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# Discourse, Power, and the Language of Racism: The Establishment of the Racial Contract in New Mexico

Jesse A. Romero  
*University of New Mexico*

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J Rocky Romero, LMSW-ABD

*Candidate*

Language, Literacy, and Sociocultural Studies

*Department*

This dissertation is approved, and it is acceptable in quality and form for publication:

*Approved by the Dissertation Committee:*

Ricky Lee Allen, Ph. D. , Chairperson

Ruth Trinidad-Galvan, Ph. D.

Ilia Rodriguez, Ph. D.

John Nieto-Phillips, Ph. D.

**DISCOURSE, POWER, AND THE LANGUAGE OF RACISM:  
THE ESTABLISHMENT OF THE RACIAL CONTRACT IN  
NEW MEXICO AND ITS INFLUENCE ON EQUITY-BASED  
EDUCATIONAL POLICY FROM 1998-2013**

by

**JESSE ROMERO**

DISSERTATION

Submitted in Partial Fulfillment of the  
Requirements for the Degree of

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**Discourse, Power, and the Language of Racism: The Establishment of the Racial Contract  
in New Mexico And Its Influence On Equity-Based Educational Policy From 1998-2013**

**by**

**Jesse Romero**

**Associates Degree, General Studies**

**Bachelor's Degree, Social Work**

**Master's Degree, Social Work**

**Doctor of Philosophy, Language, Literacy, and Sociocultural Studies**

**Abstract**

Words are not neutral. Language, and the meaning and legal implications attached to it, are politically and ideologically driven. The manipulation of discourse and power are hallmarks of white supremacy. In a historical context, language has been used to frame the colonial legal discourse establishing white supremacy and racially defining the white polity who established it. This unearned power to establish legal discourse and a common narrative for whites as the superior racial group and people of color as inferior racial groups is pervasive in society. The trajectory this placed on people racially, politically, socio-economically, and educationally can still be seen contemporarily in New Mexico.

Those who have the power to write legal discourse have solidified their racial positions for hundreds of years in New Mexico and in the United States of America. Initially in the legal discourse, racial power and position was overt (i.e. Royal Order/encomienda act) and has shifted over time to more covert means as we see now in the State of New Mexico's disparity-focused educational policy. In order to establish more racially-equitable educational policy and legal discourse in general, the need to unravel the multiple layers of white supremacy through a thorough investigation of the language used is imperative. This may be possible through a

critical race hermeneutical interpretative approach and methodology focused on these links in language use. The focus must also be on the establishment of the educational racial contract.

*Key words: critical race theory, critical race hermeneutical framework of interpretation, white supremacy, legal discourse, disparity-focused educational policy, "Spanish," "White," race, racism, overt, covert, racial contract, and educational racial contract.*

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## **Chapter 1: Introduction**

Educated completely in New Mexico, from kindergarten to doctoral school, I have experienced my teachers and administrators pushing one agenda over another in favor of the Spanish or dominant race group. Pushing the dominant agenda happens while simultaneously, strategically, and politically continuing to portray Native American children as inferior to those with Spanish ancestry and/or blood-lines connected to the Spanish caste system. These experiences are then compounded, not only by the rhetoric taught in schools, but also by the community activities (e.g., Fiestas de Don Juan de Onate), which happen annually in almost all New Mexico cities, towns, and villages. This is another strategy of infusing the dominant ideology and continuing to perpetuate domination through the use of hegemony. One consistent strategy I experienced was the insistent education of one ideology over another since colonization. This practice imprints in the minds of school children that they are a part of either the group who is superior or the group that is inferior, according to the dominant ideology.

This ideology also then leads to the incorporating and instituting of these racial messages into law, as in the case of educational policy. The earliest forms of legally institutionalized racism not only came with the Encomienda Acts but were cemented and perpetuated by the New Mexico State Constitution. The more recent adoption and institutionalization of the disparity-focused Native American and Hispanic Education Acts has furthered the old racial hierarchies. I argue that these acts serve to preserve one group's position over all other positions using race and the law. Additionally, these acts serve as reminders of the past historical trauma that is continuing in contemporary times in New Mexico. They also serve as a message that young Native American children and children of other races in New Mexico are still not valued. So,

this sentiment includes Mexican, African American, and other students of color in the New Mexico school systems as our schools become even more racially diverse.

The journey of many children in New Mexico schools is driven by the white polity and the preservation of white supremacy within curriculum and pedagogy. This is unacceptable given how the state of New Mexico portrays, on the surface, the cohesive and peace-filled relationship between the Native Americans and the Spanish. The underlying conflict and trauma will one day be awakened; emotions in the state will manifest in tension, and racial conflict may explode and forever cripple any chances of peace, love, and collaboration. Several centuries of pain and conflict has created numbness and a state of being emotionally frozen for both race groups. Being emotionally frozen does not allow for a healthy unthawing of emotions, and may lead to an emotional flooding and crisis. The inability to deal in positive ways with race relations can create an over exposure of mental health symptoms, which adds another layer of distrust and resistance to traverse in order to achieve reconciliation.

Lastly, the process I have explained, based on my own experience, is a result and manifestation of my development in the New Mexico public school system. I believe that a white dominant ideology, which the dominant group creates in educational policy as a hegemonic function, has been infused in my educational experience. Although there are many other factors contributing to racism in our state, I argue that schools and, more specifically, educational policy play a vital role, from a systems perspective, in shaping ideological beliefs for most children. This experience that I have gained has not only allowed me to grow as a scholar but also as a person who can care for others experience with oppression at the hands of an oppressive group of people.

## **Background**

It seems appropriate in New Mexico that more work needs to be done to identify historical points during colonization that were oppressive, unjust, and created educational and globally-connected social inequalities. The globalization of whiteness is a main function of the dominant group, which has created inequalities based on race and permeates all aspects of education, specifically educational policy. According to Leonardo (2009), “Critical education benefits from an intersectional understanding of race, whiteness, and globalization discourse” (p. 167) because it shines light on areas of education that have long gone unexamined. Without this examination, inequality continues uninterrupted. He further explains how the globalization of whiteness has taken on not only politics but also intellectual projects, such as the intersectionality of inequality in schools. In addition, whiteness implies a perpetuation of an unequal racial hierarchy that doles out unearned rights and privileges based on the light color of a person’s skin. Within a system of white supremacy, whites receive both material and psychological benefits for maintaining the racialized system that has made the United States into an opportunity structure for European ethnics, who are able to become members of the white race (Allen, 2004). The pervasiveness of white supremacy has infiltrated all aspects of education. More specifically, if social inequalities are created because of race and a racial hierarchy, then critical analysis needs to be established linking how colonization by the dominant group (i.e., the Spanish) was ideologically driven and created racial inequalities. Through the use of racial hierarchy and the legal system, the Spanish-dominant group created hegemonic functions that sustained their own power and perpetuated colonization. One main hegemonic



component this work seeks to reveal is the use of educational policy to perpetuate an ideology and racial structure.

To be more specific, during colonization the Spanish believed and upheld the racial hierarchy, which was referred to as the *Spanish caste system*. The beliefs and ideals of the dominant group were reflected in this racial hierarchy, which positioned people relative to others and granted rights and privileges according to the group ranking. In this case, the Spanish, who were the white dominant group, positioned themselves at the top of the racial hierarchy. The dominant group created the hierarchy, which also consisted of ascribed characteristics and traits assigned by the dominant group. This, then, created an identity for both the dominant and non-dominant groups and situated these groups in superior and inferior positions. This was a very powerful tactic for creating an image of Native Americans in New Mexico as subhuman, savage, and inferior in order to justify their conquering. In the privileged position, the Spanish Crown granted *encomiendas*, which were “trusts” allowing the subjugation and enslavement of the Native American groups already occupying the Americas. The word “trust” came from historical documents and meant that the Spanish officials who were high ranking in the military were granted the encomienda for their service to the Spanish Crown, and by this act, the Spanish Crown was “entrusting” the use of the land and all who inhabited the land. This was granted to the Captains in the Spanish Military for their loyalty and their earlier contributions to the Spanish Crown. The encomienda acts followed the caste system’s assigned racial categories and allowed for the use of the “Indians.” These acts reflected the perceived rights of the Spanish to “teach and indoctrinate” the “Indians” in the way of the Spanish crown and Catholicism. One Encomienda Act I have looked over is from 1544 (Simpson, 1966). The encomienda act itself is one example of a legal document, and other government acts, which allowed the maltreatment,

oppression, and genocide of the Native American people through the creation of labels and race categories which identified this race group as uneducated, “savage,” “subhuman,” and in a much lower racial ranking. The white dominant ideology was implemented in the existing racial hierarchy of the Spanish caste system, Encomienda Act, and United States government acts. Eventually, sustained through educational policy, schools were developed in order to acculturate and strip a race group of their beliefs, values, language, history, and existence as a people.



**Bottom Row:** Bersabe, Ernesto, Baby Eugenio (son of Elaisa) Montoya  
**Top Row:** Ramoncita, Loretta, Adolfo, Francisco, Flavio, Elaisa, Reyes Garcia (Indian servant)

This photocopy from my family ancestors is further artifact proof of the *encomienda* system and establishes the presence of Native Americans enslaved by Spanish families. This photo served as the initial evidence that sparked my interest to study the racial hierarchy and ideology in which I was educated and raised in.

From 1598 to the eventual statehood of New Mexico in 1912, there were many years of oppression of Native Americans which included the brutal violence perpetuated against Native Americans (Nies, 1996). Many individuals were killed or displaced to prisoner of war

internment camps, which the US government called “reservations.” As I mentioned in the opening, the dominant Spanish white group chose to create ways they could maintain their domination and power as the state drew closer to statehood. The brutal and hate-filled strategies the Spanish utilized to maintain power had to be curtailed since these barbaric approaches were no longer politically correct. Hence, they developed more subtle, but nonetheless oppressive, ways to maintain dominance. The continued use of the law and New Mexico State Constitution of 1912 (1912; 2005) became a main mechanism of hegemony. The hegemonic functions of race contemporarily manifest through the use of the law by the dominant group, and the problem is perpetuated through the use of educational acts (e.g., 2010 Hispanic Education Act). This act continues to give the dominant race group a more privileged position to receive financial and governmental resources. For example, within this disparity-focused act there are financial provisions and manpower requirements by the New Mexico Public Education Department. This includes the requirement to assign state personnel to this act in order for it to be implemented. All of these practices identify the importance and financial support provided to a specific racial group. This gives more advantages to an already privileged group, and I am sure there are other ethnoracial groups who could benefit from the attention of educational experts identified to help the Hispanic race. This continues to create educational and social inequality, which maintains the very racial hierarchy I discussed in the Spanish caste system.

### **Statement of the Problem**

The educational and social problems this study aims to address are three-fold. It is not my intent to spend an inordinate amount of time debating the colonization and maltreatment of groups of color in New Mexico under Spanish colonization, but to establish a line of inquiry that connects history to contemporary educational policy. Extensive analyses around the colonization

and oppression in New Mexico has been established by many authors (see Chavez, 2006; Espinosa, 1998; Gomez, 2007; Nies, 1996; Nieto-Phillips, 2004; Simpson, 1966; Trujillo, 2009). These analyses have led to identifying the impact of the maltreatment of specific racial groups and highlighting the unequal opportunities, the limited access, and the basic human rights withheld, including education. First, historically, there have been specific tactics and strategies used by the dominant group to establish a white supremacist, racist ideology. For instance, the enslavement of Native Americans during and after colonization is key to understanding the ideology described. Also, by keeping groups in conflict with one another through the development of a racial hierarchy, which doles out privileges, the dominant group maintains superiority. This is now reflected in contemporary educational policy as we see in the New Mexico State Constitution and the Native American and Hispanic Education Acts.

Second, the racist hierarchy established by the Spanish *encomienda* system has led to the adoption of a white supremacist ideology and sustained racial hierarchy. I argue this is currently employed in the New Mexico educational system vis-à-vis educational policy. For example, there are a significant number of Native Americans who do not complete high school or go on to college. This disparity in the number of Hispanic high school graduates in the state of New Mexico, compared to the national average, is of great concern, according to proponents of disparity-focused policy. However, data provided by the New Mexico Public Education Department (NMPED, 2012), show that Native Americans have a lower graduation rate (65.3%) compared to that of Hispanics (67.7%). This seems to be the focus of most disparity-focused educational policy currently in New Mexico. Hence, the maintenance of a racial hierarchy creates a permanent under-class and continues to maintain one group's superiority over the others, hegemonically maintaining a racial hierarchy.

Third, there must be no mistake in the identification of how teachers become instruments of a white supremacist racist ideology by the white supremacist practices mandated by contemporary educational policy. A Gramscian (1971) perspective would argue that the teachers become the ideologues of domination and maintain the status quo of dominance and oppression over groups of color. If teachers indeed become the surveillers of dominance, then children of color, who are more often than not taught by the dominant group, again are re-solidified as the bottom rung in the racial hierarchy.

### **Purpose and Significance**

*Racial structures remain in place for the same reasons that other structures do. Since actors racialized as “white” or “as members of a dominant race” receive material benefits from the racial order, they struggle (or passively receive the manifold wages of whiteness) to maintain their privileges. (Bonilla-Silva, 2009, p. 9)*

The purpose of this study was to critically analyze how text was used during the Spanish colonization of New Mexico and in the subsequent implementation of the encomienda system to establish a racial hierarchy. The Encomienda Act, which became law as well as part of a broader legal discourse, was used as one mechanism to divide and conquer. I will argue it is still used and reflected in contemporary New Mexico educational policy, specifically educational policies established over the last 15 years. In addition, the State Constitution became law in 1912 when New Mexico became a state, and it is the most significant document in the establishment of education in New Mexico. I selected this document as an anchoring text of my study because it constructs discursively the racial hierarchy introduced by the Spaniards in New Mexico's caste system, as established legal doctrine. According to the State Constitution (2005), Article XII-Section 10:

Children of Spanish descent in the state of New Mexico shall never be denied the right and privilege of admission and attendance in the public schools or other public educational institutions of the state, and they shall never be classed in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the state, and the legislature shall provide penalties for the violation of this section. This section shall never be amended except upon a vote of the people of this state, in an election at which at least three-fourths of the electors voting in the whole state and at least two-thirds of those voting in each county in the state shall vote for such amendment. (p. 147)

To this end, the use of text and talk establishes, demonstrates, and maintains dominance and oppression through the meaning assigned to language and positionality. The above text identifies only one race, the “Spanish,” in the first sentence; no other race is mentioned. This is of concern given that New Mexico has (and had at the time the Constitution was written) one of the highest Native American populations in the nation. Of course, it also leaves out other ethno-racial groups, such as Mexicans and African Americans.

The law and educational policy, at a societal and political level, are examples of the tools the dominant group used for maintaining dominance. Hence, the purpose of this study is to uncover existing racial hierarchies in textual discourse to establish transparency and opportunities to build trust between all racial groups in New Mexico. A critical discourse analysis (CDA) will be conducted to determine how ideology is represented in the laws and policies. Furthermore, these laws and policies will be identified as the strategies used by those developing and implementing the policies. This study introduced a critical race hermeneutical approach to help understand the racial meanings identified. It also showed how legal discourse

is used to maintain a racial hierarchy that benefits the white dominant group and doles out resources according to the racial hierarchy. Although this is one study, I am hopeful counter strategies can be created by further understanding oppression strategies of the dominant group.

This work was established through the critical analysis of discourse produced by the dominant group in New Mexico. The discourse initially analyzed to establish a racial hierarchy will be the following primary documents: 1) an example of the first Spanish Encomienda Act of 1544, and 2) census data collected by the Spanish during colonization and the United States as war and occupation occurred. When considering the more contemporary bills this study analyzed, I will also utilized other forms of discourse to support my findings, such as: newspapers, legislative documents, and the introductions to legislative bills. The more contemporary acts were the Hispanic and Native American Education Acts which were introduced and adopted from 1998-2013. The New Mexico Constitution will be used as the anchoring document for this study.

The significance of this study was that, first; it may lead to a critical analysis of educational policy that potentially may lead to awareness and the possibility to interrupt oppressive and racially driven laws and policies. Second, it may lead to the development of critical pedagogies and antiracist educational policies that seek to ameliorate racism. This may include the interruption of the perpetuation of a racist structure that has been present since the Spanish colonization of New Mexico. This will potentially open people's eyes to the racist discourse that has been integrated structurally and institutionally in the state, allowing for a more transparent, positive, and humane discourse to take shape. Third, I hope this study creates self-awareness about complicity with structural racism. Finally, a distant but significant goal of this work was the development of educational reparation strategies. These reparations could be in

the form of New Mexico history curriculum addressing the complete facts of what happened before, during, and after colonization. It also lead to teaching youth how to be critical about discourse they are exposed to in school and through other institutions, such as government and media.

In New Mexico, race (or in the state's vernacular "multiculturalism") or races, has long been romanticized and used in tourism to draw in tourists and visitors. However, for those New Mexicans who have grown up in this state, there has long been a visible but unspoken conflict between the race groups in New Mexico, specifically between Hispanics (or self-proclaimed Spaniards) and Native Americans. The work of John Nieto-Phillips in *The Language of Blood* and Michael Trujillo, amongst other authors my work will draw from, has sparked my interest in this line of inquiry. Michael Trujillo (2009), in *The Land of Disenchantment*, insightfully explains the tension that has been festering for several centuries that no one wants to address. He further explains how the tension between these groups may lead to civil unrest and further conflict. However, through researching this body of literature specifically in New Mexico, there seems to be little to no acknowledgement of how schools and educational policy have been used as a mechanism to divide and conquer leading to oppression. Nieto-Phillips (2004) identifies this specific form of domination in New Mexico as "hispanidad." He explains this process as one of separation, specific to the identity of the elite, whereby they "deployed their hispanidad in order to set themselves apart from working-class or impoverished compatriots" (Nieto-Phillips, 2004, p. 197).

This study is one attempt to further explore how legal discourse and educational policy contribute to this conflict by doling out resources and privileges to the dominant and sub-dominant groups, and doing so through the use of legal discourse. It will be significant for



arming other critical scholars in understanding and valuing the importance of theoretical work in the analysis of textual discourse. Lastly, as a contribution to race studies, this study may draw attention to the continued oppressive, investment in whiteness practiced by the dominant group(s).

### **Research Questions**

In order to better understand the problems I have delineated, my inquiry was guided by the following questions:

- 1) What language does the legal discourse (i.e., example Encomienda Act, Spanish and United States census data) utilize to construct and maintain a racial hierarchy?
- 2) What racial ideologies about Native American and Hispanic race groups are reproduced in this legal discourse?
- 3) How are the historical racialized legal discourses of New Mexico represented in recent state disparity-focused Native American and Hispanic education acts?

