural competence,



cational pipeline for the health professions. My sister once used the article in a teambuilding workshop with mostly White male engineers working on turbine engine design. My nephew, Robert Montoya, has been accepted into a Ph.D. program in ethnic studies and attributes his passion for this academic interest in part to my *Máscaras* article. These are examples of how the article helped me cohere my public and private roles, and how it became a source of both identity and analysis for my family.

My father was deeply committed to the idea that our success is a collective effort; he taught us that we stand on the shoulders of family members as well as those of a whole community (*nuestra raza*) that has struggled to create the opportunities from which we have benefited. It is therefore incumbent upon us to lend a hand and give a boost to those who come after us. As a race scholar and a mother of color I was faced with raising daughters (and a stepson, although less directly) and wanting them to grapple with their own racial, cultural, and economic privileges—or lack thereof—with a civic mindedness and a duty to “pay forward” those privileges and to develop strong identities with a deep analysis of racial and gender dynamics. My husband and I tapped tools and insights from my scholarship, such as storytelling with its race/gender vocabulary and imagery (*máscaras* and *trenzas*). Thus, race and gender scholarship informed and transformed our family interactions.

### *Wrestling Family Relations into Brown Space: Ganas y Corazón*

Over the past twenty years, the demographic context has changed enormously for Latinas/os, and our community has grown in national visibility and importance. Consider these data points<sup>84</sup>: In 1990, Hispanics (as we are called by the Census Bureau) were about 9% of the U.S. population.<sup>85</sup> By 2011, we were 16.7%.<sup>86</sup> This represents an approximate increase in our numbers from 22 million to 52 million persons.<sup>87</sup> The political landscape has also changed. In 1996, there were 3,743 Latinas/os serving as elected officials.<sup>88</sup> In 2011, there were 5,850, including two senators and twenty-four members

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indicate the location in the curriculum where medical students are exposed to such material, and demonstrate the extent to which the objectives are being achieved.”).

<sup>84</sup> Racialized data is an important tool in the Zuni Cruz-Montoya racial literacy toolkit. See Montoya & Zuni Cruz, *Narrative Braids ALLR*, *supra* note 24, at 195–96.

<sup>85</sup> BUREAU OF THE CENSUS, U.S. DEP’T OF COMMERCE, WE ASKED. . . YOU TOLD US: HISPANIC ORIGIN (Oct. 1992) [hereinafter “WE ASKED”], available at <http://www.census.gov/prod/cen1990/cqc/cqc7.pdf> (one of a series of bulletins showing questions asked in the 1990 census).

<sup>86</sup> Bureau of the Census, *USA QuickFacts*, U.S. DEP’T. COMMERCE, <http://quickfacts.census.gov/qfd/states/00000.html> (last modified Jan. 10, 2013).

<sup>87</sup> *Id.*; WE ASKED, *supra* note 85.

<sup>88</sup> NALEO Educational Fund, *A Profile of Latino Elected Officials in the United States and Their Progress Since 1996*, NALEO 3, <http://www.naleo.org/downloads/NALEOFactSheet07.pdf> (last visited Mar. 28, 2013). The number of Latino elected officials has grown significantly over the years. In 1996, there were 3,743 Latinos serving in elected office, and by 2007, that number had grown to 5,129—a 37% increase. *Id.*

of the House of Representatives, of which seven were Latinas.<sup>89</sup> With respect to legal education, in 2010, the percentage of Hispanic ABA matriculating students was an anemic 7.6%, and the percentage of Hispanic lawyers, both male and female, stood at a shockingly low 3.4%.<sup>90</sup>

My family was part of this huge demographic shift in the nation—the Latino-ization of the U.S. that is ongoing. This shift had dramatic consequences in 2012 national- and state-level electoral contests,<sup>91</sup> including the re-election of President Barack Obama, who captured 71% of Latina/o voters, 76% of Latinas, and 74% of Latina/o youth.<sup>92</sup> Over the twenty years since I wrote the original article, the urgency of this work on identity has intensified because of the greater national and local prominence of Latinas/os. Yet Latinas (our faces and our voices) are still largely absent from the national imagination.