### **Key Terms**

***Critical discourse analysis:*** According to van Dijk (2008), “Critical discourse analysis (CDA) is a type of discourse analytical research that primarily studies the way social power abuse, dominance and inequality are enacted, reproduced and resisted by text and talk in the social and political context. With such dissident research, critical discourse analysts take an explicit position, and thus want to understand, expose and ultimately resist social inequality” (p. 85).

***Discourse:*** As defined by Foucault (1980), discourse “refers to ways of constituting knowledge, together with the social practices, forms of subjectivity and power relations which inhere in such knowledge and relations between them. Discourses are more than ways of thinking and

producing meaning. They constitute the 'nature' of the body, unconscious and conscious mind and emotional life of the subjects they seek to govern” (Weedon, 1996, p. 108).

***Ideology:*** According to van Dijk (1998), ideology is the fundamental beliefs of a group and its members. Furthermore, van Dijk explains, “Ideology is the basis for social practices of group members, and as systems of ideas of social groups and movements, not only to make sense in order to understand the world (from the point of view of the group), but also as a basis for the social practices of group members” (p. 8).

***Race:*** According to Chisom and Washington (1996), race “is a specious classification of human beings created by Europeans (whites) which assigns human worth and social status using “white” as the model of humanity and the height of human achievement for the purpose of establishing and maintaining privilege” (p. 30-31).

***Spanish Encomienda system:*** It is a trust or commission: a charge or estate granted by the Spanish Kings which gave the right and privilege of the Spanish to subjugate, indoctrinate, and teach the Indians the ways of the Spanish crown and Catholicism (Simpson, 1966).

## **Methodology**

Throughout modern history, there has been colonization of subjugated groups of color. During colonization there is an ideology at work which indicates to the colonizer their values, rights, privileges and philosophy compared to those of the people they are colonizing (and those being colonized). It informs the members of the group how to act and behave individually and collectively. More specifically, for the dominant group, this is a position superior to people of color. In order to uncover these areas of a white supremacist ideology (WSI) introduced during the Spanish colonization of New Mexico, I will be utilizing critical discourse analysis as the

methodology to guide this study. Therefore, this methodology was selected for many reasons, which I will outline in the next few paragraphs.

For the new discipline of discourse studies itself, the study of the discursive reproduction of racism through text and talk provides not only a highly relevant field of application, but also more insight into the relations between various structures of text and talk on minorities on the one hand, and the mental, sociocultural, and political conditions, effects, or functions-that is, various “contexts” of the reproduction of racism-on the other hand. (van Dijk, 1991, p. 93)

Critical discourse analysis (CDA) is not only the methodology for this study but also the theoretical framework. In conducting the CDA of the documents and historic artifacts, I will draw on my framework of interpretation: Critical Race Hermeneutics (CRH) following specific approaches by Wodak and Meyer (2001). Their edited book documents how to examine and identify the practices used by the dominant race group, specifically “referential strategies” (p. 27), for the constructing, ordering, “othering” and eliminating of race groups through the use of law and educational policy.

Furthermore, according to the *Standards for Reporting on Humanities-Oriented Research* by the American Educational Research Association (2009), “Humanities-oriented research in education attempts to gain an understanding of the explicit and implicit messages and meanings of education, to point out the tensions and contradictions among them on ethical or value-oriented grounds” (p. 482). This study also embraces this position to focus on “explicit and implicit messages and meanings of education,” which hermeneutics and critical discourse analysis do. Another guiding document for this study is the University of New Mexico Race Institute’s (2010) “Trans-Disciplinary Guidelines for Researching ‘Race.’” These guidelines are

important because they outline how to research race across disciplines. The most important guideline is that researchers must challenge notions of race as fixed since race is a social construction.

### **Limitations of the Study**

One limitation of this study was that while media is a conductor of dominant hegemony, the study does not explore this median. Also, schools are significant producers of hegemonic dominance by their use of the law and legal discourse, but this study did not focus on schools specifically. In addition, since the “language of racism” is so pervasive in the data and the legal discourse I have selected my approach to choosing the text (data) and the tools for analysis will also be precise and specific. This may limit other methods of interpretation as being applicable, but I am open to other models. Lastly, in order to make this dissertation manageable, the selection and amount of data will be limited, descriptive, and precise.

### **Conclusion**

The use of text and talk by the dominant group has been overlooked and dismissed, as being neutral and not creating any meaning or becoming a part of social practice. Thus, these texts work discursively to reproduce racism. These texts become symbols of racism and tools that have effects beyond their surface because there are racist traditions of interpretation, established for centuries and generations. The analysis of the dominant group’s text and talk can also be utilized, to identify and create racial alliances and love-based counterhegemonic strategies. As Andersen and Collins (2013) say in the preface to the anthology *Race, Class, and Gender*, women’s discussions around gender typically focus on themselves. However, the problematic construction of masculinity by men also has a major impact on gender and sexism. The same is true in the assessment of race. If we are going to talk about racism, we must not

solely talk about those experiencing racism and the victims of racism. We must engage in a critical assessment of those institutions and individuals creating, sustaining, and perpetrating racism.

## Chapter 2: Review of the Literature

*The global phenomenon of colorism, where light skin equals a perception of increased human value, is not a mere coincidence.* (Allen, 2001, p. 474)

Discourse, power, and the language of racism used by the dominant white group are pervasive in New Mexico educational policy, used to solidify a racial hierarchy. In order to develop this statement fully, a review of the literature will follow three specific bodies of work. First, critical hermeneutics will be an anchoring theory for understanding the meaning attached to racial discourse in New Mexico. Second, I will examine the literature for the anchoring theoretical foundation: critical race theory (henceforth, CRT). CRT will be central to help explain my study, specifically the *interest convergence principle*. Lastly, the third body of literature I will explore focuses on the racial discourse present in New Mexico, which includes text that will also serve as data for the analysis of this study. It is important to note that one strategy CRT scholar's use is counter-storytelling. This will be explained further in the CRT section. However, for this study the data and discourse I analyzed was the discourse produced and written by historical colonizers and state leaders who held the power to influence and create legal discourse. This critique needs to be done in order to reverse the gaze cast by the dominant group onto people of color and turn the critique to the dominant group's strategies and tactics used (embedded in law) to maintain their unearned privilege. This literature will allow me to construct the framework I suggest below, as I intertwine my adopted theories for the theoretical and methodological approach. As mentioned before, magnifying people of color's experiences has long been used to place blame and create a permanent bottom rung on the ladder of racial hierarchy. In the review of the literature, I will establish a brief historical perspective of the conflicts that have kept the racial hierarchy in motion for several centuries. My point in doing

this study was to establish a *framework of interpretation*. By reversing the gaze and magnifying glass I will create the tools of critique to deconstruct the system(s) of oppression and interpret what is deconstructed. This was done in order to develop future tactics of disruption in the hope of the replacement with a more humane system. The bodies of literature including critical hermeneutics, critical race theory as the theoretical construct, and specific racial discourse relative to New Mexico are key because although CRT focuses primarily on race as its variable for critique, hermeneutics usually does not address race as the dominant marker of oppression. This leaves a gap in the interpretation and meaning associated with discourse produced by the white dominant group.

Furthermore, the tendency in education is to identify shortcomings, deficits, or negative stereotypes about individuals, which are specific to a deficit model point of view. This happens consistently without any critique of the “structural systems of power and inequality” and leads to structures of domination and sites of racism and oppression (Andersen & Collins, 2003, p. 9).

This tendency is the "status quo" and the "natural" way society and, more specifically, our schools alleviate themselves of the critical institutional reflection, which every system must undertake in order to not perpetuate racism. This study aimed to reverse the "surveilling" of people color and instead surveil the dominant group (Said, 1979), including their language, practices, and mechanisms of maintenance used to cement their power. Initially, this study looked at historical documents and practices that initiated the racial hierarchy currently employed in New Mexico that became reflected in New Mexico educational policy. The literature on the historical foundation of language construction is key, for language is a mechanism of power, and were used as it was established by the Frankfurt School and scholars such as Habermas (1989), Fairclough (1995), van Dijk (1991, 1998, 2000, 2008), and others.

This was done in order to describe the text as it applies to the use of language by the dominant group in the form of legal discourse and educational policy. For purposes of this study, the definition of discourse is any text and legal document produced by the dominant white group that constructs, orders others, and eliminates certain racial groups. There are critical meanings the dominant racial group might have produced in these texts and which might have provided unearned “rights and privileges” to the dominant group based on a racialized hierarchy.

### **From Hermeneutics to Critical Hermeneutics**

What do words really mean? Who is allowed to assign meaning to words? Who is able to write/publish the words? These are just a few of the questions I have asked myself over the course of researching, thinking, and reading about my dissertation topic. In this study, I employed critical hermeneutics as a means to help answer these and additional questions. The use of hermeneutics comes into existence preceding the work of the Frankfurt School. Heidegger took the original use of hermeneutics, which was focused on spiritual science (i.e., biblical and historical discourse), and applied it to the interpretation of multimedia and other types of texts. He focused on the people who produce the text to draw attention to the underlying social context for which text can provide meaning. This was key to supporting my work because it allows for a lens of critique to be established which starts to identify the conscious and unconscious, for they both play critical roles in understanding the intent, beliefs, and values of a “superior” group over “inferior” groups of color. This is exactly the case in the colonization of the Americas and the oppression of Native American groups; New Mexico is not an exception. Hermeneutics provides a theoretical foundation that allows critical scholars to attach meaning to once untouched, unattainable, or hidden discourse produced by the white supremacist social structure. Many times documents which guide society’s thoughts, actions,



and behaviors go unexamined and do not allow for the intent and meaning to be discovered. This can hide the connection attached to the historical facts of how oppressed and marginalized groups were treated, sending them on a downward trajectory to the bottom rung of the racial hierarchy.

Thompson's (1984) discussion of Habermas and Ricoeur's work in his *Critical Hermeneutics*, is also instrumental in understanding the meaning attached to discourse. In its clear and precise description of the use of power, it demonstrates the importance of trying to further understand the deeper meaning embedded in text. Thompson also illustrates the importance of not just reading what is on the page, but also understanding the meaning for what is not written on the page. Thompson focuses on three specific premises that are common to the different traditions of understanding language: "...the conceptualisation of action, the methodology of interpretation and the theory of reference and truth" (p. 4). First, he critiques ordinary language based on the history of philosophers who have stressed the meaningful human action connected to social character, however, disregarding repression and power as significant considerations. Second, he argues whether or not the unconscious plays a role in the meaning assigned to text and what is interpreted. A point Thompson makes that I disagree with is based on the views of McIntyre (as cited in Thompson, 1984) specific to the unconscious. McIntyre says, "an adequate rendition of psychoanalysis must follow Ricoeur's lead and seek to explicate the energetic dimensions of the unconscious which impinges upon language and disrupts the universe of meaning" (p. 118). Relegating the unconscious to the role of impingement seems dismissive of the true meaning of people's ideologies, and it would be a mistake to think these ideologies are not connected to text.

Furthermore, the production of text by those who have the power to assign meaning and are able to produce and publish text also solidifies meanings from which the author(s) intends to maintain the “other.” Ricoeur’s (as cited in Thompson, 1984) theory of interpretation, the hermeneutical circle, was created by combining this phenomenological description with hermeneutics. This model takes each word in a broader text produced by a dominant group in order to establish the deeper meaning that is encapsulated in words. These words can then be connected to the broader racial and power stratification and intent of the dominant group. The connection this study makes to mine was the very specific process of analyzing a text word by word to establish its connection to broader discourse and texts. These texts cement power and access to resources cultivated, sanctioned, and enforced in law and policy. In education and critical studies there is a need for a more critical and thorough analysis of the smaller scales of colonization through the analysis of textual discourse. Analyzing New Mexico’s documents will lend itself to critical discourse analysis on a larger scale in other contexts, utilizing the *framework of interpretation* I will be employing. Another overarching goal of this study was to understand the meaning of discourse produced by those in power by employing *critical race hermeneutics*. This is where my study differed from other studies using critical hermeneutics, which are scarce to start with. It differs in the sense of there being meaning attached to text which reflects race and assigns characteristics based on the racialization of the groups of color that the dominant group seeks to define.

### **History of Hermeneutics**

Historically, there has been debate about the role text plays in society. In the world of critical theory and discourse analysis, this debate becomes amplified as critical theorists engage functionalists in the role text plays in maintaining unearned power and privilege. According to

Habermas, as cited by Gallagher (1992), in the realm of psychoanalysis is “depth hermeneutics” which utilizes the work of Freud and is still of significance. Moreover, this means there is specific and strategic intent to uncover and undo the distortion and deception that typically camouflages the meaning or intent of textual communication. The argument that essentially summarizes the history of communication debate is between Habermas and Gadamer as reflected in Gallagher. According to Habermas communication is a “reflective emancipation” (p. 240), and according to Gadamer “critical reflection itself is bound by hermeneutical constraints” (Gallagher, 1992, p. 240). This is an important distinction because in Habermas’ stance, regarding the reflective emancipation, he relates this to the freedom that may come once people understand the meaning and intent within discourse leading to emancipation from ideological influences. In contrast, Gadamer doesn’t think it is as simple as reflecting to the point of emancipation from structures. In fact, he doesn’t feel there are models of critique or interpretation that are free of ideology and capitalistic power. This makes him skeptical to the emancipation quality; he believes that we are constrained by interpretative traditions. Thus, he notes the constraints binding hermeneutical understanding.

Gallagher (1992) further explains critical theory’s idealism when he says, “Critical theory requires a hermeneutical ability to escape from the domination of repressive traditions and to attain an ideologically neutral, tradition free, prejudice free communication” (p. 240). Hence, “Critical hermeneutics thus attempts to get to the objective truth behind false consciousness of ideology” (p. 240). Given the description above, Gallagher goes on to impress upon us the fact that cultural and social systems tend to reproduce dominant society. With this said, language serves a much greater principle: “a noncritical understanding simply continues, reiterates, and reproduces tradition, cultural values, ideology, and power structures” (p. 241).

Another aspect of the central arguments between Habermas and Gadamer, as cited in Gallagher (1992), is whether or not extralinguistic forces distort interpretation. Habermas most integrally feels that extralinguistic forces prevail in the deformation and distortion of communication. Furthermore, the debate lies in whether or not text is anything more than a function of society (Fromm, 1969) and is neutral or non-threatening. Or, is there more to text? Are words capsules filled with attitudes, beliefs, values, and ideology based in the unconscious? The unconscious also is called into question because it was during this timeframe that Sigmund Freud's work with psychoanalysis emerged. With this work a focus on how there may be more critique needed with an emphasis on textual analysis connected to the unconscious must be conducted in order to assess the meaning. The role history plays in the analysis of text is critical in tracking the evolution from hermeneutics to critical hermeneutics, and from arguments based in capitalism compared to that of race.

Lastly, Habermas concludes that through the use of reflection the tradition of language can be loosened, but Gadamer disagrees. According to Gadamer, the process of tradition constrains all interpretation. Gadamer's argument is limited. As Habermas noted, we need to move beyond the functionalist approach to understanding text and embrace critique in order to move beyond the status quo of interpretation. This is important because we continue to allow policy to become law without questioning the intention, ideals, values, intent, hatred, and resource benefit for the dominant group writing the law. The tradition of introducing policy, which becomes legislation, and embedding words in text that give unearned privilege to members of the dominant group while maintaining a racial hierarchy goes unchallenged. Within this focus on tradition we must not forget to recognize the importance and great significance the role ideology plays in the creation, and use of, text based in race.

## Ideology

‘Ideology’ - systems of ideas of social groups and movements ideologies not only make sense in order to understand the world (from the point of view of the group), but also as a basis for the social practices of group members. (van Dijk, 2000, p. 8)

As the definition of ideology from van Dijk explains the aspects of ideology would be those of, e.g. anti-racist ideologies addressing racism and discrimination just as Feminist ideology would address women’s issues, gender discrimination, etc. Leonardo and Allen (2008) outline ideology as the problem of the social relations of domination made intelligible through discourse. They also focus on how these ideological discourses distort accurate understanding and have the potential to penetrate structures. Historically, ideology has been used as a tool and a wedge for maintaining racism and domination, but Leonardo and Allen outline how an ideology does not have to be used to maintain power and instead can be a “positive ideology” (p. 416). With this said, deconstruction of discourse based in a Marxist ideology can lead to a clearer road map for addressing this ideology reflected in capitalism.

In a similar view presented on ideology, van Dijk shares the interpretation of Engel’s on Marx’ work, which specifies that ideologies are a form of “false consciousness” or misguided popular beliefs “inculcated by the ruling class in order to legitimate the status quo, and to conceal the real socioeconomic conditions of the workers” (van Dijk , 2000, p. 7). His point in this review is to show that typically ideology has been used, and has the reputation of being used, as a negative coercive tool to dominate subjugated groups of people. An even more important aspect of van Dijk’s work is his description of the “us and them” dichotomy used with the notion of negative ideology. He reflects the sentiment of the dominant group which maintains the polarization between the *ingroup* and *outgroup*, “WE have true knowledge, THEY have

ideologies” (p.7). This notion is one that pervades our society and maintains the privilege bestowed upon those who choose to see ideology as a negative conductor of social power, and use it as such. To be clear, ideologies such as anti-racism and feminism are referred to as “positive ideologies,” compared to those I will identify as “negative ideologies” such as Nazism, white supremacy, patriarchy, and heteronormativity.

Limited acknowledgement of the impact language has in many different realms causes us to miss important strategies, tactics, and maintenance of systems of power, which the white dominant group creates intentionally. By minimizing the true impact text has on our day-to-day actions and beliefs, the dominant group alleviates itself and other ideologues, or as Gramsci (1971) calls “apparatuses of the state” (Gramsci, 1971; Fromm, 1969), of any responsibility for their racist actions and solidifying of their ideology (Fromm, 1969; Leonardo & Allen, 2008; van Dijk, 2000) within systems of power. To become an ideologue within a dominant ideology it seems as though one either agrees with the maintenance of systems of power and dominance (probably because he/she is in some ways receiving unearned privilege/benefits), or one has become complacent and bought into the ideas which relinquishes people to conduits of hate and oppression. The ploy by functionalists to relegate text to a mere role in communication maintains capitalism by trying to distract and minimize its significance. Adorno (1989) goes on to add how individuals become “appendages of the social apparatus and ultimately into ideology” (p. 501). Similarly to the other authors mentioned above, Adorno draws our attention to the role people take in our society based on their group affiliation by either becoming *instruments of ideology*, or becoming critics who choose not to be complicit to the dominant ideology at work and start interpreting the meaning of text.

The power to discount the unconscious and its role in text places the dominant group in a very powerful position. Once a group has the power to discount, minimize, and legitimize the significance of text, or any knowledge (Foucault, 1969) for that matter, it becomes an extremely powerful group. The power to legitimize what is of importance and significance to subordinate groups in their own lives empowers them diminish the history of their life experiences where they have been treated as the “*other*.” This is important to examine because the power this bestows upon the dominant group entitles them to write policies and the law in ways that maintain their power (Bell, 1992; Delgado & Stefancic, 2001). Lastly, of great significance, is the ideological influence that occurs depending on the role of the speaker (e.g. lawmaker, etc.). This becomes a very powerful position to be in because it gives that person, with their group affiliation and ideology, the ability to discount the unconscious affiliation to text. This alleviates them of any moral or ethical responsibility connected to their words. This is a point of concern for critical theorists because if there is not responsibility assigned to the text and its author (ideologue, apparatus of the state, etc.) it makes it more difficult to connect this to the larger systems of power and domination.

Van Dijk (2001) describes the significance of the speaker in order to truly understand the intention and ideological status of the person delivering the textual message and to what government agency/capitalistic entity they may be connected to. This is of great significance because we must understand that text is not neutral. Text becomes highly political, ideological, and can structurally reinforce the dominant group’s power within society when the dominant group uses the text to inculcate its power through the meaning assigned to the text. With this said, the need for the interpretation and meaning making of political and ideological text is of importance and has merit in the world of academia.

## History of Interpretation

As history shows, the debate has evolved between the conservative and the critical perspectives. Conservatives believe that language is neutral, but as it turns out, it maintains traditions that they benefit from. Whether or not those traditions maintain domination and a dominant ideology, the behaviors are preserved if we continue in the Marxist and capitalistic traditions without questioning history.

The entitlement and authority to interpret text lies with those who are able and been given the privilege to read, which is typically not a skill allowed to those on the lower rungs of the socioeconomic ladder; they are the workers. Paulo Freire's (1993) movement around literacy in *Pedagogy of the Oppressed* was also an attempt to provide insight into the complex world of textual meaning and the skills needed for analyzing through reading. It also had implications for empowering the poor and people of color to read the world around them and understand how the established text oppresses their groups.

If we focus on class (Marxism), rather than race, we continue to not allow the members of color in our society to engage in critical interpretation of how systems have been strategically implemented and maintained. Who has the power to interpret text? Whose methods are being used for the textual analysis? These questions must be considered when truly understanding the historical conflict between functionalists and critical theorists. The conflict then progresses to how text is analyzed using a capitalistic or racial means of interpretation, because based on theory, and more specifically ideology, you will have different views of what is important for interpretation, and what will be ignored. The shift in analysis is crucial because it allows for the author(s) of these types of critical analyses to take a very meaningful and strategic stance against the oppressive, racist tactics and strategies employed within text. Having the ability to write



people into existence, while describing them and attaching factual and appropriate meaning to who they truly are as a people is a powerful position to be in.

More specifically, this is the alignment to my study. For example, for the *framework of interpretation* (FOI) I employed was a matrix used for the analysis of specific historic and contemporary documents produced by the racial group in power. This was done in order to assess the use of text to assign meaning to other racial groups. The FOI was created to assess the strategic and intentional positioning of other racial groups in text, in the order of how they are also to be awarded state resources and space in the racial hierarchy and eliminated from historical textual discourse all together. The description I have briefly provided is but a snapshot of the much more profound use of textual discourse in American history for the justified colonization, slavery, and racism perpetrated against those people of color who do not write their own history or existence. This history also informs the present and creates a contemporary image for all who are written in and out of text. I would be remiss not to mention the psychological implications noted by Foucault (1969). The text sets precedent for how people are treated in society, as Heidegger (as cited in Thompson, 1984) illuminated. Text can be seen as the playbill for how society acts out their racial roles; for how racial groups are treated; and for the trajectory of their financial, psychological health, and social and familial mobility, now and in the future. This is further illuminated by the historic, and contemporary, treatment and continued placement in the racial hierarchy for Native American and Mexican groups in New Mexico. Since colonization, and leading up to the development of the New Mexico State Constitution, these groups of color take on the blame for societal shortcomings. The blame continues to be placed to reason away accountability, which should be placed on the systems of power at play. However, the story continues as the individuals who make up these groups are

blamed. This helps align contemporary discourse to maintain blame and responsibility for the shortcoming of these groups without considering the bigger picture of how discourse and language has shaped racism and racial hierarchies in New Mexico, specifically through the constitution of New Mexico and educational policy. The injection of the racial component into text is vital in order to understand the meaning. It is not only supported by the authors of critical race theory, but they point out that the law is used by those in power to maintain their position through the unfair treatment of people of color. It is significant because other studies tend to leave race out of research.

### **Critical Race Theory and the Interest Convergence Principle**

*From the war on poverty, to the war on drugs, to the war on schools, representations directly impact the lives of people of color through whiteness turned into policy.*

(Leonardo, 2013, p. 5)

The theoretical cornerstone of this study is critical race theory. CRT has several premises that indirectly support my work, which includes those outlined by many critical authors (Allen, 2001, 2004, 2009; Bell, 1980, 1992; Bonilla-Silva, 1996, 2009; Castagno & Lee, 2007; Delgado & Stefancic, 2001; DuBois, 1935, 1996; Leonardo, 2009, 2013; Park & Liu, 2014). However, Derrick Bell's (1992) use and development of the interest convergence theory/principle (ICP) is most significant for this study. Bell uses a narrative style of writing as a means for developing a story of how "racial projects" have impacted fictional characters through his application of real life oppression perpetrated through racism, furthering the permanence of racism and the faces at the bottom of the well. According to Bell (1980):

This principle of "interest convergence" provides: The interest of Blacks in achieving racial equality will be accommodated only when it converges with the interests of

Whites; however, the Fourteenth Amendment, standing alone, will not authorize a judicial remedy providing effective racial equality for Blacks where the remedy sought threatens the superior societal status of middle- and upper-class Whites. (p. 95)

Hence, this principle aligned with my work in two specific ways: 1) the group in power intentionally uses the law as a means for maintaining power, and the dominant white group will only support racial equality based on self-interest and expected unearned benefits and 2) more specifically, the intentional allowance of small gains by people of color through a strategic plan that benefits whites in the end is the main goal of ICP. This plan allows the less powerful race groups to flourish for a short period, with the longitudinal goal of benefitting those in power and control. Even if it is only creating a perception of embracing equity, people of color must know it is of significance and the intent of the dominant white group to not have this equity be long lived. There must also be clarification for how the interest and convergence happen and may be separate actions which may impact people simultaneously, to include divergence.

Furthermore, Bell (1980) uses the 1954 case of *Brown vs. Board of Education* as another specific use of the ICP which was intended further the white agenda of supporting human rights by projecting a perception to the Russians during the Cold War, a projection of the United States being non-racist. More specific to my work were the studies conducted by Castagno and Lee (2007), “Native Mascots and Ethnic Fraud in Higher Education: Using Tribal Critical Race Theory and the Interest Convergence Principle as an Analytical Tool,” and Park and Liu (2014), “Interest Convergence or Divergence? A Critical Race Analysis of Asian Americans, Meritocracy, and Critical Mass in the Affirmative Action Debate.” These journal articles are significant due to their use of the ICP. Although I have concerns with racial groups splitting off from the original development of CRT to establish Tribal-CRT; the use of ICP is the important

tenant of CRT I have found pertinent to my work. First, let me engage the article by Castagno and Lee (2007) initially start their article by talking about the historical policies relative to diversity in higher education and are usually settled in “celebrating the rhetoric of multiculturalism” (p. 3), which is in the institutions best interest not people of colors best interest. This is a similar approach used by the state of New Mexico in their attempts to suggest that the colonization of Native Americans has in some way miraculously been settled and ended in harmony in a multicultural state. Furthermore, Castagno and Lee highlight how the celebration of multiculturalism alleviates fully challenging the “culture of whiteness” (p. 2). Their use of the ICP spells out how higher education institutions aim to fulfill only a certain level of diversity. However, when it threatens their power or authority they fall short of equity for all. As I have pointed out throughout this study, as does Castagno and Lee, the crucial point of both their study and mine is both reflect “a perspective of power and particularly of whiteness” (p. 5). With this stated, their study further highlights the specific use of “Indian Mascots” (p. 5) to generate revenue for the universities without fully engaging the accurate representation of Native Americans, but rather portraying them as inaccurate societal stereotypes and as “bloodthirsty savages” (p. 5). They are also usually represented as a homogeneous group, according to Castagno and Lee. In both these examples they provide insight as to how I can further use ICP in my dissertation. Also, Castagno and Lee engage the use of divergence to support its use within the ICP argument. This is not a part of ICP that I engaged in for this study.

In another important article, Park and Liu (2014) critique the negative impact meritocracy has on Asian Americans based on arguments around Affirmative Action. The article is of importance and support for this dissertation in the approach used by the dominant group to alleviate themselves of any financial and resource allocation. They are able to do this because

the dominant group points to the small percentage of Asian Americans thriving as the “model minority.” This limits the dominant group from seeing how racism still exists within this community and furthers a color-blind ideology (Bonilla-Silva, (2009). This is similar for the situation in New Mexico when the dominant group argues that Native American groups can’t be helped because of sovereignty and because they now own and operate casinos by a few tribes by which they profit. Similar to Park and Liu’s view of Affirmative Action playing a “symbolic role in the complicated racialization of Asian Americans” (p. 37), the same can be said about Native American groups in their subjugation in the state of New Mexico.

Park and Liu (2014) explain a parallel example to New Mexico in their explanation of how Affirmative Action represents racial strides for the United States, which is the interest connection of the argument. They highlight how this law benefits “Blacks, Latinos, and Native Americans at the expense of Whites and Asian Americans” (p. 37). In the state of New Mexico, it is peculiar how a once dominant group (the Spaniards) has now been identified as the Hispanic minority race group. This is a strategic move by the dominant group to claim they are helping the minority group in the state (Hispanics) without focusing any attention, money, or resources on the poorest minority group in the state (the Native Americans). This also alleviates the seeing of societal issues Native Americans are facing and the racialized meaning and existence this creates for them.

Another recent study conducted by Decuir and Dixson (2004) illustrates how a significant amount of research conducted using CRT may “fall short of its full potential” because they tend to continually use the strategy of *counter-narrative*. The counter-narrative approach is one strategy to use because it empowers marginalized groups to write their own truth and narrative countering the dominant story, which typically has been written by the dominant group.

However, it can also be limiting in the allowance of a dominant's group text to go unexamined and without any attempt to assign some accountability to the systems of oppression, rather than blaming the victim.

In another study conducted by Villenas and Deyhle (1999), using a common research strategy in CRT *critical ethnography*, they establish links to racist systems based on the stories told by those individuals they interviewed or had write their experiences with certain societal phenomenon. This study tries to connect the ethnographies of its participants to racism and racist acts in order to make connections to other societal intersectionality's of oppressions. These studies support my dissertation in the sense that race is the central variable study and does not isolate for race or use it as a description of peripheral phenomenon. Leonardo (2013) reinforces how CRT can serve as a privileging agency for non-dominant voices, which can lead to filling historic gaps from the remnants of oppression of the "Other" by interpreting racial dynamics in schools and society.

The above-cited studies are dissimilar to mine in two specific ways. First, I took a few steps back to analyze the dominant group's strategy for maintaining their unearned power and privilege. Second, I did not use the words of any participants but looked through a microscope to assess the words of the dominant group. This was done as a strategy to interpret the specific racial meaning that has been assigned historically to words which may be, consciously or unconsciously, impacting the stories of those marginalized groups. Furthermore, my study took a different approach because it examined the discourse written by the dominant group, using a *critical race hermeneutical framework* to identify the racial meaning attached to the word choices. The hermeneutical infusion allowed for the interpretation of the racial discourse(s) and

the potential meaning that is created by the selection and strategic placement of words in a broader textual exemplar.

In my study, for example, I argued that at different points in history during the colonization of New Mexico the colonizers used this same strategic tactic of organizing policies to solidify the white Spanish power. It is only in more contemporary legal discourse (i.e., New Mexico Constitution 1912/2005, Disparity-Focused Acts) where we see the subtle, yet intentional use, of language and words to make clear distinction of what racial group is on the top of the racial hierarchy. It was my intention to conduct the analysis for this study using the text and language used by the dominant group in order to accentuate and prove that the use of ICP exists in the history of colonization in New Mexico. Also, these types of studies have implications for other critical discourse analysis of legal discourse which maintains oppression and racial inequality contemporarily.

I will argue that the Spanish dominant group utilized legal discourse to cement their place in power, leading up to statehood. To argue this point, I reviewed and conducted the critical discourse analysis on Article X-Education of the New Mexico State Constitution as one main piece of legal discourse. I showed how the ICP plays out in this document by the Spanish: one time mentioning “all children” in the introduction for who is eligible for education in New Mexico. Later in the document, a very specific racial order is outlined describing who is eligible for complete access to education by protection of the law. However, the Spanish do not mention any other racial group to be protected by law but them. Furthermore, in my study there is a clear demarcation about the need to resolve some of these significant tactics, which lead to racial stratification and tension between racial groups. These policies clearly benefit those in power: the white Spanish and their descendants. As I noted earlier, the use of the ICP as a tactic has a

longitudinal reach of great significance. If these tensions and conflicts aren't resolved, I predict continued separation of resources for children in the state of New Mexico. This will then continue fueling a more than 400-year racial conflict between the Spanish and Native Americans. Patricia Randolph Leigh (2003) conducted a study using one of the main tenets of CRT, the ICP to outline a detailed analysis of the Lincoln Heights (Ohio) School District. As I have previously mentioned, the ICP highlights how white Americans will only support racial equity and the movement to desegregate schools only if it serves to advance their interests and impact the status quo minimally. In her study, Leigh uses color-coding around trends outlined in newspaper articles, school board minutes, monographs, and serial publications. She does this in order to describe the dialogue, events, and attitudes perceived during and after the desegregation of the Princeton/Lincoln Heights school districts. She highlights how the dominant group moved to desegregation to show progress in their town. Ideally, desegregation would change the racial conflicts within the town. However, the community and other activists had reservations about the long-term impact. These members knew there were significant conflicts and issues. They knew that this attempt was nothing more than deflection and an illusion to portray racial harmony in order to alleviate the political fallout of not acting. This study is of particular interest because in many respects Leigh is utilizing a form of CDA but doesn't name it as such. Leigh is using historical discourse to look at the historical impact race has on the desegregation of the community she is analyzing.

Derrick Bell's (1980) use of the ICP has other significant factors with implications that supported this study. For instance, Bell also discusses how the ICP plays out in two systems of power. He explains how there is a direct implication that there is not a fair involvement of people of color in the legislative or judicial process, in order to ensure equity. Instead, there is



still a connection between the white judges, legislators, attorneys, and other high-level executive decision making positions that align with each other because it ultimately benefits the white polity in the end. This is significant in New Mexico history with the development of the Santa Fe Ring during the time leading up to the statehood of New Mexico, 1911-12 (Acuna, 2000; Nieto Phillips, 2004). The Santa Fe Ring was a group of white Spanish politicians, white Texas Ranchers, and other businessmen who phenotypically looked white and spoke English well, and who had a direct connection to the negotiation of statehood and the development of the New Mexico State Constitution. These are significant factors because they further solidify whiteness, white polity, and white power in New Mexico.

### **The Racial Contract**

Another piece of work that complimented this study, and also applies CRT, is that of Charles Mill's (1999) *The Racial Contract* (RC). This work points to the fact that we all enter into contract agreements with the government on many levels, including the Declaration of Independence, state constitutions, legislative acts, and other formal and informal agreements. By entering into the many types of contracts, whether we agreed to them or not, there is something to be said about the fact that we still adhere to them, racist or not. Too often, we take words, text, and discourse at their face value without interrogating the true meaning or intent. This fact is what the leaders of the country count on in order to push their ideological and political agendas, replete with racism and a racial hierarchy embedded. This maintains their power as we become "apparatus of the state" (Gramsci, 1971). Mills describes the RC we are now bound by in the United States, and his work supports this study in the fact that the RC is based on a superior and inferior group hierarchy dictated by race. More specifically, Mills use of the RC is

in direct opposition to the “idealized social contract” based on the social contracts foundation in social contract theory, which explores laws, democracies, and constitutions.

Mills (1999) describes the contract as racial rather than social because of its explanatory superiority to the typical description of the social contract and its “raceless” (p. 120) account of the political and moral realities, which typically do nothing to disrupt normative theory. In addition, Mills emphatically notes that, historically, the social contract has done nothing to account for power and oppression perpetuated through the use of the ideology of white supremacy. He claims that without accounting for race in a racist society, we are simply ignoring the individual oppressive experiences for people experiencing racism. This is done while simultaneously dismissing the systemic and systematic critique of “global white supremacy” (p. 125). It is imperative, as Mills explains, to engage in this system analysis by naming the system and, therefore, recognizing its significance and reality for people. Mills identifies these strategies as significant for simultaneously validating and recognizing the “reality of race” (p. 125) while demystifying its existence. Based on these premises, there will never be equity for all racial groups because, historically, racial hierarchies, systems, and institutions have all been structured to benefit the white dominant group, and not groups of color. This premise also has deep roots in the ideology of white supremacy.