Today, some students arrive at law school well read and conversant in CRT, LatCrit, feminism, queer theory, and other genres of Outsider scholarship. Many students, however, arrive at law school in need of and wanting experiences and analyses that bridge their identities with what they are learning about law and public policy. In recent years, students (including my daughters, nephews, and nieces) often leave high school and their undergraduate studies without coalescing and/or divulging their Outsider identities in public space or acquiring a coherent racial analysis. I choose the word coalesce to emphasize that the various strands of racial identity—being White, Brown, Black, Native, Asian, as well as other permutations—can exist singly or in multiples and can become more unified without being emulsified or redundant.<sup>93</sup> The Black, American Indian, and Chicano civil rights movements are often abstractions to the younger generation. The media confound discussions about identity as they bandy about the idea that the

<sup>89</sup> NALEO Educational Fund, *2011 Directory of Latino Elected Officials*, NALEO, <http://www.naleo.org/directory.html> (last visited Mar. 28, 2013).

<sup>90</sup> *Additional Gender/Ethnicity Information*, LAW SCH. ADMISSIONS COUNCIL 1 (2012), <http://www.lsac.org/lisacresources/data/pdfs/additional-eth-gen.pdf>. In 2010, 91% of all lawyers in the U.S. were White. *Id.*

<sup>91</sup> See, e.g., Javier Gonzalez, *Rise in Latino Voters Shapes Political Landscape in California*, INDEP. VOTER NETWORK (Dec. 10, 2012), <http://ivn.us/2012/12/10/rise-in-latino-voters-shapes-political-landscape-in-california/> (concluding that the Democratic supermajority in both of California's legislative bodies may remain the norm unless Republicans can capture larger numbers of Latina/o voters).

<sup>92</sup> MARK HUGO LOPEZ & PAUL TAYLOR, PEW HISPANIC CTR., *LATINO VOTERS IN THE 2012 ELECTION* 4, 7 (2012), available at [http://www.pewhispanic.org/files/2012/11/2012\\_Latino\\_vote\\_exit\\_poll\\_analysis\\_final\\_11-09.pdf](http://www.pewhispanic.org/files/2012/11/2012_Latino_vote_exit_poll_analysis_final_11-09.pdf) (analyzing the exit polls from the 2012 presidential race).

<sup>93</sup> I am conflating other Outsider identities with racism and intentionally privileging race in this essay. I once had a conversation with Kimberle Crenshaw in which she explained intersectionality as a process in which different types of subordination are in conversation with one another, so that racism learns new expressions from sexism or homophobia, and vice versa; these “-isms” are intertwined and simultaneously morphing. I draw on this idea in postulating my quantum identity spaces notion. See *supra* note 74 and accompanying text.

U.S. is now “post-racial,”<sup>94</sup> while Barack Obama is both reviled and revered for his mixed-race Blackness.<sup>95</sup>

CRT and LatCrit scholarship and racial literacy skills proved indispensable to me in raising my daughters to have strong racial/gendered identities. Diana and Alejandra were brought up listening to and telling braided narratives. I tried to figure out how to provide them with insights into the choices available in expressing and performing their individual identities together with an analysis based on collective stories about discrimination, resistance, policy options, the vocabulary and expression of different forms of power, and the impermanence of legal victories like *Roe v. Wade*.<sup>96</sup> I want them to live, work, and love *con ganas y corazón*, moving easily (or perhaps not so easily but boldly) across cultural boundaries. As a professor of color who works on issues of racial justice, I was and remain greatly concerned about raising grand/children with a heightened conscience about racial justice, *como transmitirles una concientización sobre cuestiones de raza y justicia*. The *Máscaras* article did some of this work for us by providing us with tools to gain new depths of understanding, especially with our braided narratives, the *trenzas* trope.

Another aspect of becoming racially literate is learning the role that law and its legal agents and institutions play in creating and imposing racial categories upon us. For example, census documents are braided narratives and, in excavating them, we can learn new stories about our families and ourselves. Unbraiding these narratives requires knowledge about law and history, including, in my case, the uses and abuses in the application of racial categories in census documents and the conflicted racial nomenclature in the Southwest as a result of the unprovoked invasion of Mexico in 1846 by the

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<sup>94</sup> E.g., Marcia Dawkins, *Mixed Messages: Barack Obama and Post-Racial Politics*, 30 SPECTATOR 9, 9 (2010).