The very foundation of America and New Mexico was built on unearned privilege based on phenotypically ascribed characteristics and the position assigned to subordinate groups in the racial hierarchy by the superior group. According to Allen (2001), white supremacy is a global issue that must be considered because of the impact it makes on institutions, including schools. In this case, “white supremacy...[refers] to the global system that confers unearned privilege on those who become identified as white while conferring disprivilege and disempowerment on

those who become identified as people of color” (Allen, 2001, p. 476; Daniels, 1997). This definition was significant to my study because it illustrates there being material benefits and unearned privilege associated with a racial hierarchy, inferring the far reaches of a global system of white supremacy. The benefit for the dominant group is unearned privilege, which carries generational implications for state resources, not to mention the psychological impact living on the margins of society has on people of color. Lipsitz (1998), in his book *The Possessive Investment in Whiteness*, clearly and movingly illustrates how many United States policies have been introduced seemingly to benefit people of color, however, whites benefit more often in the long run. Several authors (Anderson & Collins, 2010; Daniels, 1997; Lipsitz, 1998) identify affirmative action as a prime example of a piece of legislation (law) that was promoted as having the intention of gaining equality for people of color. The authors note how many laws benefited upper class white men more than they did people of color (Anderson & Collins, 2010; Daniel, 1997, Lipsitz, 1998). For example, Daniels (1997) notes the following: Economic power in the United States is highly concentrated in the hands of a few, and overwhelmingly in the hands of whites. Indeed, Dye (1983)

estimates that only about 4,300 individuals - or two one-thousandths of 1 percent of the population - exercise authority over the largest proportion of the nation’s assets. Of these 4,300, the overwhelmingly majority are white, male, and from the upper class or upper middle class. (p. 14)

In addition, Lipsitz (1998) highlights that at every attempt to legally make discrimination laws that protect people of color over the last fifty years, “whites have responded to civil rights laws with coordinated collective politics characterized by resistance, refusal, and renegotiation” (p. 25). These attempts to solidify white supremacy through hegemonic means take many

shapes, unfortunately. Hence, this calls to action the need to critique movements for the presence of the ICP and brings to light the attempts by the dominant white group to create racial projects out of movements that are perceived to be in the best interest of people of color. As critical scholars, we must always employ multiple theories, disciplines, and frameworks of interpretation in order to critique these racial projects for the intentional meaning behind the preservation of white supremacy at any cost. Lastly, Lipsitz highlights the cornerstone of American mobility in wealth and how whiteness has cornered the capitalistic market. While having a discussion with upper class students at an American high school, Lipsitz notes that the students in McKinney's class lose sight of reality because of the illusion of race. The illusion of race projected for the students creates the perceived reality that preferences are given to communities of color. This happens and the students lose sight of the impacts of racism and the fact that there are legacies of colonization connected to systems that may still impact people of color.

The wealthiest 1 percent of the U.S. population owns nearly half of all the stocks, bonds, cash, and other financial assets in the nation, that the richest 15 percent controls almost all of the country's financial assets, that the twenty-eight thousand wealthiest people in the U.S. receive more income than the ninety-six million poorest Americans (Lipsitz, 1998, p. 106). These connections to white supremacy, income, wealth, and whiteness are not coincidental.

Furthermore, we need to make the connections on how the impact of the racialized hierarchy has on larger structures, institutions, laws, and instruments of ideology connected to white supremacy. These connections take shape and are initiated by RCs and racial projects created by the white dominant racial group seeking to cement their unearned privileged for generations. Leonardo (2013), using Mills theoretical discussions of the RC, makes the

suggestion that in order to understand racial projects we must study the language, which presents only one reality. Leonardo further explains that there is usually an alternative to the experiences of students and teachers through their unique way of creating meaning through the interpretation and deconstruction of structures. This loan itself to my study in the sense that “interpretive frameworks” are needed to help facilitate understanding of the dominant white group’s racial projects and the meaning this creates for those who have been oppressed (Leonardo, 2013).

Lastly, Leonardo (2013) describes the importance of Mills work on the racial contract:

This relationship in turn guides the educational contract, or put simply, the Educational Racial Contract (henceforth, Educational RC). It is in this sense that the RC is the dominant contract in US society and education one of its main state apparatuses. (p. 7)

Additionally, the work of Omi and Winant (1994) is important. They draw attention to the implications of critical work needing to be done on both sides; meaning that we have to be aware of those who want to make race an essence of society, but we also need to see race as an illusion and as socially and politically structured and enacted. The importance of this lies in the disruption in the ‘bipolar’ method in which these issues are debated. In my work, this helped develop a concrete framework of interpretation to understand the text, language, and eventual laws created using the words of the dominant white supremacist group. It was also done in order to elicit meaning of the dominant group’s discourse and discursive practices. More poignantly, Omi and Winant (1994) highlight the importance of racial formation, the “processes as occurring through a linkage between structure and representation” (p. 56). The link to my work lied in understanding the implicit and explicit meaning racial dominance has on those being dominated, which creates a representation through the identity produced, not only historically (ancestors) but contemporarily (descendants) for the colonized and colonizer (Memmi, 1965). Furthermore,

they make the point of racism being the ideological work of white supremacy (WS) and the catalyst for *racial projects*, which I now see, and I am not blind to how the Spanish used this very strategy to kill, rape, and exterminate the Native Americans in New Mexico and in the United States. According to Omi and Winant (1994), “a racial project is simultaneously an interpretation, representation, or explanation of racial dynamics, and an effort to reorganize and redistribute resources along particular racial lines” (p. 54). I argued in my study that not only did a racial project occur during colonization, but through the links in text I established that, throughout the development of New Mexico, the racial project has continued. In fact, racial projects have continued in more recent documents such as the previously mentioned state constitution and contemporary, race specific, disparity-focused educational policies. This is the very specific element missing from studies I have researched when it comes to race: the studies fall short by only focusing on individualistic characteristics and variables experienced at a micro level. My study is different in that I analyzed and critiqued the words used by a dominant group whose power further establishes the superior and inferior groups at a macro or systems level. Race must be central to any study conducted to assess oppression and structures of oppression (Bonilla-Silva, 1996; Omi & Winant, 1994).

This point is further developed in another key document by Bonilla-Silva (1996) entitled “Re-thinking Racism: Towards a Structural Interpretation.” Bonilla-Silva explains with laser focus the need for critical race scholars to keep race as the central variable in studying oppression. However, he emphatically stresses the importance of turning the focus of analysis to white dominant groups and those who control large systems (i.e., capitalism and white supremacy) rather than continuing to blame people who have no input in the creation or maintenance of systems of power. He reminded me to keep my focus on systems rather than on

individuals for this study. Furthermore, Bonilla-Silva argues that the social systems are set up so that people of color fail because the hierarchy is already “racialized” (p. 465) and in a capitalistic society benefit those in power. Hence, “The totality of these racialized social relations and practices constitutes the racial structure of a society” (p. 470) and must be the focus of critical scholars. Bonilla-Silva further makes the connection to lifetime outcomes for people of color experiencing racialized social systems at the bottom of the racial hierarchy and the fact that their socioeconomic status is well below that of the dominant group.

The other important factors to consider, as I proposed in this study, are to identify, interrupt, and counter the racist legal discourse embedded within the state legal discourse we live and abide by. One might ask, “How do I now make changes to documents that are the cornerstone of our democracy?” As mentioned previously, there must be strategic attempts to unmask the legal discourse we have agreed to by default, not by our own choice. The focus on the subjugated groups must be reversed to shed light on the dark and oppressive attempts to maintain the status quo in the racial hierarchy through white supremacy. In staying true to CRT, and critical discourse analysis (CDA, which will be discussed in depth in the next chapter), those of us who have the gift and privilege of education must disrupt the racist discourses that pervade our entire lives. The opportunity to bring light to the darkness, and justice to the unjust, cannot evade our grasp this time. This study does not, and cannot, stand alone and must be supported by consistency, tenacity, and hard work by me and many other critical scholars. As the saying goes, “Rome wasn’t built in a day,” and in this case there are efforts from many authors who are identifying the deception and allowing the current and next generations of scholars to engage the many forms of racist discourse. There is hope that there may be opportunities to change systems

of power, despite the time it may take. My study attempts to take the identification of change one step further by interpreting the text and language used by those who hold the power.

Lastly, there needs to be continued acknowledgement of racial projects and a racial identity as Michael Trujillo (2009) does in his book *The Land of Disenchantment*. He specifically draws attention to the symbolic meaning of the legacies of colonization (Anderson & Collins, 2010), such as legislative acts, schools, buildings, statues, etc., which create meaning for people. When there is a connection to historical racial projects and these symbols become racialized, specific to the colonization and slaying of thousands of Native American men, women, and children, there is guaranteed to be conscious and unconscious emotional and behavioral reactions. These symbols trigger memories of a time when overt racism and violence were an acceptable means to an end. The symbol this study particularly focused on was the political and legal discourse, which maintains and engages racism, oppression, and power. This study did not focus on the more specific social symbols of racism that is schools, state sponsored activities, statues of the colonizers, state buildings, and state and federal parks (named after colonizers). However, these symbolic forms of racism, not reflected in text, as this study concluded, are still of great importance and have the potential to also be analyzed utilizing a *critical race hermeneutics* approach, which I proposed and conducted in this study.

### **Framework of Interpretation: Critical Race Hermeneutics**

In the process of thinking through what *critical hermeneutics* means when you inject race as another historical variable for the employment of the *framework of interpretation*, I concluded that the connections need to be made based on critical theory by way of the Frankfurt school and critical legal studies as was outlined in the opening chapter. Subsequently, the work of Fairclough (1995) and van Dijk (1998) has been instrumental in developing not only the



theoretical framework, but also the methodology for this study. Their work is most supportive to my work based on how race has become an ideological tool of the dominant group which has been established in legal and media discourse and is used as a variable and as a means to oppress people of color.

By combining *critical race theory* (CRT) and *critical hermeneutics* to get critical race hermeneutics I will be able to critically assess the meaning of race for, and the impact of race on, people in New Mexico. I have created the basic premises of critical race hermeneutics, which I will adhere to in this study during the critical discourse analysis of historical and contemporary legal documents, and educational policy. These premises are outlined below:

1. It is critical to understand the importance of history in order to interpret and understand systems of oppression based on race, rather than class.
2. Race is a social and political construction used to dominate and oppress non-dominant groups (people of color).
3. Law (i.e. acts, policy and educational policy) is used to perpetuate racism and a white supremacist ideology.
4. There is meaning in textual discourse that can help us identify racist dominant and oppressive strategies employed by the dominant race group over subjugated race groups.
5. It is important to utilize the meaning of/within the discourse interpreted, and to use this information to develop counter-racism strategies. Hence, the ultimate goal is to create social transformation through implementing these counter strategies, fostered by love and equity for all groups.

I have selected critical discourse analysis (henceforth CDA) for this study, with a critical race hermeneutical approach. Now I will provide rationale for why this methodology was

theoretically appropriate for researching racial relations. Let me start by summarizing the main reasons why I selected CDA as the driving methodology. Critical discourse analysis does the following, as I have come to understand: 1) it focuses on the examination of knowledge, power, and how language is used to further the WSI for those in power (whites), 2) it allows for researchers to take a direct stance in their research against racism, domination, and oppression, 3) historically, CDA has examined the tools of the dominant race group that are used to oppress and dominate others through the use of racism by the use of language and text as discourse, and 4) the model allows for and commits to a cross disciplinary approach to understand how the dominant group maintains dominance and power.

In my review of the literature, CDA became appealing not only because of the points I have outlined above, but also because scholars of CDA adhere to a social justice component which stands in opposition to the more traditional and accepted positivistic approaches to research that reinforce mechanisms of oppression. Although CDA does not prescribe the methods to be used to uncover racist discourse, CDA scholars do call for a strong theoretical foundation, which also requires that the approach and methods used are concrete and applicable. Van Dijk (1998) also explains how CDA is the toughest theoretical and methodological model to employ because those who conduct CDA need to be well read and, to some extent, knowledgeable in different disciplines.

My philosophy regarding racism falls in direct alignment with scholars of CDA (Fairclough, 1995; van Dijk, 1998, 2008a) in the sense that CDA demands a stance against dominance and oppression by one group over another through the utilization of a multi-disciplinary examination of language, knowledge, and power. This is key because, as I have come to understand race and racism, it is important to realize there are many facets and

hegemonic functions that may not clearly be identified using solely an educational perspective. More specifically, over the last four years I have utilized my clinical social work and psychology background to further expand my sensitivity and awareness of the emotional and psychological impact (Foucault, 1969) of racism for both the colonized and the colonizer (Memmi, 1965).

As I outlined in the first chapter, when examining race, it is crucial that researchers also have some knowledge of legislation, policy, and the law. In addition to these disciplines, other disciplines such as journalism, sociology, and political science also play a critical role in the examination of racism. Research can be used as a mechanism for people of color to help develop practical countering strategies. With this said, implementing a CDA model lends itself to opportunities for collaboration with other critical scholars due to the multi-disciplinary approach recommended when using this methodology. A CDA model could also be useful for organizing a mass of critical scholars, professionals, and community members to critique, confront, and counter racist ideologies that produce/reproduce and promote discourse used to control and dominate people of color.

The theoretical framework I have developed will strongly support the methodological approach utilizing CDA. The use of CRT, which closely examines how the law has historically and contemporarily been used to perpetuate a WSI in the advancement of whites, is another key feature. Critical race theory also takes a stance in claiming that race is a social and political construction which has no biological roots. The second theory I have combined with CRT is *critical hermeneutics* (CH). Critical hermeneutics identifies how language is used to create specific meanings historically, which may impact the perceptions and treatment of individuals, not to mention their social, economic, and political mobility. *Critical hermeneutics* also takes into consideration the use of verbal and non-verbal communication to analyze discourse that may

be racist. This includes the use of language, but may also include the interpretation of micro - aggressions, which this study does not address. Ideological and historical implications drive the tenants of critical hermeneutics because they have a significant role for understanding conflict theory and the history of society. With this history, Thompson (1984) elucidates the roles of power and ideology for the contextualization and interpretation of these conflicts and the meaning this creates for society's members. Thompson also argues how the unconscious is impacted and may influence our understanding of society and the meanings of the historical conflicts perpetrated by the dominant group. In his definition of critical hermeneutics, Thompson seeks to "sketch the contours of a critical and rationally justified theory for the interpretation of action" (p. 216). In his theses of interpreting action, Thompson further argues that the meaning of actions may be specific to the manner in which it is described. Thompson states that the action "presupposes a subject and reports that the meaning of an action is not decided by the subject's intentions; for what the subject does may be quite different from what he or she intended to do" (p. 216). The connection that his description has to my dissertation is the connection he makes to interpret the meaning of action and how this action is connected to the broader context of institutions and social structure (p. 217). Furthermore, Thompson's proposal for a methodology of critical theory (critical hermeneutics) contributed to my study in his establishment of depth interpretation by understanding how the "schematic generation and social structuration" link to aspects of the social world together to create discourse. He outlines this description as the "conduct of critique" (p. 217), which has implications for analyzing the systems of oppression that inform institutions based on the action of members of dominant groups following a white supremacist ideology. Unfortunately, like the other theories that address systems and institutions, CH, as described by Thompson, does not explicitly account for

race or racism. This is a point I have made several times to magnify the need to combine theories in order to engage all aspects of racism in our society, and more specifically in our schools and school systems.

The infusion of *critical race hermeneutics* and the *discursive historical approach*, within a critical discourse analysis methodology, allow for the historical and contemporary examination of how the Spanish manipulated text for the maintenance of their power. They accomplished this through the use of the law while also influencing the meaning attached to the discourse. For instance, in my review of the literature few studies provided critical and thorough interpretation of racial discourse produced by the dominant group. The manipulation of text by a dominant group manifests not only in the use and selection of certain discourse used to manipulate, but in the specific words selected to maintain the “Other.”

My study aimed to uncover the race hierarchy which was employed at the time of the colonization of New Mexico in 1598, and which I argue still exists. As this race hierarchy was implemented, there were/are specific strategies which the dominant group enforces in order to maintain their control and domination over the Native American and Mexican race groups in New Mexico. This study aimed to explore the race hierarchy, which may also reflect the WSI supporting the race hierarchy. The main strategy this study sought to identify and explore is the use of the law, vis-à-vis acts and educational policy, which served as hegemonic functions of the WSI supporting the racial hierarchy and its members. The white members, and people of color who passed or gained membership based on lighter skin color, received several unearned privileges and rights based on the race hierarchy they imposed and enforced upon the colonized group(s). The dominant white group had to utilize preservation strategies to maintain the power and dominance they used to conquer and colonize. What this meant to this study was there is a

great investment and payout for the members of the dominant group following a WSI, which needs to be identified and interpreted.

Through the use of discourse, such as text, the dominant group also created influence via media (by way of the newspapers, to the eventual use of radio, television, and the internet) as another manipulation of the systems of power at hand used as another mechanism of oppression. The specific discourses analyzed for this study were the law, acts, and educational policy used to maintain the racial hierarchy and the WSI supporting it. Within this strategy, the members of the WSI created racism as a way to sort and classify individuals into race groups. These groups became racialized by the negative phenotypical traits and characteristics socially and politically created and ascribed to them. In other words, race has no biological connection but was structured and created to invoke negative perceptions through the use of discourse, which the dominant group claimed had scientific basis and qualification. For this study, in order to triangulate my findings in the textual analysis, I incorporated additional educational policy, and additional Spanish census data to strengthen the data set I have already selected.

Many CDA scholars define discourse as anything produced by the dominant group from the law to media discourse, all the way to the parliamentary/legislative discourse produced in society to include conversations with a historical perspective, which is critical for interpretation (Bogdan & Biklen, 2007; Fairclough, 1995; Morrow & Brown, 1994; van Dijk, 2008). I argue that the dominant white group uses this discourse by manipulating its content and meaning to indirectly, and directly, use race as the most consistent variable that is manipulated in the dominant groups favor. The media is a prime example of this, as Gonzales and Torres (2011) so brilliantly outline.

## History of Racial Discourse in New Mexico

For the purposes of this study, the history of language and text focused specifically on how a dominant group takes ownership for the creation and maintains possession of language in its many forms, that is, legal doctrine, media propaganda, and knowledge taught in schools. Just as the dominant group takes ownership of the discourse, so does the dominant group create inferior groups based on physical characteristics, and deficits outlining the “Other” within the discourse. The “Other” has been described by many authors including Said (1979), hooks (2000), Fairclough (1995) and van Dijk (1993), to name a few. In all cases the gleaming and ascribing of negative, baseless and socially constructed, flaws and deficits are the only description the general public knew, and may still know of people of color, or the “Other.” This work takes the power from the oppressor and now places the tools of language and textual analysis skills in the hands of those who are/were oppressed. This study was one attempt to do just that: use the words and discourse of the dominant group to underscore and interpret racist language embedded in legal discourse and more contemporary educational policy. Another very important angle to consider is the fact that those in power control the discourse for others to be exposed to.