<sup>95</sup> Compare Gregory Rodriguez, Op-Ed., *President Obama: At Odds with Clear Demographic Trends Toward Multiracial Pride*, L.A. TIMES (Apr. 4, 2011), <http://articles.latimes.com/2011/apr/04/opinion/la-oe-rodriguez-column-obama-race-20110404>, with Debra J. Dickerson, *Colorblind*, SALON (Jan. 22, 2007), [http://www.salon.com/2007/01/22/obama\\_161/](http://www.salon.com/2007/01/22/obama_161/). For further discussion of President Obama’s mixed-race heritage and how it interacts with politics, see Michele Elam, *Obama’s Mixology*, THE ROOT (Oct. 30, 2008, 12:00 AM), <http://www.theroot.com/views/obamas-mixology>; ; see also MICHELE ELAM, THE SOULS OF MIXED FOLK: RACE, POLITICS, AND AESTHETICS IN THE NEW MILLENNIUM 7 (2011) (arguing that “the discursive making and unmaking of biracialism is always in large part a function of shifting political imperatives”).

<sup>96</sup> 410 U.S. 113 (1973). *Roe v. Wade*, the Supreme Court decision that legalized abortion, has subsequently been so narrowed by some state legislatures that those states may soon have no abortion services at all. See Emily Le Coz, *State Abortion Laws Restrict Women’s Access to Reproductive Care*, HUFFINGTON POST (July 18, 2012, 8:47 PM), [http://www.huffingtonpost.com/2012/07/18/state-abortion-laws\\_n\\_1684825.html](http://www.huffingtonpost.com/2012/07/18/state-abortion-laws_n_1684825.html) (citing 2012 *At the Midpoint: The Assault Continues*, CTR.FOR REPROD. RTS. (July 17, 2012), <http://reproductiverights.org/en/feature/2012-at-the-midpoint-the-assault-continues>) (reporting on a study prepared by the Center for Reproductive Rights concluding that 60 bills had been passed in 2011 and 40 in 2012 restricting access to abortion).

United States.<sup>97</sup> The end of the U.S.-Mexican War would mean the subsequent seizure of half of Mexico's land and with it more than one hundred thousand Mexicans, my ancestors among them, who would become U.S. citizens as—under the interpretation of the Treaty of Guadalupe Hidalgo—a quasi-White population.<sup>98</sup> Unbraiding these census narratives also requires knowledge about family relations, grandparents, and places of importance to the family, as well as a willingness to speculate about motives, tastes, preferences, and commitments, even when inglorious.

Since before statehood, New Mexico has had a segment of the Hispano/Latino population with political and economic power and close connections to the White elites.<sup>99</sup> The state's principal trade centers were located in northern New Mexico—in Las Vegas, Santa Fe, and later Albuquerque.<sup>100</sup> According to our family and community stories, the state is separated into the North, which retains ties, albeit attenuated ones, to the region's Spanish conquistador history<sup>101</sup> and mythology, and the South, which is characterized by the border with Mexico and the hybrid customs, narratives, and family ties of borderlands everywhere.<sup>102</sup> My older family members and family friends, like many northern families describe themselves, even today, as “Spanish,” while southern families are more likely to describe themselves as “Mexicans.”<sup>103</sup> The historic use of “Spanish” as an identifier was a marker of

<sup>97</sup> See LAURA E. GÓMEZ, *MANIFEST DESTINIES: THE MAKING OF THE MEXICAN AMERICAN RACE* 19 (2007) (explaining that President Polk wanted a war with Mexico, which allowed the United States to test new weapons and other technology prior to the Civil War).

<sup>98</sup> *Id.* at 42, 83–84. Using both historical and legal documents, Gómez explains that Mexicans, naturalized pursuant to the Treaty of Guadalupe Hidalgo, were allowed to fall within the *legal* category of White because naturalization was at the time limited to White persons. *Id.* at 83. However, because Mexicans were racially mixed (Spanish, indigenous, African), they would be subjected to widespread discrimination and denied most of the *social* benefits of Whiteness. *Id.* at 83–84.

<sup>99</sup> See *id.* at 83 (describing serial conquests and coexistence among Mexicans, Indians, and Euro-Americans, Gómez provides details about Mexicans who occupied positions of authority and power as legislators, jurors, and in other capacities).

<sup>100</sup> See ALEX TRAUBE WITH A TEXT BY E.A. MARES, *LAS VEGAS, NEW MEXICO: A PORTRAIT* 9–10, 26–27 (1983).

<sup>101</sup> See GÓMEZ, *supra* note 97, at 8–9.

<sup>102</sup> See generally Montoya, *Borderled Identities*, *supra* note 26 (using the border as both a geographic location and a metaphor for the perspectives of those who live between cultures). I draw on the cross-disciplinary literature about boundaries and borders, and describe borders as liminal spaces where “different things, people, forces, sensations, sounds, and words combine and emerge irrevocably changed.” *Id.* at 132.

<sup>103</sup> When we called ourselves “Spanish,” we were also rejecting the government's imposition of a White racial label. For examples of the federal government's racial construction of Latino identity, see *supra* text accompanying note 98 and *infra* text accompanying note 105. It was recently reported that the Census Bureau is considering making “Hispanic” a racial rather than an ethnic label in part because of the significant number of Latino households that either leave the race question blank or fill in “some other race” on the census forms. Sandra Lilley, *Census Might Make “Hispanic” a Race*, NBC LATINO (Jan. 4, 2013, 5:20 PM), <http://nbc-latino.com/2013/01/04/census-might-make-hispanic-a-race/>. See generally Hope Yen, ‘Off-White’ Melting Pot Blurs Race Lines, DELAWAREONLINE (Mar. 18, 2013), <http://www.delawareonline.com/viewart/20130318/NA>

assimilation away from Indianness,<sup>104</sup> and the contemporary use of “Spanish” as an identity by some New Mexican Latinas/os draws a contrast with, and discriminates against, immigrant Mexicans. When I first arrived at Harvard, I remember Latinos from Texas and California poking fun at me as a *New Mexican* Latina because of these racial myths and claims of Spanish ancestry, even though by young adulthood I had renounced and denounced such claims. Racial identities and racial labels can vary from person to person and generation to generation even within the immediate family and almost always among extended families.

*In northern New Mexico in the 1950s and ‘60s, we did not often call ourselves Mexicanos; we called ourselves “Spanish,” or at times “Spanish-American,” partly because on government forms we were called Spanish-surnamed<sup>105</sup> and the use of the Spanish language has been an enduring governmental concern.<sup>106</sup> In the 1920 census, twelve families—with names such as Flores, Carrillo, Bustos, Lopez, and Kerker—are listed on the same page as my paternal grandparents, the Montoyas, as living in Santa Rita, in southern New Mexico. All are shown as belonging to the Mexican race or color; the census taker is named Mrs. Russell S. Enos. Sixteen families—with such names as Chavez, Aragon, Padilla, Bustos, Montoya—are listed on the same page as my maternal grandparents, the Alarids, as living in Bernalillo, in northern New Mexico. All are shown as belonging to the White race or color; the census taker is named Romelia Garcia. It is hard to know without more probing why some nuevomexicano families were identified as racially Mexican and others as White.*

Census documents illustrate the government’s power to construct our racial identities. Such government documents offer some explanation for the chaos of the racial and ethnic categories applied to us and those we chose for ourselves: the racial labels White/Brown/Mestizo, as well as the ethnic labels Latinos/Mexicanos/Hispanos/nuevomexicanos. Law and history also

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TIONAL/303180046/-Off-white-melting-pot-blurs-race-lines (reporting, using demographic and political participation data, that Latinos are embracing U.S. life but also maintaining strong ties to their heritage).

<sup>104</sup> GÓMEZ, *supra* note 97, at 96 (using the opinion in *United States v. Lucero*, 1 N.M. 422 (1869), as a prominent example of the “representation of Mexicans as the descendants of Spanish ancestors” and a claim of whiteness).

<sup>105</sup> See U.S. BUREAU OF THE CENSUS, PERSONS OF SPANISH SURNAME: SOCIAL AND ECONOMIC DATA FOR WHITE PERSONS OF SPANISH SURNAME IN FIVE SOUTHWESTERN STATES, at xi (1963), available at <http://www2.census.gov/prod2/decennial/documents/41927938v2p1a-1ech03.pdf> (classifying “[p]ersons of Mexican birth or ancestry who are not definitely of Indian or other nonwhite race” as white).