According to Foucault (1972), this power allows for the dominant group to write the history for those in less privileged positions, hence, the privilege goes far beyond basic necessities and cements the power for centuries. In this study, I argued that this is precisely the case in the Spanish colonization of Native Americans. Following the *encomienda act*, the dominant group was given unearned rights and privileges, as decreed by the Spanish Crown, in policy formed by text and language. (This connection will be examined in the data analysis of

the sample *encomienda act* I have located). Hence, the need for a more strategic analysis of the historical context, which shapes people's realities, is called into action. Foucault explains this importance:

The analysis of statements, then, is a historical analysis, but one that avoids all interpretation: it does not question things said as to what they are hiding, what they were 'really' saying, in spite of themselves, the unspoken element that they contain, the proliferation of thoughts, images, or fantasies that inhibit them: but on the contrary, it questions them as to their mode of existence: what it means to them to have come into existence, to have left traces, and perhaps remain there, awaiting the moment when they might be of use once more. (1972, p. 109)

This immense entitlement, written into law prior to the colonization in 1598, was the first example of the power contained when a group writes about an inferior group in order to allow for the murder, rape, and pillaging of the inferior group. According to Nieto-Phillips (2004), the role of "*hispanidad*" during and after the colonization of New Mexico is of great significance. It was a significant political tactic that had implications for centuries about the inferiority of colonized groups, who could never be a part of "*hispanidad*," the white polity. This is my experience living in New Mexico my whole life – the fact that groups of people who claim "*hispanidad*" are in some way superior, even if it is solely based on their claim without any factual information or racial genealogy conducted. It is so prevalent that the same groups placed in inferior group positions during the colonization of New Mexico in 1598 are in the same position/racial order in contemporary New Mexico.

Nieto-Phillips (2004) poignantly provides a descriptive historical account of his own identity development and what this meant to his growth as a person and scholar. Nieto-Phillips



provides an important deconstruction of discourse and shows how this discourse has shaped many people's lives, identities, and ideological beliefs in New Mexico. His work is based on historical contributing factors, which must not be ignored.

The work of van Dijk (1987) was also relevant to this study. He has conducted discourse analysis of contemporary parliamentary hearings in order to reflect the racist discourse of those currently in power. The key elements aligning with my work is how he takes a stance in his work to now reflect actual words (discourse) of the dominant group back on to them, in order to change the ever so constant glean on the already oppressed members of our society. For example, he poignantly describes how people of color have many instances where they are written in and out of history, and when they are written into text it is usually in a negative light, benefitting the dominant group (white) (Deloria, 1998).

Morrow and Brown (1994) also identify how research and access to knowledge have been monopolized by those in power. This is significant to my study because schools are one of the main three hegemonic conduits of the last several centuries. This includes the media and government, which push the white supremacist ideology (WSI) and capitalistic agenda of the white polity. The importance of critical discourse analysis is paramount and should strongly be considered for approval. To reiterate, CDA is meant to conduct analysis of discourse, but also take a stance against oppression, in order to interpret the text/language and the meaning of racism in discourse produced by the dominant white group.

*The Land of Dis-Enchantment* by Michael Trujillo (2009) is a great exploration of the political and racial tension gurgling under the surface of the false illusion of multi-cultural harmony in the state of New Mexico. The illustration provided by the author outlines how other discourse (such as historic celebrations, statues, monuments, names of schools, and many other

examples) serves as constant reminders of the killing and oppression perpetrated by the white dominant group onto vulnerable and innocent Native American groups. One of the most recent societal discourses discussed by Trujillo is the severing of the bronze right foot from the statue of the Spanish Conquistador Juan de Onate, in 1998. This very important public event was an act claimed by an Acoma group, Friends of the Acoma. They wanted to show their continued pain and discontent for a man who ordered the right foot of Acoma Native Americans be cut off (Nies, 1996) when they tried to save their own lives by running from the prisoner of war camp where they were being held. This most recent symbolic act supports my argument by illustrating how there is still racial strife over horrendous acts of violence against innocent people. The power, violence, and greed perpetrated by the dominant group spreading their white supremacist ideology reached over 400 years of marginalization.

Lastly, moving to a more contemporary reference is Gonzales and Torres' (2011) *News for All People*. This work is monumental for the history and timeline produced by the media and recent writing-in of the "Other." What I mean by the writing-in of the "Other" is that very rarely does the "inferior" group, typically groups of color in our society, have the opportunity, right, or privilege to write our own narrative. It is typical for the dominant white group to write the description, narrative, and predestined outcomes based on the need and unearned privileges of the white dominant group's privileges. Furthermore, Gonzales, and Torres clearly and factually illustrate how the "Other" was created through discourse produced for the masses through newspapers, radio, and eventually television. This discourse created negative stereotypical images of people of color which was usually not based on any direct contact or relationship with a person of color, furthering the "us" and "them" dichotomy (Anderson & Collins 2012; Davis, 2010). This discourse is of great significance to understand and attach meaning to in order to not

continue to place blame on the individual. In contrast, we need to look at racist systems of oppression that advance the *five fallacies of racism* described by Desmond and Emirbayer (2009) in their article “What is Racial Domination?”

## **Conclusion**

When meaning is assigned to textual discourse by the dominant group, rather than those on the lower rungs of the racial hierarchy, the assigned meaning will not align with the non-dominant racial groups. Race is a social and political marker meant to separate people along a color-line continuum. Hence, the white dominant racial group appropriates more of the unearned privileges and resources to themselves and to those they can co-opt in the group closest to the white race. This is also done for political and economic gain, based on a white supremacist capitalistic ideology.

Thus, not only by the very nature of colonization, but by the intentional structuring of systems of racial domination groups will continue to be in conflict with one another because of the misalignment and racial strains going unaddressed. This needs to be done specific to how discourse was created and its intentional meaning for people of color. The meaning of discourse, both emotionally and psychologically, impact longitudinally on people of color who have to feel the impact of fighting for their rights. Not to mention, also fighting for resources and their lives in the lower rungs of society’s racial hierarchy.

In Chapter 3, I outline how I studied and interpreted the data sets selected. All of the authors’ work I have explored in this review of literature has shaped my ideas and the methods I have selected. The history of conflict and society’s racial history of oppressive projects need to be studied using a multi-modal and multi-disciplinary approach to help us interpret textual

meaning within the historical conflict of structural white supremacy. All of this will be conducted in order to develop counter-racist strategies for future work.

### Chapter 3: Methodology

Critical discourse analysis (CDA) is a fragmented theoretical and methodological field that offers researchers various avenues for the study of the relation between language, knowledge, and power in society. I have selected a particular approach within critical discourse analysis that I find relevant for this study. In this section I discuss the major premises of my approach to critical discourse analysis, particularly emphasizing the connections among language, discourse, knowledge, and power in society. I also provided a rationale for why this methodology is theoretically appropriate for researching racial relations.

Lastly, the research design has specific methods which were followed in order to illustrate how my findings apply to my study. This methodology will outline a combination of critical race theory and critical hermeneutics to structure the framework of interpretation: *critical race hermeneutics (CRH)*.

#### Role of the Researcher

In the breadth of CDA, I claimed this research by identifying my positionality. This is specific to my family ancestry, and primarily because I wanted to take a stance against oppression, dominance, and injustice due to racism caused by some of my ancestors. Furthermore, in order to be thorough, clear, and transparent, I am a 41 year-old Hispanic male who has blood-lines to Spain. I claim my family whose roots have connections to the Spanish Crown and the Loyalist group 10/1601, which represents the month and year. They colonized and racially dominated the Native Americans for their land, language, sir names, and much-much more than this paper and years of reparations will ever provide justice for. I come from an emotional position of shame, guilt, anger, and some despair. Despite these feelings, I also come with the hope that this study can start to identify how the perpetration of racism is still

continuing in New Mexico. Below is a photo of me in Spanish conquistador garb as I represented the colonizing of Native Americans for one year as Cristobal, the son of Don Juan de Onate.



## Methodology

Critical discourse analysis (CDA) is a type of discourse analytical research that primarily studies the way social power abuse, dominance, and inequality are enacted, reproduced, and resisted by text and talk in the social and political context. With such dissident research, critical discourse analysts take the explicit position, and thus want to understand, expose, and ultimately resist social inequality (van Dijk, 2008, p. 85).

Throughout the course of history there has been colonization over subjugated groups of color by a dominant racial group. During colonization there is an ideology at work which indicates to the colonizer their values, rights, and privileges and informs the members of the group how to act and behave, individually, and collectively. In order to specify methods of

reproduction for a white supremacist ideology (WSI), as was introduced during the Spanish colonization of New Mexico, I will be utilizing critical discourse analysis as the methodology to guide this study. This methodology follows the discipline specified by van Dijk (1991):

For the new discipline of discourse studies itself, the study of the discursive reproduction of racism through text and talk provides not only a highly relevant field of application, but also more insight into the relations between various structures of text and talk on minorities on the one hand, and the mental, sociocultural, and political conditions, effects, or functions-that is, various “contexts” of the reproduction of racism-on the other hand. (p. 93)

Critical discourse analysis is not only the methodology for this theoretical research study but also another theoretical support for this research. In conducting a CDA of the documents and historic artifacts, I further developed my framework of interpretation, critical race hermeneutics. Additionally, I followed specific approaches Richardson outlines (as cited in Wodak & Meyer, 2001) who uses documents to examine and identify the practices used by the dominant race group. In CDA specifically, these are “referential strategies,” and “subject positioning” for constructing of the “Other.” Referential strategies are used by the dominant group to reference people of color in inhumane, stereotypical, and inferior ways through the use of text. This is strategically and purposefully engrained in text. In so doing, as my work argues, documents also subjugate race groups by putting them in specific rank order and eliminating some race groups by using the law. This is eventually reflected in educational policy. Furthermore, according to the *Standards for Reporting on Humanities-Oriented Research* by the American Educational Research Association (AERA, 2009), “Humanities-oriented research in education attempts to gain an understanding of the explicit and implicit messages and meanings of education, to point

out the tensions and contradictions among them on ethical or value-oriented grounds” (p. 482).

This study also embraces this position. Another guiding document for this study was the University of New Mexico Race Institutes’ (2010) “Trans-disciplinary Guidelines for Researching ‘Race.’” These guidelines are important because they outline the importance of researching race across disciplines. Most importantly, the guidelines make the direct statement that race is a social construction, and that researchers must challenge notions of race as a fixed trait.

The approach I took within CDA is the *discursive historical approach* to analysis. This study used *critical race hermeneutics* (CRH) as the framework of interpretation, which was integrated within the categorical analysis tool. This was described in more detail later in this chapter where the approach to conducting the CDA of the texts is outlined. The discursive historical approach was used to further interpret the meaning of how, during the Spanish colonization, text was used as a legal strategy to institute a WSI in New Mexico. This primarily was done through using the law and educational policy to cement the dominant group’s powerful political positions and unearned benefits. It also identified what it meant racially for the treatment of, and resource allocation for, people of color.

These basic premises support the study I proposed. They provide guidelines for the specific approach within CDA, which for this study was not only the discourse-historical approach but focuses more on the other approach outlined in my theoretical model, which is critical race hermeneutics (CRH). Furthermore, CRH as I have combined the theories would seek to understand the strategies used by those in power (white-Spanish). This power was used to sustain a race hierarchy by using racism in documents as the main tool of domination and oppression over those who were disempowered (people of color). In finding similarities to my



study, a discourse-historical approach (DHA) in CDA seems to be aligned with my understanding of the conflicts between groups historically. However, DHA also only goes to a point of conflict critique without exploring race and/or other deeper meanings behind societal conflicts. Historical-discourse approach was established as a method for studying the evolving societal problems and conflicts between societal groups such as in politics and other fields (also described as discursive-historical approach). According to Richardson (as cited in Wodak & Meyer, 2001; Wodak & Meyer, 2001), DHA attempts to understand how history, and more specifically, how politics, policies, and politicians have shaped discourse. Furthermore, Wodak and Meyer (2001) clearly outline the broader connection to a socio-philosophical approach to critical theory and the foundation of grand theories. It seems there are some opposing views of the direct stance CDA scholars should take in research, Wodak and Meyer (2001) highlight the importance of pointing out issues, conflicts, and intent within discourse without taking a specific position; as noted earlier, van Dijk (2008, p. 85) notes the importance of the researcher taking an “explicit” stance in the research conducted using CDA. It is important to point out these opposing views in CDA in order to clearly state my position. My intent is to not remain neutral but to outline my use of CDA as I stand firm against the past oppressive practices of my ascribed racial group. Furthermore, in my use of CDA, I argue that discourse in fact is used to dominate groups through the use of language by the way people of color are referred to derogatorily, or eliminated from text all together. In CDA, this is considered *referential strategies*. Another aspect I considered is how non-dominant race groups (people of color) are positioned in documents: metaphorically or physically positioned in a document, which in textual analysis is referred to as *subject positioning*.

## Methods

Next, I outlined my research methods, which are specifically in support of the methodology outlined in the previous pages. I conclude with outlining how I applied these methods through a framework of interpretation, critical race hermeneutics, in this study.

## Textual Analysis

Through an inductive and deductive approach, and based on my theoretical grounding, I established four categories of analysis in order to conduct the textual analysis of the data. It is important to understand the dialectical connection between the categories which make all the categories necessary for the analysis of the data. Once the categories and tool for analysis were established the methods I used to conduct the textual analysis are: identifying exemplars, color-coding for meaning, and using memos. Exemplars I used to draw attention to certain textual examples of racism based on *referential strategies* and *subject positioning* within each document. Each category was assigned a color: blue, pink, red, or green (The assigned colors for the categories will be explained more clearly below). Then, the text was color-coded for categorical meaning based on the definition assigned to each category. Lastly, after color-coding based on my categorical analysis tool, I wrote memos to further flush out meaning and themes connected to my theoretical framework, research questions, and arguments. In the development of these categories the framework of interpretation will ultimately be the reflection of critical race hermeneutics. The development of the *data analysis tool* aided in the interpretation and trying to understand the meaning in the documents I selected (See appendix G). The following describes how I used these methods for purposes of this study:

**Exemplars:** Examples of text were extrapolated and referenced from each document in order to then color code them for each category represented in the text. This is based on the categorical descriptions in the data analysis tool representing the framework of interpretation.

**Color-coding:** Colors were assigned to each category to identify the exemplars the categories present. This was done in order to note similar meanings in text which were connected the historical texts that were identified, to the more contemporary forms of racial discourse. The following key outlines the colors I assigned to each category: blue =constructing of groups; pink=ordering of groups; orange=“Othering” of groups; green= eliminating/excluding of groups. This was done so a clear color-coding of meaning was conducted as I proceed through my categories of analysis.

**Memos:** Memo were completed during each phase of textual analysis. Thorough documentation and consistent referencing back and forth between the text and my theoretical foundation was crucial to ensure theoretical fidelity and categorical fidelity.

The text was read multiple times while keeping the theoretical framework of interpretation as the spine of the analysis. I did this in order to try to understand the meaning presented in the text based on the categories established. This was also done to show trends and connections between more recent educational policy and the foundational documents identified earlier in this chapter. The categories established to interpret the data are based on the following four descriptions driven from CRH. This was one of the most useful strategies employed for analysis because it established the dialectical relationship between the categories and keep the analysis in alignment with the theoretical framework. The categories are defined below:

**Constructing of groups:** The attempts to assess privilege and power by the dominant race group to be able to name, define, label, and describe other racial groups with negative racial

characteristics or as having deficiencies, which are reflected in disparity-focused educational policy. This is also done through visual discourse in text in census data.

**Ordering of groups:** This reflects the dominant race group's strategic positioning of other race groups in textual discourse. There is a direct connection based on the order in which groups are placed and appropriated positions in resource allocation, legal documents, census, and educational policies.

**“Othering” of groups:** The dominant race group's strategic referencing of other race groups as less educated, less human, and in need of the dominant race group's values, beliefs, and religion (use of terms: us/them, we/they, and text meant to identify the “Other”), thereby making “Other” racial groups inferior to whites. In comparison to the “self” defining privilege the white group possesses which is also used to create the image of the dominant group members.

**Eliminating/Exclusion of groups:** The strategic and purposeful non-inclusion of other race groups by the dominant group in textual discourse and legal documents (acts, educational policy).

The framework of interpretation I have introduced will be described further in the data analysis section of this study.

### **Sampling and Procedures for Data Collection**

The procedures for sampling and data collection initially used the theoretical and methodological model of CDA. As noted, I felt the combination of critical hermeneutics, critical race theory, and CDA were more appropriate for my study. This means the documents selected for this study are documents that confirm a race hierarchy and white supremacist ideology at

work in New Mexico. For this study it will not be random sampling but based on exploratory value and my own positionality within the text. More concretely, as CDA calls for, my own positionality within the context and discourse of this study made the selection of the data more difficult, but utterly important. This was important if I want to gain respect, not only from scholars whose work I study, but also for my colleagues and professors in academia whom I respect because of their claiming of their positionality within their work. This study was also crucial for me in my own journey in humanity and love for all people.

Strategically, I also wanted to see if my theoretical assumptions and premises were supported by the data collected in order to further develop this work. Initially, I reviewed historical and contemporary legal acts in approximately 100-150 year intervals, since the 1598 Spanish colonization of New Mexico. Upon reviewing the State of New Mexico Constitution as a primary document, it was evident based on my theoretical grounding in CRT and CH that there was a specific and strategic reference to the Spanish's "rights and privileges" enacted into law. There was no other mention of any other race groups in the constitution, despite the Native American race group presence for more than 400 years. This is also problematic looking through a critical race theory frame of reference. Furthermore, at the same time (about three years ago during my doctoral course work) I was introduced to hermeneutics and critical hermeneutics in order to understand the meanings of words embedded in textual discourse, in this case the law. In this initial review, it was apparent to me that this was more than likely not a onetime occurrence and more than a coincidence. So, this then presented the opportunity to lead to a study that starts to look at multiple discourses for this imbedded meaning. Also, based on critical theory and the main premise it conveys relative to the importance of identifying the way

language has meaning, it seemed like a great theoretical match when studying those in power. Once establishing who holds the power, we must consider how the dominant white group maintains this power; this led me to a review of primary historical documents. I researched historical documents that led back to the colonization of the Native American race group by the Spanish race group. The initial study was extremely fruitful as the review of this discourse and others expanded in order to triangulate the findings. Hence, the review of census data and historical documents are of significance because it also captured a snapshot of a race hierarchy instituted by the dominant race group members following a WSI. This form of discourse became instrumental to creating my methods of analysis, research questions, and arguments. To make my study manageable (based on the more than 400 years that have passed, creating multiple discourses), I was strategic in my selection of the data to be analyzed. The most poignant are included in the following data set:

- 1544-Example of Spanish Encomienda Act (Appendix A)
- 1750-Spanish Census Santa Cruz De La Canada (Appendix B) (Spanish Census Data that will be used for my dissertation data set include the years of: 1750, 1822, 1845)
- 1912/2005-Amended New Mexico Constitution-Education Article XII (Appendix D)

The above referenced documents served as the baseline for this study and will outline the establishment of a racial hierarchy through the use of text, enslavement, and long standing legacies of colonization, which cemented racial groups for hundreds of years to come.

- 1998-2013-Disparity-focused Educational Policy; New Mexico Legislation (Appendix E) (SB 132-Hispanic Education Act (2010): An example of this discourse is included as a reference in the appendix).

Initially, the above listed texts were the primary data which I critically analyzed using the framework of interpretation model. I coded for the meaning and intention by the dominant group (white) within the texts to be interpreted through the categories of analysis. This allowed me to determine meaning from the text that may align with the race hierarchy and the perpetuation of this hierarchy through educational policy in New Mexico. Also, reviewed the documents for the same or similar words used in historical and contemporary texts to establish if there is textual evidence and connection between these texts. The secondary documents I used, the main document used to establish the past with the present is in the 1912/2005 State of New Mexico Constitution. These documents, and text, were then connected to the disparity-focused educational policy adopted from 1998-2013 (one example is included in this study). The following paragraphs identify and provide further justification for the data that were used. The documents may have traces of an established racial hierarchy or a dominant ideology and may provide insight for what the implication of this evidence might be longitudinally.

#### **1544 Spanish *Encomienda Act*—Example Document**

This document I selected as proof and to add to the thick description of the Spanish *encomienda* system and its implementation during colonization. The implementation of the *encomienda* is key in the establishment of a race hierarchy already recognized and being spread to the Americas, including New Mexico. It also reifies the maltreatment and enslavement of the “Indians” (Native Americans), not to mention the implication that this group needs to be “indoctrinated” and “taught” the values of the Spanish Crown and Catholicism. This is clearly written in the textual example of the act itself and serves as textual proof.

### **1750, 1822, 1845-Spanish/United States Census Data**

The 1750 Spanish census data for Santa Cruz De La Canada was selected as the artifact proof of a race hierarchy in the state of New Mexico shown in the Spanish census data. The additional Spanish census data for Santa Cruz De La Canada for the years of 1790, 1823, and 1845 will be the additional census data I have collected for use for my dissertation but is not included in the appendix. The reflection and listing of the “female servant” and “male servant” in the text is further evidence of the implementation of the Spanish *encomienda system* during colonization in 1598, and years to follow. This illustrates the continuation of an oppressive and racialized ideology in to the 1800s. I would add it continues in contemporary times in New Mexico through more covert means, such as in laws and educational policy. Furthermore, in the census data, which serves as textual and visual discourse, the order of community members potentially illustrates the racial hierarchy in place at this time. In addition, the census also reflects the implementation of a patriarchal ideology: the males are named and listed first on the document by name. The women, children, and “servants” are left nameless, hence “Othered.”

### **New Mexico State Constitution, Education Article XII**

The New Mexico State Constitution is the law behind policies that have been implemented since 1912. This reflects further evidence of the crystallization of a racial hierarchy and preservation, in law, of the unearned rights and privileges of the dominant white group. I argue here that the interpretation of the words used, the order in which race groups are listed and the exclusion of race groups provide further evidence of the race-based hierarchy. This document further established proof of a racial hierarchy and the significance of this preservation in the law with criminal charges being pursued, if not approved, by the voters, after first approved to be on a ballot by the legislative body. I utilized this document in the analysis of



discourse to reflect the white supremacist ideology that is present and supported since colonization, into statehood in 1912, and re-adopted in contemporary times. Likewise, this document was selected as a means to establish whose individual and group racial interests were being served. This is a practice in the document creation while simultaneously identifying those whose interests were not being served, specific to resource allocation. Lastly, this document also speaks volumes about the race groups who were not mentioned in the establishment of educational policy at statehood and into the 21<sup>st</sup> century.

### **1998-2013 Disparity-focused Educational Policy: New Mexico Legislation**

Senate Bill 132 is an initial disparity-focused educational policy example that may establish the preservation of an ideology. I have added the term disparity-focused as this is what the text reflects in the actual language of the law introduced. The hegemonic components may also be present, linking to the preservation of a racial hierarchy supported by a white supremacist ideology through the use of educational policy. This policy was selected as a contemporary policy that in the last five years may still preserve the dominant ideology in New Mexico, and it reifies the resources identified for the dominant group. It also shows a changing strategy which is trying to portray the dominant group in a position of need, specific to educational resource allocation. Lastly, if these forms of educational policy continue an “us” and “them” dichotomy, and legacies of colonization through the maintenance of divide and conquer strategies, racial alliance will not be fostered. Table 3.2 is a reflection of the data that was selected and more specific rational for its selection and inclusion in this study.

Table: 3.2

*Documents and Textual Discourse Selected: Rational for Selection*

Years Produced	Historical Legal and Visual Discourse	Rational for Selecting
1544	Encomienda Act (Papal Bulls example)	This document was selected as proof and to add to the thick description of the Spanish encomienda system and its implementation during colonization. The implementation of the encomienda is key in the establishment of a race hierarchy already recognized and being spread to the Americas, including New Mexico. It also reifies the maltreatment and enslavement of the “Indians” (Native Americans), not to mention the implication that this group needs to be “indoctrinated” and “taught” the values of the Spanish Crown and Catholicism. This is clearly written in the textual example of the act itself and serves as textual proof.
1750 1823 1845	Spanish Census Data Spanish Census Data United States Census Data	The 1750 Spanish census data for Santa Cruz De La Canada was selected as the artifact proof of a race hierarchy in the state of New

		<p>Mexico shown in the Spanish census data. The additional Spanish census data for Santa Cruz De La Canada for the years of 1750, 1822, and 1845 census data were coded. The reflection and listing of the “female servant” and “male servant” in the text is further evidence of the implementation of the Spanish encomienda system during colonization in 1598, and years to follow. This illustrates the continuation of an oppressive and racialized ideology connected to the caste system into the 1800s.</p>
1911-1912	New Mexico State Constitution Article XII; Section 10	<p>This reflects further evidence of the crystallization of a racial hierarchy and preservation, in law, of the unearned rights and privileges of the dominant white group. I argue here that the interpretation of the words used, the order in which race groups are listed, and the exclusion of race groups provide further evidence of the race-based hierarchy. This document further establishes proof of a racial hierarchy and the significance of this preservation in the law with criminal charges being pursued, if not approved, by the voters,</p>

		after first approved to be on a ballot by the legislative body.
1998-2013	State of New Mexico “disparity-focused” Educational Acts	These documents were selected as the contemporary proof and triangulation of the preservation and maintenance of a racial hierarchy.

This study was structured to produce practical research which is ethically and theoretically sound. In order to do this, I have created the backdrop of the existing race hierarchy, and supporting of a WSI. In order to validate this claim I used three key pieces of historical documents as text: an example of a 1544 Spanish Encomienda Act, 1750 Spanish Census data, and an early 1800s historical photo as the backdrop and historical proof for this study. I then built support around this discourse with additional educational policy and census data. News media discourse may also serve as factual information about the racial hierarchy if it becomes available and if it’s applicable to this study in the future.

In the selection of texts, and in order to show the contemporary reflection of a race hierarchy and WSI, I then moved to 1911-12 when New Mexico became a nation-state under the United States. At this time, the adoption of the New Mexico Constitution was cemented into history and adds a more contemporary illustration of the existing, and preserved, race hierarchy, supporting WSI, as defined in this study. The New Mexico Constitution served as the primary, historic, and contemporary, textual data was used because it was adopted at statehood in 1911-12, and revised and re-adopted in October 2005. This re-adoption reflected no change to the points I have referenced, specific to the preservation of the education for the state’s Spanish

descendants and their children. Again, this is problematic because with no other race mentioned in the constitution, despite New Mexico having one of the largest Native American populations in the United States, shows a strategic attempt to preserve a racial hierarchy and resources for the “other.” What does this say about the existing racial hierarchy and continued group conflict fueled by white supremacy? This further proves that there is still a clear, but now covert, preservation of a racial hierarchy embedded within state law, as the policies that guide the state’s institutions reflect. Then, coming into the 21<sup>st</sup> century, I reviewed disparity-focused educational acts. I argue that the same race hierarchy, and WSI, are still being enacted and preserved by multiple discourses in contemporary times in New Mexico, and the same is true for the United States as a whole. This study could be replicated and employed for other colonized groups, by conducting similar CDA. This can be done racially critical implementing a CRH approach, providing the foundation for the framework of interpretation in order to illuminate the race hierarchy and WSI supporting it.

### **Data Interpretation**

Using the framework of interpretation supporting the categories of analysis I created, I reviewed each piece of text using the data analysis tool. This was done to relate New Mexico data to texts which have a more macro and historical context and discourse(s) around WSI, race hierarchy in the United States, and white supremacist strategies for maintaining dominance and power over groups of color.

I explain and present the findings from this study in a thematic order, and the trends within the discourse were analyzed and are noted in order to develop practical strategies to counter racism embedded in educational policy. As noted earlier, the analysis was conducted through the use of textual exemplars, color-coding, and memos.

### **Accountability/Trustworthiness**

The weakest part of my study was that the data collected could be more vast in order to increase thick description and theoretical validity. I am committed to reviewing other key documents around the same time intervals, and also expanding the analysis to include additional Spanish census data from Santa Cruz De La Canada in the future.

In addition to the law as the primary discourse, and in order to triangulate my findings within the law, the use of other forms of discourse for my dissertation will also apply which will come in the forms of historic Spanish and United States census data.

#### **Chapter 4: The Language of Racism Used for the Creation of “Self” and “Others”**

[A]t several levels of analysis, talk about ethnic groups involves complex strategies and moves aiming at positive self-presentations within the overall goal of negative other-descriptions. (van Dijk, 1987, p. 22)

As I sat here coding my census data I was overcome by emotion. Tears flooded my eyes as I saw the text used by my ancestors—the text used which dehumanized and ultimately “othered” Indigenous populations. The intent was to “profit” and “indoctrinate” them and ultimately to capitalize on their physical bodies, their land, and their resources. For me, the floods of emotions are undeniable when you see a 3-year-old child labeled as a “servant.” It is hard to compartmentalize the emotions and go forward with the academic rigor of conducting a study, but it is necessary if I am to stand up in opposition to oppression. Those who experienced colonization firsthand, or vicariously, experience this emotional connection to their existence that lasts a lifetime (Yellow Horse Braveheart, 1998). It is a constant reminder of being “othered” on their land. This study is a reminder that we need to consider the symbolic, political, racial, and socio-historical impact language and the use of text have on people. Words are not neutral. They possess meaning that serves the interests of those who are privileged to be able to attach meaning to words and, in turn, write the laws that allow for dominance. There are some key terms and language used connecting all of the data across time from 1598-2013. These are the terms: “right and privilege,” “indoctrinate and teach,” “them,” “encomienda” “servants,” “punishable,” “possession,” “protect you in it,” “Indians” “equality” “God,” “Catholic Church,” “people,” “Spanish,” “Hispanic,” “Natives,” “American Indian,” “Native American,” “Indian Education Act,” and “Hispanic Education Act.”

As a reminder, the following premises were established so the positionality and the interpretation strategies of the researcher would be clearly outlined for those reading this study, and they connect back to the critical race hermeneutical (CRH) framework of interpretation I developed as my methodology:

- 1) It is critical to understand the importance of history in order to interpret and understand systems of oppression based on race, rather than class.
- 2) Race is a social and political construction used to dominate and oppress non-dominant groups (people of color).
- 3) Laws (i.e. acts, policies, and educational policies) are used to perpetuate racism and a white supremacist ideology.
- 4) There is meaning in textual discourse that can help us identify racist and oppressive strategies employed by the dominant race group over subjugated race groups.
- 5) It is important to utilize the meaning of (and within) the discourse interpreted, and to use this information to develop counter-racism strategies. Hence, the ultimate goal is to create social transformation through implementing these counter strategies, fostered by love and equity for all groups.

In order to better understand the discourse I connected my inquiry back to my initial research questions. Appendix 1 presents the language used in the encomienda act and Royal Order (the foundation document used for establishing the racial hierarchy in my research). My interpretation of the exemplars is outlined below. These exemplars highlight the specific strategies used by the Spanish in their implementation and maintenance of a racial hierarchy, or caste system (Nieto-Phillips, 2004) using language. As a reminder, the exemplars in the text were divided into four categories and are based on my framework of interpretation: 1)



constructing of groups, 2) ordering of groups, 3) “othering” of groups, and 4) eliminating/exclusion of groups. Each of these categories was also assigned colors so readers can see the color-coded trends between documents as well as the textual connections. The following several pages are my analysis of each data set. The findings were interpreted by citing exemplars and using the categories above to organize my findings. Prior to this closer analysis, it was important to establish a historical perspective of the events leading up to the encomienda slave labor system and the racial domination that followed for more than four hundred years.

Prior to 1583 there was already at least one exploration conducted to the Americas by Francisco Vasquez de Coronado. In 1540 Coronado set out to find the fabled seven cities of gold. Upon approaching the city of Hawikah the colonists were met by Zuni warriors who were prepared to defend their land. After two years of searching for the gold that never existed, Coronado returned to Mexico. After about fifty years there was a renewed interest in the cities of gold, and Don Juan de Onate led the next exploration. Not only was there an opportunity for exploration and expansion of power, but the memory was fresh in the minds of the colonists about the work force which was already present with thousands of “natives” scattered along the plentiful water resource of the Rio Grande. Onate and the Catholic Church also used the interest of the Spanish Crown to aid in the “pacification” of “Indians” and to cultivate a workforce that would not cost anything. At the time of Onate’s colonization there were civilized communities with highly advanced agricultural and livestock development (Espinosa, 1988). With this being said, there was a combination of events that commanded the issuance of the Royal Order by King Phillip II, which led to the pacification of “Indians” embedded along the Rio Grande River. History shows that the Catholic Church was also instrumental in lobbying King Phillip II for the

expansion of the missions that were a part of past colonization and exploration during the Spanish conquests. According to Hammond and Rey (1953), in 1595 a contract was issued to Don Juan de Onate that outlined the authorization for assembling the men who would enforce this colonization. This amounted to 200 men, which grew to 400 by January of 1598. Although most of the expenses of this Royal Order were to be undertaken by Onate, King Phillip II named Onate Governor and Adelantado of New Mexico (1953). This led to a violent and “misadministration” of the exploration and pacification of the “Indians” which Onate later faced charges for upon his return to Spain (Nies, 1996).

In order for me to establish the Racial Contract (henceforth, RC) established by Charles Mills (1997), I must first engage the social contract (henceforth, SC) and the elements of this contract. The SC is a discourse that depicts society as a liberal democracy. In this liberal democracy fairness and justice are ruled by: meritocracy and the achievement ideology, representative self-government, submission to the rule of law, the virtues of becoming a citizen, and the belief that society is rational and always moving towards progress. SC theory is a pervasive ideology, both implicit and explicit, in the curriculum of schools throughout the U.S. Many can readily cite these as the main tenets of the SC as part of what it means to be a “good citizen.” Mills (1977) references the work of Rousseau’s *Discourse on Inequality* to explain how through the lens of the SC Hobbes, Locke, and Kant reference a “naturalized” account of what an *ideal* society should look like. Ultimately, we must understand that the SC blinds us from the reality of what is really happening relative to discourse and power, and how the language of racism is really perpetuating the RC. This is actually the existing social agreement between members of the white race created to collude with one another to ensure ongoing power and

status over those they define as people of color. The SC operates as an ideological discourse of the contract that actually underlies and drives everyday life, that is, the RC.

Furthermore, Mills (1997) explains how an unjust society is created and is established by whites, who have this power to create false ideals:

[W]hereas the ideal contract [i.e., the SC] explains how a just society would be formed, ruled by moral government, and regulated by a defensible moral code, this nonideal/naturalized/contract explains how an unjust, exploitative society, ruled by an oppressive government and regulated by an immoral code, comes into existence. (p. 5)

The SC blinds people from the reality of the racial strategies and the intent of the work of the RC to make the disparities in education, wealth, and political power hidden from plain sight, so the “normative work” of oppressing the marginalized continues unquestioned.

In particular, there are three specific elements which establish these connections to my work: 1) the idealism of the SC compared to the realism of the RC, 2) the establishing of the RC as the determining force behind the public legal discourse of the SC to decide who is bound by, and benefitting from, this arrangement, and 3) the RC also identifies and decides who [humans] is able to make decisions based on right and wrong and thus based on intelligence and sound judgment. Although there are other aspects of the RC that help challenge and analyze the SC, these are the elements that explain and establish the RC specific to my work. I agree with Mills (1997) that the RC is in place and has been operating in the Americas and New Mexico since the colonizers first stepped foot on Indigenous lands. First, based in the ideology of the SC, particular racial groups thrive and are wealthy because of predestined biological factors, a strong work ethic, a strategical way to play the game of society, and/or they have the luck of the draw. This logic and matter-of-fact way of perceiving society is a social construction and essentially

has become engrained in the rule of law. The social contract also presupposes that the superior (white) racial group has (allegedly) given up certain things and should then receive benefits in other forms because of their sacrifice.

Second, another key element of the RC is the distinction between who is “human” and who is “sub-human” in order to determine who is even eligible to receive benefits under the normative discursive rules of the SC<sup>1</sup>. As I will note later in this study, the RC also established who was able to receive benefits of the SC, which historically eliminated “servants” from being considered of sound mind and judgment to govern themselves. This is now established in students of color who are the “sub-student” social position, replacing the “servant” role but with the same outcomes and inability to decide on their needs.