<sup>106</sup> See STINA SANTIESTEVEAN, USE OF THE SPANISH LANGUAGE IN THE UNITED STATES: TRENDS, CHALLENGES, AND OPPORTUNITIES (May 1991) (unpublished report), available at <http://www.eric.ed.gov/PDFS/ED335176.pdf> (describing the changing use of Spanish through the processes of immigration and linguistic assimilation).

provide insight into the complex choices available to today's Latinas/os in their expression or performance of identity. Race resides both in the transitory categories of the government agencies that promulgate them and in the minds of the bureaucrats who apply them. Race also resides within the family across generations as our parents, grandparents, and other relations made their admittedly limited choices about racial identity within the social dynamics of the time. So, too, my husband and I, a White man and a Latina, make choices about racial categories and related behaviors—how we vote, how we earn our living, where we live, what we eat, where we travel, what music we listen to, what languages we speak, what we call ourselves. We both have a strong affinity for Brown space, yet I understand that our choices are tentative, subject to being overridden by changing circumstances and new options for the expression and performance of identity.

I hold out my scholarship to my daughters, to my granddaughter, and to all my family, in hopes that the *máscaras* and *trenzas* insights and other racial literacy tools will illuminate their choices. But this life work, which I denominate as racial justice, also needs *ganás y corazón*.

### *Helping Race Do Its Work in the Family (and in the Academy)*

As the U.S. becomes majority minority, the urgency of racial literacy increases. Excavating the story about our names, what we call Name Narratives,<sup>107</sup> is another racial literacy tool that Professor Zuni Cruz and I have adopted to facilitate the discussion of race, racism, and our racial backgrounds.<sup>108</sup> Our names are a negotiation about social power within public space and often within White space. Kinship and intergenerational relations are evident in the names we are given by our families.<sup>109</sup> Names, including

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<sup>107</sup> I first saw a variation of this tool, called the Name Game, used at a meeting of senior administrators in health sciences at UNM. We have adapted and adopted it by adding layers of identity and racial analysis.

<sup>108</sup> Margaret Montoya & Christine Zuni Cruz, *Name Narratives* (2011) (unpublished manuscript in progress) (on file with the author). Naming decisions by parents often accomplish complex objectives about family and individual identity and may be chosen to provide cues and clues about racial identity. See Christina A. Sue & Edward E. Telles, *Assimilation and Gender in Naming*, 112 *Am. J. Soc.* 1383, 1383 (2007) (finding support for a contemporary theory of assimilation in which some ethnic markers persist while others decline in the fact that Hispanic parents often choose names to accomplish seemingly contradictory aims—both to maintain ethnic identity and to signal assimilation); see also Lisa D. Cook et al., *Distinctively Black Names in the American Past* (Nat'l Bureau of Econ. Research, Working Paper No. 18802, 2013), available at <http://www.nber.org/papers/w18802> (last visited Mar. 28, 2013) (arguing that, because census records and death certificates show the use of distinctively racialized names by African Americans in the late nineteenth and early twentieth centuries, such names were not a product of the Civil Rights Movement, as had been assumed).

<sup>109</sup> See, e.g., SANDRA CISNEROS, *THE HOUSE ON MANGO STREET* 10–11 (1991) (“In English my name means hope. In Spanish it means too many letters. . . . It was my great-grandmother’s name and now it is mine. . . . I am always Esperanza. I would like to baptize myself under a new name, a name more like the real me, the one nobody sees. Esperanza as Lisandra or Maritza or Zeze the X. Yes. Something like Zeze the X will

such neologisms as LatCrit, invented for a new scholarly movement,<sup>110</sup> are clues to family choices about racial identity over generations and can provide cues for interpreting collective racial and ethnic identities, as well as the stereotypes and assumptions that attach to them.<sup>111</sup> The acts of being named and re-naming ourselves can form and transform our private selves and our public identities<sup>112</sup>:

*My name is Margaret Elizabeth Montoya,<sup>113</sup> I have rarely spoken my full name in public space. I don't particularly like the name Margaret and concluded long ago that the two names, Margaret and Elizabeth, didn't fit the child that I was and have never fit the person I became as an adult. My work was made both easier and harder because of being named Margaret Elizabeth. The name cloaks me, masks me with Whiteness and makes me have to wrestle myself out of it. It better fits the assimilated Latina me. It doesn't fit the explicitly racialized Latina me. On the other hand, I have always loved my last name, Montoya.*

*I am the proud daughter of Ricardo Sierra Montoya and Virginia Alarid Montoya. My mother was named Virginia and her surname was Alarid; her mother was named Margarita Wallace*

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do.”); Jerome McCristal Culp, Jr., a prominent Critical Race theorist and Harvard Law School graduate, narrates the story of his name in *Latinos, Blacks, Others, and the New Legal Narrative*, 2 HARV. LATINO L. REV. 479, 482 (1997). His grandmother won a contest organized by Jerome McCristal, the supervisor at the mine where his grandfather worked, by being the first woman to give birth in 1926 and name her child after the supervisor, receiving a number of prizes in return. *Id.* The child, who became Jerome McCristal Culp, later demanded that his son carry on the name. *Id.* “Culp,” or Professor Culp, wrote this name narrative as LatCrit Theory was being born out of Critical Race Theory convolutions, linking his own naming with LatCrit’s naming, and in the process linking the personal with the historical. *See id.*

<sup>110</sup> Culp, *supra* note 109, at 482.

<sup>111</sup> Andrew Gelman challenged the contention, responding to a weblog by Ron Unz, that Jewish people are massively overrepresented in Ivy League college admissions, a contention based on ethnic stereotypes or myths about Jewish people. Andrew Gelman, *That Claim That Harvard Admissions Discriminate in Favor of Jews? After Seeing the Statistics, I Don't See It*, STAT. MODELING CAUSAL INFERENCE & SOC. SCI. (Feb. 12, 2013, 9:13 AM), available at <http://andrewgelman.com/2013/02/that-claim-that-harvard-admissions-discriminate-in-favor-of-jews-after-checking-the-statistics-maybe-not/>. His analysis used the surnames of students to identify Jewish people involved in academically challenging activities such as the National Merit Scholar semifinals and the International Math Olympics and compared those numbers to admissions rates at Harvard and other Ivy League colleges. *See id.*

<sup>112</sup> For example, Scott Momaday writes, in the preface to his memoir: “My name is Tsoai-talee. I am, therefore, Tsoai-talee; therefore I am. The storyteller Pohd-lohk gave me the name Tsoai-talee. He believed that a man’s life proceeds from his name, in the way that a river proceeds from its source.” N. SCOTT MOMADAY, *THE NAMES: A MEMOIR* (1976).

<sup>113</sup> My daughter Alejandra, my daughter Diana, Diana’s husband Javier, their daughter Marisela, and I, with the tremendous help of videographer Jessa Bunker, recorded our Name Narrative and uploaded it for others to see and hopefully inspire other narratives. Margaret Elizabeth Montoya, “*Máscaras, Trenzas, y Greñas*” *Naming Narrative*, VIMEO (Mar. 28, 2013), <http://vimeo.com/63294353>.

*(often eschewing the use of my grandfather's surname Alarid, an act that as a child I found curious). In the 1920s census, my grandmother's name is shown as "Margaret W. Alarid"—Margaret, mind you, not Margarita. My grandmother's grandfather was Irish and, in my recollection, she over-claimed this ancestry in part by emphasizing her last name as Wallace, and perhaps by sometimes using Margaret. She also often expressed a distinct bias against dark-skinned people, especially dark-skinned Mexicanos. My paternal grandparents, Felix Montoya and Refugio Sierra Montoya, were born in southern New Mexico and in the 1940s moved to Los Angeles; both came from families that claimed Mexican and Indian ancestry. My parents were bilingual, but my maternal grandparents were primarily monolingual Spanish speakers.*

*Over the years, I have concluded that my mother, in naming me Margaret, was, like her mother before her in calling herself "Irish," making a Whiteness claim, a move toward assimilation. My mother told us stories about Anglos discriminating against her because she was Spanish and she considered herself dark, at least in comparison with her older sister and other family members. When I say that my mother was making a move towards Whiteness and cultural assimilation in naming me, I do so understanding that, given her own experiences with overt bias, she was trying to create an easier pathway for my siblings and me. She succeeded; we are convinced that we had an easier time in the biased educational institutions that we attended because our names were Richard, Margaret, and Mary Ellen.*