Third, the workings of the RC established who was able to make decisions based on right and wrong and based on intelligence and sound judgment. By the very nature of the SC anyone or anything considered “sub-human” was not allowed or considered to be able to decide what was in their best interest. This ideological stance still reverberates today in the contemporary discourse I analyze in Chapter 7. Those labeled and categorized as “sub-human” were considered property according to how the SC was written and structured in order to benefit whites through the subjugation and enslavement of Africans and “Indians.” Another key aspect to the RC (of which I will also re-engage in later pages) is the way the RC talks about civility; only whites were considered able to civilize or enlighten the “savages” despite their being a highly successful civilization already rooted for thousands of years. The idea of indigenous people of the Americas being unable to govern themselves is also a continued theme and legacy of colonization in the state of New Mexico. It is reflected in the fact that despite New Mexico

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<sup>1</sup> This is a key aspect as we approach the contemporary discourse of disparity-focused educational acts in my study relative to determining which students are full members and which are determined to be the “substudent” (Leonardo, 2013/2014) in the educational systems the policy and legal discourse impact. I will review this more in Chapter 7.

having one of the highest populations of Indigenous groups in the nation; this is not reflected proportionally in the state leadership. Many leaders in this state are white and maintain white supremacist and patriarchal ideologies. Mills (1997) argues that based in CRT, and more specifically abstract liberalism, the SC is incomplete and contradictory because it is based in idealism, and any perceived gains for people of color will also benefit the white polity in the long run. The social contract is discourse that depicts society as a liberal democracy. In this liberal democracy, fairness and justice are ruled by democracy, meritocracy, and the virtues of becoming a citizen. He further argues that whites manipulate these elements in order to maintain power and white supremacy. Due to the inconsistencies of the SC, the RC becomes more valid because it consistently shows that through all systems of society, whites benefit because of the RC's basis in realism versus idealism. Mills questions whether or not the SC is even redeemable based on the evidence that in our society we operate under the racial contract, whether we are willing signatories or not. Lastly, Mills clarifies the debate of the SC never being based on race or provisions in establishing of the SC, given attempts to hide this fact. He calls this nonsense, due to the fact that prior to the establishment of the RC in the Americas, Europeans had established a long and blood-filled history with oppression, slavery, the racial caste system, and other mechanisms of war, which established racial lineages for the idealistic framing of the social contract. The discourses I have analyzed in this study further establish how the connections in discourse based in race and racism nullify the SC. In closing, these three elements draw into question the idealism of the SC. I will now focus on how the RC is more valid when we engage the debate about the idealism of education as it relates to the SC. Based on the arguments I will make in Chapters 6 and 7 there is evidence that educational attainment for some groups of color is ideal given other social determinants of health. The social

determinants of health they are experiencing may be based on the perpetration and perpetuation of the Racial Contract.

The enacting of the racial contract in the form of the Royal Order [encomienda act] set in motion the expansion of, and simultaneously the creation of, the racial hierarchy we have in the United States:

The racial contract (RC), is the recognition that racism is itself a political system, a particular power structure of formal or informal rule, socioeconomic privilege and norms for the differential distribution of material wealth and opportunities, benefits and burdens, rights and duties. (Mills, 1997, p. 3)

Mills (1997) explains the social contract (SC) as the impetus of the RC and he goes on to describe how starting from a place of nature we then move to civility and decide then to establish a “government,” one that is established on equals. Mills explains the RC by illustrating that the establishment of the RC brings clarity to false perceptions created and the idealism of the SC. However, the RC is not based on the premise of “we the people” but more so on those who are considered human, not subhuman. As Mills suggests, “we the white people” is the meaning behind the language which we find in the United States Constitution.

In New Mexico, and the United States, this racial contract (RC) allowed for the use of “Indians” as a slave labor force, which established the socioeconomic trajectory for centuries to follow. The RC not only created the identity of the “other” races in the racial hierarchy, but it also solidified the identity, present and future, for the colonizer.

Mills (1997) further explains how the creation and implementation of the RC then allows for the sociopolitical structure and the language that guides and supports that structure to perform “normative work” making the maltreatment and oppression of people of color bound by the RC

acceptable to the “colonized and the colonizer” (Freire, 1993). Mills makes three important claims, which I found to be true in my study:

[T]he existential claim-white supremacy, both local and global, exists and has existed for many years; the conceptual claim-white supremacy should be thought of as itself a political system; the methodological claim-as a political system, white supremacy can illuminatingly be theorized as based on a “contract between whites, a Racial Contract. (1997, p. 7)

Based on these claims, I highlight in my study how the white supremacist system is operating in New Mexico.

This identity of the superior group illuminates their positionality in the racial hierarchy, shaping the Spanish identity in the Americas. It also allowed for the maltreatment of “Indians” and cemented their “rights and privileges” to also be legally enforced. After a lengthy and time consuming search, I was able to find the Royal Order issued to Don Juan de Onate (Hammond & Rey, 1953) copied in the text *Onate: The Colonizer of New Mexico*. At this time, the only copy is located in Archivo General de Indias, Patronato, legajo 22 in Sevilla, Spain. It was established in this book that the other original copy of this order was lost during the Pueblo Revolt of 1680. Another text that references using one of the original copies is a book by Joisah Gregg (1974), *Commerce of the Prairies*. This text is a significant piece of documented history because Gregg paints a picture based on the original Royal Order. Another supporting text provides a clear description of the encomienda as “a colonial system of political control and economic exploitation divided along racial lines” (Perea, Delgado, Harris, & Wildman, 2000). The book *Race and Races: Cases and Resources for a Diverse America* (Perea, Delgado, Harris, & Wildman, 2000) explains the encomienda in more detail:

In promulgating the Laws of Burgos [Eds. In 1512], the king gave the system of encomienda as designed in the New World legal standing it lacked before. It was not incorporated in the laws of the Spanish empire and was no longer merely a practice sanctioned by king and local authorities. In addition, the system's axiom that Indians had inherently evil and slothful inclinations which had to be remedied was adopted as a cardinal principle of the legislation itself. (p. 9)

This statement clarifies the implication of the encomienda, not just in Spain but in the Americas. The act of creating this slave labor system in legislation highlights how the history and power of language has created the existence for many people today who find themselves on the bottom rung of the racial hierarchy. In another quote from Perea et al. (2000),

In legitimizing the system, the king also surrounded it with normative constraints that were meant to protect Indians from the more coercive features. Furthermore, the encomendero was to assume the paternal-like obligations of civilizing and Christianizing the Indians so that they would not only lose their evil slothful ways but would also in time become "vassals" of the king. (p. 9)

The language used by the dominant group to continue inhumane treatment of "Indians" now becomes legal. This treatment persisted into 1850, as we will see reflected in the following discourse and in the census data. Furthermore, another use of language in the cited text movingly illustrates the intent of the encomienda,

By casting the encomienda in this normative mold, the king hoped to impose an organically interlocked status hierarchy, similar to the estate structure in Spain, upon what was essentially a dehumanized colonial system of racial exploitation and forced labor. In doing this he was prepared to include the Indian and in his hierarchic domain of



subjects, though initially as wards of the Crown, just as the Church was prepared to include them in the hierarchic domain of souls. (Perea et al., 2000, p. 9)

This hierarchy has been established since colonization and, as I have analyzed the system imposed upon the “subjects,” is the very same one we live by in New Mexico to date. To cement this proof in the actual language of the colonizer I now focus my analysis on the language used in the original encomienda order granted by the Spanish Crown.

### **Thirty-One Provisions Framing the Privileges of “Servant” Owners: The Racial Contract**

On September 21, 1595, in Mexico, the Royal Order, or petition, (as noted in Hammond and Rey, 1953) outlines the request from Juan de Onate to Viceroy Don Luis de Velasco, who was the official reviewing the outlined requests. This happened in Mexico on September 21, 1595. The following was the opening exemplar of this request:

I, Don Juan de Onate, resident of the city of Zacatecas in the kingdom of New Galicia, state that, having offered to serve his majesty and your lordship in the pacification of New Mexico and on any other occasions that might arise, continuing in this respect what I have been doing for more than twenty years in fighting and pacifying the Chichimecas and Guachichiles Indians and other nations in the kingdoms of New Galicia and New Vizcaya, at my own expense. (Hammond & Rey, 1953, pp. 42-43)

Onate goes on further to clarify the long history his father Cristobal de Onate, captain-general, who was also involved in the “pacification” of “Indians” during his long-time service to the crown. As noted in Chapter 1, I portrayed Cristobal Onate’s son (given the name of his father) when I was about 12 years old in the annual ceremonial re-creation of the colonization. In closing, Don Juan de Onate restates his commitment to a non-violent pacification of the “natives:”

...this without taking into consideration the great inconveniences that would necessarily result by disturbing and abusing the natives and making their pacification and conversion more difficult later, for the main purpose that must prevail-which his majesty favors and your lordship not any less so-is the conversion (which demands on avoiding such excesses); and since we might in one single effort punish the culprits and serve God our Lord and his majesty in the said conversion and pacification, I again offer your lordship my services for the discovery, pacification, and conversion of the said provinces of New Mexico. (Hammond & Rey, pp. 42-43, 1953)

This exemplar serves as the projection of a dominant racial group's identity and how they believed in their supremacy so much that they didn't care what the religious, spiritual practices, or the dreams were for the "natives." Their projection reverberated for generations to come. It is especially crucial to understand their intent and how the word pacification was defined according to the Spaniards. Pacification is forcibly suppressing a hostile population and attempting to eliminate them from existence if a peaceful resolution can't be negotiated. The term is used throughout the history and research concerning the colonization of "natives."

The professional "soldier-citizens" of this time period provided oversight of the slave labor and didn't receive pay for their service to the crown, but they were granted the *encomienda*. This enabled them to raise livestock, farm, and perform various forms of exploitation of Indian labor (Espinosa, 1988). The *encomiendas* were overseen by the *encomendero-soldiers*, and it is reported that there were approximately 35 overseeing the provinces during colonization campaigns. During the *encomienda* period, the "Spanish" commonly hired the equivalent of supervisors who were of a specific "Indian" group to provide the oversight of other "Indians" who are performing the manual labor. This created intragroup

conflict between Pueblo people, the Navajo, and other “Indian” groups. I believe this is another element of “divide and conquer” by positioning groups to fight over jobs and their positionality in the racial hierarchy. The next sections look at the specific provisions the Racial Contract established in the Royal Order issued to Juan de Onate approving use of the encomienda system in the “pacification” of the “natives.”

The new discovery and settlement ordinances are referenced in this Royal Order, which is another document I have established outlined the “rights and privileges” of the Spaniards in their many other colonizing racial projects. This also validates what I cited in Mill’s work: that the social contract could not have been written from a neutral or natural state based on preconceived notions of races established for the colonization of others around the world prior to 1598. The following are the numbers of the provisions I selected to review which were requested by Don Juan de Onate for his colonization of the Americas: 2, 4, 5, 6, 8, 11, 13, 17, 18, and 25.

Although there are 31 provisions and rights establishing human ownership in this Racial Contract, all but two of these provisions were granted by King Phillip II. Although all 31 ordinances relate to my study and must not be excluded, I have selected to summarize the 10 most impactful to my study. The following is a summary of the 10 provisions that reflect language used in the discourse to solidify the caste race system, a white supremacist ideology, and the slave labor system. In the data I analyze in future page it shows how this language was used over time to maintain racial domination. Each of the following selected ordinances should not be taken in isolation; they contributed to the larger systems of oppression.

Ordinance 2. Further, that as soon as I take possession of the land in the name of his majesty, I am to have the title of adelantado, which I and my successors are to enjoy, for the said lives, in the government, in accordance with the said ordinance, with the

privileges enjoyed by adelantados. Your lordship shall likewise ask his majesty to extend this office for two additional lives.

Ordinance 4. Further, that I be authorized to distribute among soldiers, conquerors, and settlers who may go on the said expedition under my leadership, or under my successors, the pueblos and vassals I may think proper, and that this shall apply to those who may go as second or third conquerors and settlers, as well as to those who took part in the conquest and pacification of that land. They and their successors are to enjoy this encomienda for the three lives granted by ordinance 58. Your lordship shall likewise request his majesty to make them perpetual, or at least to extend them for three additional lives.

Ordinance 5. Further, all favor and honor shall be extended to the said conquerors and settlers and their children and descendants; they shall be given building lots, pasture and farming lands, and ranches; and they shall be assured of all the exemptions and privileges granted in ordinance 58.

Ordinance 6. Further, the said conquerors and settlers shall be informed of the favors granted them and their descendants and successors by his majesty in ordinance 99, by which they are named hidalgos of an established lineage, so that they may enjoy all these honors and privileges; and they shall have the right to do everything that hidalgos and caballeros in the kingdoms of Castile may do, according to traditions, laws, and customs of Castile, in conformity of the said ordinance.

Ordinance 8. Further, considering the great cost and excessive hardships and cares that the said conquest, pacification, and colonization will place upon me and my successors, I shall be authorized to appropriate and allot myself and them, in perpetuity

and for all time, thirty square leagues of land, in one or two tracts, wherever I shall select, including all the subjects [Indian servants] who may live within the said territory. If any pueblo which is a capital should fall within these boundaries it shall be understood that the other pueblos under the said capital, even if they should fall outside the thirty leagues, shall be added to my repartamiento, including the lands, pastures, waters, and woods of the districts where the said subjects may happen to be. Together with this, I am to be granted for myself and my heirs and successors, in perpetuity, the title of marquis, with civil and criminal jurisdiction, mero mixto imperio, with all the honors and prerogatives what such titles confer in the kingdom of Castile, in order that my legitimate and natural sons and daughters may inherit them forever, and in case my children do not have sons or daughters and there are no other descendants in the direct line, the nearest of kin is to inherit the title of the estate, with the proviso that I may establish the foundation of the said estate under the conditions that I may prescribe.

Ordinance 11. Further, that after I have entered my territory and taken possession of it, I shall be authorized to establish a royal treasury and name of the royal official, the treasurer, contador, factor, and others may be necessary for such an institution, with a suitable salary. This salary shall be paid from the revenues of his majesty in the said district.

Ordinance 13. Further, that inasmuch as my brothers and relatives are supporting and aiding me in this expedition and will continue to aid me after it is under way, sending me from these kingdoms the things that I ask of them, I ask authority to allot them Indians in encomienda and to grant them other favors, even if they do not go on the

expedition, as they are serving just as effectively. [King Phillip's response: "There is no justification, for the time being."]

Ordinance 17. That I shall be authorized to divide the territory of the said government into districts of *alcaldas mayores*, *corregimientos*, and *corregidores* and assign them salaries from the returns of the land; to confirm the *alcaldes ordinarios* elected by the councils. Over all of them I shall have civil and criminal jurisdiction, by way of appeal and as lieutenant governor.

Ordinance 18. That I and my heirs and successors in the said territory and jurisdiction are and shall be under the immediate jurisdiction of the royal Council of the Indies, so that none of the viceroys of this New Spain or neighboring *audiencias* may meddle in the jurisdiction of the said government.

Ordinance 25. That I and my successors be authorized to levy the tributes which the Indians will have to give, according to the fruits of their land, not only the tribute for the king our lord, but also that for the other *encomenderos*, with free and absolute authority to raise or lower them or to commute them in any way that may seem fitting to me or my successors, without reference to the viceroy or *audiencia*. (Hammond & Rey, 1953, pp. 48-54)

These ordinances explicitly outline the provisions granted by the Spanish Crown in preservation of the racial caste system and their power. The hegemonic impact of these provisions are long-lasting, as we see in the request how these provisions will last for several generations: "Your lordship shall likewise request his majesty to make them perpetual, or at least to extend them for three additional lives." The impact these provisions have had on Indigenous communities is a critical element to reflect upon when assessing racism.

I referenced the language used in the Royal Order, but I located an example (Simpson, 1950) that may have been a very similar, if not identical, reflection of the original order.

Therefore, I chose to analyze that document for this study (See Appendix 1):

Don Francisco de Montejo [sic Don Juan de Onate], Adelantado and Governor and Captain-General and Captain-General for his Majesty in the jurisdiction of Yucatan and Cozumel and Higuera and Honduras, and of their lands and provinces, by these presents, in his Royal Name, I give in encomienda and repartimiento to you, Antonio de Vergara, citizen of the Villa de Santa Maria of the Valley of Comayagua, the town of Taxica, which lies within the boundaries of the said Villa, with all its lords and caciques and nobles, and the divisions and subject villages of the said town, so that you may use and profit by them in your estates and commerce, provided that you indoctrinate them and teach them in the things of our Holy Catholic Faith, and treat them according to the Royal Ordinances which have been issued, or which may be issued, for the good and increase of the said Indians; and in this I charge your conscience and discharge that of his Majesty of mine; and if anyone should do the contrary I condemn him to pay a fine of fifty pesos of good gold for the King's treasury and exchequer; and in his Royal Name I give it you in remuneration for your services and hardships and expenditures, and for the services which you have rendered his Majesty in the conquest and pacification of the jurisdiction of Higuera and Honduras. Done in this city of Gracias a Dios [Thank God], the seventh day of May, 1544. The said repartimiento and encomienda I grant unto the said Antonio de Vergara without prejudice to any third party. (Simpson, 1950, p. 203)

This first data set establishes the language used in order for the dominant group to establish its power and superiority in the racial hierarchy. This document cements in law the

permission granted and initially sets the tone for “divide and conquer” by using an “us and them” dichotomy. The use of the “us and them” dichotomy has been shown to establish division between groups. This includes a separation along racial lines. It may also serve as a means to establish who is to gain the benefits of a racialized hierarchy. The use of this dichotomy also perpetuates “divide and conquer” as a legacy of colonization. This is key for understanding how the remaining data and discourse produced by the dominant group serves as the hegemonic mechanism for the maintenance of unearned “rights and privileges.” For each of the next data sets I will cite exemplars from each of the categories used for analysis.

The first category is Constructing of Groups (CoG). The following exemplar was used to establish the racial hierarchy and assigns the role of the two races involved by identifying who is in the superior role and who is in the inferior role:

[W]ith all its lords and caciques and nobles, and the divisions and subject villages of the said town, so that you may use and profit by them in your estates and commerce, provided that you indoctrinate them and teach them in the things of our Holy Catholic Faith, and treat them according to the Royal Ordinances which have been issued, or which may be issued, for the good and increase of the said Indians. (Simpson, 1950, p. 203)

In addition, it establishes longitudinally the socioeconomic status of both groups by also establishing who is in a master role and who is in a “servant” role, as the data will note. The second exemplar cited constructs how the document also establishes whose knowledge, religion, and general level of intelligence are superior, “indoctrinate them and teach them in the things of our Holy Catholic Faith.” The language used by the Spanish separates the Spanish from the “Indians” by using “them” to distinguish the racial and superior roles of the each group.



Furthermore, by using the term “indoctrinate” it establishes the racial group that is in the role to be acculturated based on the ideology, values, teachings, and religious beliefs of the “Spanish.” The use of this language further establishes the racial divide employed by the “Spanish” to justify the oppression and colonization of the “Indians.” Also, the abuse and genocide of the Indigenous populations was then justified because they were placed in the position of inferiority. The word “indoctrinate” can be used to maintain dominance in the realm of knowledge. It serves to further dehumanize the inferior group by establishing that they need to learn the ways of the superior group. It is also used, not only in a textual sense but also in the act of indoctrinating, which was not done humanely and was perpetrated by violence (Simpson, 1950). To indoctrinate is also the equivalent of devaluing the beliefs, practices, and values of the “Indians.” Lastly, the use of the word “teach” further establishes who is in need of education. By the nature of the superior group being in a position to “teach,” the inferior group reflects students in need of education. This reinforces dominance and superiority.