*My adult name is also marked by language in that I give Margaret its English pronunciation, but I say Montoya with its nuanced Spanish sounds. In doing so, I am explicitly making a move towards Brownness and resisting linguistic assimilation. Like Esperanza, Sandra Cisneros's protagonist,<sup>114</sup> I remain in search of a name that suits me.*

My mother unwittingly burdened me with a name I do not like, and one that does not do the work that a good name can do. This problem is related to the *greñas* metaphor in the title of the original article. The metaphor of "messy hair" was supposed to illustrate my unbraided hair, my transition to a less assimilated identity. It was an allusion to the messiness of what I call "transculturation," the choosing of multiple racial markers, of re-braided and unbraided ideas. But over the years, the *greñas* metaphor has not worked for me. Perhaps I do not think of the resulting transformation as messy so much as merely restyled, so I rarely use "*Greñas*" in reference to

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<sup>114</sup> See CISNEROS, *supra* note 109, at 10–11.



my original article. Like my own name, “*Greñas*” doesn’t do the work that a good name can do.

Names can trigger presumptions about who we are or how we want to be seen. Names have ontological and existential power. Name narratives are a little like fractals, we can see repeating patterns as we describe our names, nicknames, surnames, etc. Our stories also have similarities with stories of other people’s names; we can hear resonances between their stories and ours.<sup>115</sup> Names reveal or conceal aspects of our identities and can profoundly affect the trajectories of our lives.<sup>116</sup> My names, as one example, expose my gender, ethnicity, race, languages, geography, birth order, intergenerational linkages, marital status, religion, cultural and racial assimilation, resistance to assimilation, and expressions of social power. So I begin where I started: from their inception, names—including first names, surnames, names of groups, and even story, book, and academic article titles—are embedded with meaning and coded with identity, and over time, they become layered with nuance and memory.

#### AFTERWORD

I am deeply gratified to have my *Máscaras* article honored with this Retrospective. It is challenging to express how gratifying I find this focus on my work by the student editors of the Harvard Journal of Law and Gender and the UCLA Chicana/o-Latina/o Law Review, as well as by the authors contributing to the resulting dialogue.<sup>117</sup> I consider myself to be a scholar-activist who voices unconventional truths, often about race, gender, language, place, power, and hierarchy, in unconventional ways. After twenty years, I continue to feel closely tied to the ideas and arguments in the *Máscaras* article; it symbolizes the work I have done adapting academic tools in order to change academic norms and institutions. The discourse in law school classrooms continues to leave out many voices and viewpoints and to

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<sup>115</sup> See *supra* notes 52–57 and accompanying text for the analysis about fractals and racial storytelling.

<sup>116</sup> See generally *Weekend Edition Sunday: Control the Chaos with ‘Secrets of Happy Families’* (National Public Radio radio broadcast Feb. 17, 2013) (transcript available at <http://www.npr.org/2013/02/17/171929472/control-the-chaos-with-secrets-of-happy-families>). In this interview, Bruce Feiler, author of *THE SECRETS OF HAPPY FAMILIES: IMPROVE YOUR MORNINGS, RETHINK FAMILY DINNER, FIGHT SMARTER, GO OUT AND PLAY, AND MUCH MORE* (2013), importunes parents to tell children the stories of their families and claims that researchers have found that knowing more about family history is the single biggest predictor of a child’s emotional well-being. *Id.* I would posit that Name Narratives are one tool for communicating this family knowledge about racial background, ancestry, family triumphs, and tribulations.

<sup>117</sup> I also offer thanks and gratitude to Professors Richard Delgado and Jean Stefancic for their roles in the conception of these symposia. My heartfelt thanks go to Richard for advocating on behalf of the original article and encouraging me to write this reflection. Professor Stefancic’s encouragement has also buoyed my spirits and strengthened my will.

elide issues of power and identity. It's been a slow slog for those of us who deplore the silences, particularly around race and law. We Outsiders gather at elite schools for festschrifts such as this one, but the dominant ideology and epistemology have not really loosened their hold. Let us seize these shared spaces and moments to fortify our conviction, re/tell stories, and inspire new directions.