The next exemplar analyzed under the Constructing of Groups (CoG) category maintains the justification of the treatment that was about to be unleashed. The Spanish used language to reason away the maltreatment, because, after all, these violent acts were performed, “[F]or the good and increase of the said Indians; and in this I charge your conscience and discharge that of his Majesty of mine” (Simpson, 1950, p. 203).

This is a common strategy of dominant groups who, in this case, are imposing colonization because of the belief and ideology connected to religion and the idea of “manifest destiny” (Gomez, 2008) and greed. When a group of people believe their destiny is created by God, the “God complex” becomes a rite of passage for those believers. So much so that they will put their lives in harm’s way in order to fulfill their belief and commitment to their God.

This belief also allows for the abuse, genocide, and continued oppression of people who look and sound different from what the dominant racial group has been taught is a part of God's children. This belief system is profound and present in many New Mexicans who dismiss the behaviors of their ancestors in order to enjoy the benefits of white privilege (Lipsitz, 1998; McIntosh, 1990). This belief has become so engrained in the minds of young Hispanics, men especially, who barbarically beat their chest with pride for the power they receive from a history that has been sold to them just as tourism is sold in New Mexico. This history is sold as a commodity of culture, of power, of racism for future generations.

The next exemplar establishes how the role of the slave labor system (*encomienda*) was established and how the language used "protected" the colonizing group. This protection was preserved in law, which is a common strategy according to CRT: "put you in possession of the said Indians and to protect you in it."

This language preserves the use of human beings for the unearned benefit and privilege of one group's belief in racial ideology. It allows for the possession of human beings, and subjects them to a life of servitude with the loss of family, language, land, crops, hogans, livestock, and a subservient existence for generations. The next exemplar further cements the *encomienda* slave labor system, a system that was protected by law with the potential of whites to profit by the work the colonizer conducted in the "pacification." "[A]nd in his Royal Name I give it you in remuneration for your services and hardships and expenditures, and for the services which you have rendered his Majesty in the conquest and pacification of the jurisdiction" (Simpson, 1950, p. 203).

In addition, the term "Indians" is used as strategic language to describe and construct the "other" in legal discourse established by a racial hierarchy. The letter "I" was used as an

abbreviation and is also noted in my analysis in the appendix. This label constructs the identity of a racial group being dehumanized and established as the lowest level in a racial hierarchy. It also serves as a way for the colonizer to establish who the enemy was and the military actions to follow.

The next set of exemplars refers to the military rank, such as Governor, Don, and Capitan, to include, “with all its Lords and caciques and nobles.” I conclude that this practice maintains the reflection of the military rank of many of the slave owners, further establishing superiority as well as serving as the legal implications for treason. The use of these terms also perpetuates a racial hierarchy linked to military superiority and authority.

The following is yet another closing exemplar establishing the “privilege” crystallized in law by this RC:

Don Francisco de Montejo, Adelantado and Governor and Captain-General for his Majesty in the jurisdiction of Yucatan and Cozumel and Higuera and Honduras, and of their lands and provinces, by these presents, in his Royal Name, I give in encomienda and repartimiento [distribution] to you.

The language used in the above exemplars further cemented the encomienda slave labor system and established the current socio-economic status (SES) and the Order of Groups (ORoG) to receive resources. It also reflects which racial group was intended to be the slave labor. The use of the term “Indian” puts them last in the racial hierarchy by their assignment as the “servants.” We also will see this label introduced in the census data. The order of who is spatially labeled on the paper first, second, and so on is not by accident (Allen, 1999). The intent is to reinforce the racial hierarchy by placing “the said Indians” in the position of servitude and further establishes with the language how the master “may use and profit by them.”

It is important to note as I move into the “Othering” of Groups (OoG) category that some of the exemplars fit into related categories and may be cited as having multiple meanings. For example, the exemplar “may use and profit by them” not only establishes the resource allocation with the racial hierarchy, but it also serves as an “othering” strategy by further establishing who is the master and who is the “servant” without directly stating this. Using the term “them” maintains difference and further illustrates division between groups. The continued use of the term “Indian” furthers this division and their status as the “other.” By allowing one group to profit from another it reinforces who is the master and who is the slave. The last exemplar cited for this section is “the said Indians.” The use of this framing of the language further reinforces the group who has been pushed to the margins of the United States and the State of New Mexico. It also shows how one group may “use” a group like a commodity or “beasts” to carry out the needs of those in power.

The Eliminating/Exclusion of Groups (EoG) category of analysis is consistent throughout my data sets with the exception of the contemporary discourse in that no other racial groups are noted in this document, or the others; the only two are “Indians” and “Spanish.” The exclusion of Mexicans, or any other race groups, may serve as another strategy to maintain a racial hierarchy with clear racial lines.

### **The Power of Language Use for the Projection of “Self”**

In the above analysis you can also note how the “Spanish” are simultaneously creating their identity, or future projection of their identity, in their newly conquered land. This identity was created by using language in order to shape their predetermined destiny in the eyes of God by way of “manifest destiny” (Gomez, 2007). As I noted in the above analysis, the power of the dominant racial group is to use language not only to create identities of “theirs” and “others,” but

also to change their identity as needed when seeking resources (Foley, 1997; Nieto-Phillips, 2004). The power to manipulate language also places the “Spanish” in a position for creating property interests, not only land property but human property, by their plan to utilize “Indians” as a slave labor force in the *encomienda*. The dominant racial group is able to, again, simultaneously establish ownership of property and who was to benefit from the revenue generated by use of those lands for mineral mining. In the discourse we see how a dominant group can claim land that was already occupied while also claiming the human resources already established for thousands of years. Furthermore, the property ownership comes into play when the dominant group uses language such as, “so that you may use and profit by them in your estates and commerce.” The arrogance and persistence to expand their fortune came at a cost to Indigenous people.

The claim of ownership and positioning of groups reifies the RC even further by legally allowing for the colonization, maltreatment, stealing of land, and the destruction of people’s dreams and existence. This claim to ownership is clearly outlined in the above document. As I have said prior to this chapter, this is an example of what the Royal Order (*encomienda* act) may have stated specifically to allow Don Juan de Onate the “right and privilege” to expand the Royal Crown. I am continuing to search for the original document so that there is no debate as to the language that was used to cement racism for generations to follow. I must note that I have searched the State of New Mexico Archive Library, on-line resources surrounding the history of New Mexico, and most recently I have reached out to the Hispanic Cultural Center which noted that this document has never been requested. As I examined the documents further, I was able to find the language referenced in the original Royal Order (Hammond & Rey, 1953). Furthermore, according to Espinosa (1988),

It was forty years before the next expedition into New Mexico was organized. As the frontier of New Spain advanced northward, interest renewed in the Pueblo Indian country. Meanwhile, in view of the oppressive characteristics of the old-style military conquests of the early *conquistadores* in America, and after the passage of several decrees, the Royal Ordinances of 1573 defined more precisely the policies to be followed in making new discoveries and settlements in Indian lands, with the emphasis on peaceful conquest. The definitive ordinances of 1573 do not use the word conquest, using instead the word *pacification*. (p. 5)

One of the most important aspects of this history, which I found from the exploration of this document, was how King Phillip II called for the care of natives in Onate's military action and racial project. This was in direct contradiction to the history I have researched and others have noted. In fact, the brutal slaughtering of women, men, children, livestock, and destruction of their subsistence was imminent. For example, one passage written by Onate to King Phillip II reads as follows:

First, I bind myself to carry out the said discovery to the best of my ability by peaceful means, friendliness, and Christian Zeal. The people under my command I shall govern with the greatest Christian generosity in order that our Lord and his majesty may thus be well served. Your lordship shall issue my instructions, according to what may seem most fitting to you and that will rebound and in greater service to God our Lord and his majesty, to the welfare and pacification of that land, the conversion of natives, the spreading of the holy gospel and Christian teachings, and all the means that may seem appropriate to follow in the pacification. And in the case of the natives refusing to submit peacefully to the knowledge of the Christian faith, hear the evangelic word, and

render obedience to the king our lord, you shall command what we are to do with them, in order that we may act in all cases in accordance with the evangelic law, the commands of the Catholic church, and with what his majesty's ordinances teach and command in such cases. Also you shall explain what measures are to be taken in the order to collect, in a Christian manner, the tributes that may be imposed on the natives for the benefit of the royal crown and those who may be in charge of the said conquest. (Hammond & Rey, pp. 47-48, 1953)

This passage further illustrates the projection of what the "Spanish" had come to believe they were: superior to "natives" through their many conquests and established racial hierarchy. They also saw themselves as the saviors of "natives," which calls for the "natives" submission to "evangelic law." This exemplar is also reflective of the consequences for a lack of submission "peacefully," yet talks about the "Christian manner" and is yet another contradiction to how most "natives" were treated in New Mexico.

The following exemplar is the response from Viceroy Don Luis de Velasco to the above request in the Royal Order: "Let him be issued instructions both for the arrest of those guilty of entering New Mexico against the orders of his majesty, as well as for the pacification and conquest of those provinces and the protection of natives" (Hammond & Rey, pp. 47-48, 1953). This passage illustrates the allowance for the treatment of "natives" and for the legal implications for those who didn't surrender.

In closing, Table 4.1 presents the frequency of the color-coded categories in the example of the 1544 encomienda act (Royal Order). This was done for each piece of data. This is important because it establishes the presence of language that relates back to the categories of analysis while also providing a snapshot of the text used to maintain power and a racial

hierarchy. This racial hierarchy is significant because we will continue to see this hierarchy play out into the 21<sup>st</sup> century. This hierarchy is so entrenched in all the fabric of the laws in the State of New Mexico. It would be a mistake to not engage the language that is used in the documents in order to preserve this hierarchy.

Table 4.1

*Frequency of Categorical Presence: 1544 Example Encomienda Act*

Category of Analysis	Frequency of Categorical Presence in Encomienda Act
Constructing of Groups (CoG)	6
Order of Groups (ORoG)	4
“Othering” of Groups (OoG)	2
Eliminating/Exclusion of Groups (EoG)	1

The data coded above reflects the existence of text that intended to establish a racial hierarchy, or caste system, in the Americas. The text also allowed for the colonization of the “Indians” and reflects the intent to establish racial superiority. This was the start of the racial project, and more specifically the racial contract (Mills, 1997). In the next data sets the terms and language used further establishes the implementation of the Royal Order and encomienda. It is also factual data that the slave labor system and positionality of white supremacy through ownership and the power to write racial groups in and out of existence was controlled by whites. The power to use language to shape the racial makeup of the citizenry is also telling of the “Spanish” wanting to reflect racial purity in a two-race hierarchy, despite this land being occupied by Mexico prior to Spanish conquest.



## Conclusion

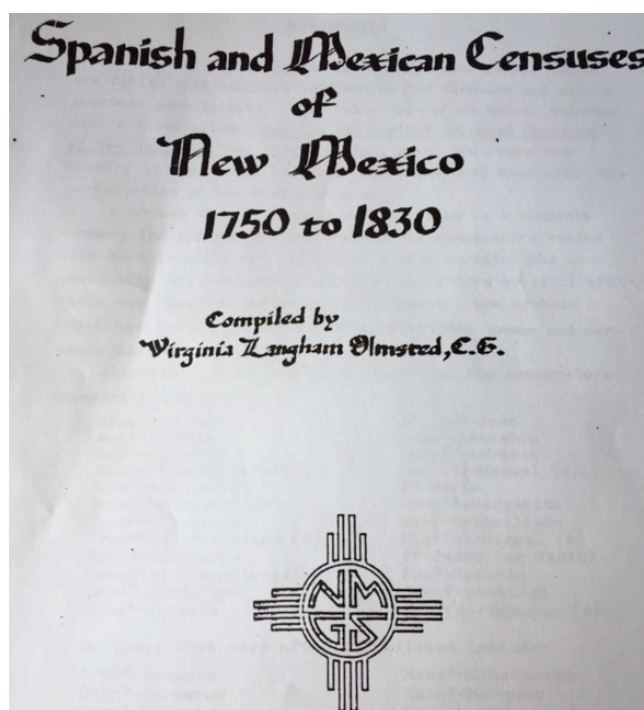
This historical initiation of the racial contract in the *encomienda* act is an example of how language is used in order to establish and preserve the racial hierarchy. I explored the language the legal discourse utilized to construct and maintain a racial hierarchy in the *encomienda* act and in the Spanish and United States census data. It is clear by the textual analysis that the “Spanish” used specific language in order to preserve the caste system racial hierarchy. The language I have cited in the exemplars in this chapter positions one racial group in an inferior position in the race hierarchy and one in the superior position in the hierarchy. Specifically, the “Spanish” dominant racial group was in a position of power to write the law. In order to construct the racial hierarchy in the Americas they used words such as “so that you may use and profit by them in your commerce,” “indoctrinate and teach them,” “teach them in the ways of the Royal Ordinances,” and “if anyone should challenge this they shall pay.” Through the use of this type of language and referential strategies the caste racial hierarchy is maintained and supported in law. The legal discourse also establishes superiority and a clear separation of races by using an “us and them” dichotomy throughout. Furthermore, the specific reference to the legal and military superiority is another referential strategy that establishes and maintains dominance and clear racial hierarchy. The language used in the textual exemplars cited in this chapter clearly address research question one by highlighting the way the “Spanish” used language in order to create legal ramifications against those who oppose this law.

In the next data set, the terms and language used further established the implementation of the Royal Order and *encomienda*. It includes factual data that demonstrates the slave labor system and the positionality of white supremacy through ownership. The power to write racial groups in and out of existence was controlled by “Spanish” whites. In addition, the power to use

language to shape the racial makeup of the citizenry is also telling of the “Spanish” wanting to reflect racial purity in a two-race hierarchy, despite this land being occupied by Mexico prior to Spanish conquest.

## Chapter 5: Two Hundred and Forty-Seven Years of Servitude Reflected in the Census Data

Since 1598, up to 1845 in New Mexico “Indians” have been claimed as human capital for the benefit of the white dominant group, the “Spanish.” The contemporary role of census data may have significant political implications given the changing racial landscape of our nation. Collecting of the census data may frame the group in power’s social and political desires to shape the citizenry, or to define the nation. This may be done strategically in order to maintain racially purity and clarity. Gomez (2007) describes how the census “has become implicated in interest group and electoral politics” (p. 150).



*Figure 1.* Spanish and Mexican Censuses of New Mexico 1750 and 1830. (New Mexico State Archives Museum).

This description supports the effort of the “Spanish” to continue to define themselves and their subordinates. It allows for the “Spanish” to exclude racial groups, like Mexicans, from the census to include any “other” race that may have been present in New Mexico during 1750-1845. The significance of the documents presented in Figures 1 and 2 is reflective of the implementation of the racial caste system during and prior to colonization, and continuing in the census documents and through contemporary times.

A significant use of strategic language exclusion is evident here; although there is inclusion of the caste racial system, the elimination of Mexicans in the census data is noted throughout. The power to determine who is included in the census data and who is excluded is also another benefit of the RC for whites. This strategy is the Spaniards’ attempts to maintain racial superiority and purity. The fact that there was Mexican presence prior to and after colonization shows a continued use of power in the law and language to determine who, by law, was white (Alexander, 2012; Delgado et al., 2000; Lipsitz, 1998). As the document in Figure X reflects, there is evidence of inconsistencies from one census enumerator to the next as “many of the enumerators seem to have been careless in their interpretations of the various ethnic [racial] terms.”

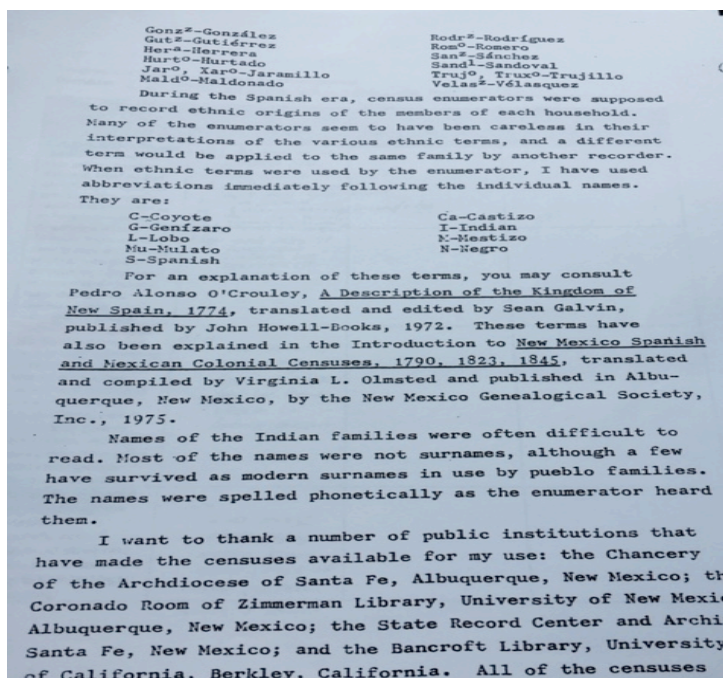


Figure 2. Introduction of the Census: Reflection of Spanish Caste System. (New Mexico State Archives Museum).

An important trend to also note throughout all three census data sets is that the only two racial groups identified, as is the case in ALL of the documents I have analyzed, there are not any other racial groups reflected other than “Spanish” [white] and “Indians.” Yet again, this power is pervasive and consistent and validates the operation of a Racial Contract following the initiation of the racial project (Mills, 1997).

From 1598 to 1750 the landscape in the province of New Mexico is one that also flowed with crimson red from the blood shed by both the “Spanish” and the “Indians.” This tumultuous history between racial groups led to one of the more pronounced revolts by Pueblos in 1680 against Spanish rule (Espinosa, 1988; Gomez, 2007; Nash, 2000; Nies, 1996). It was evident during this time that there were still many questions and debates over the use of the “Indians” as slave labor. It was also a time when Governor Juan Francisco Trevino of New Mexico served (from 1675-1677) and at that time drew into question the religious practices of the Pueblo

“Indians.” It is recorded that in his first year in command he ordered the persecution and public whipping of religious leaders. Some leaders were arrested and four were hung. It is said that these violent acts were perpetrated in order to further weaken the spiritual practices of the “Indians” and also to try to destabilize their leadership, which led to the Pueblo Revolt of 1680. Shortly after the hanging of the religious leaders Trevino was taken captive. His life was spared for the release of the religious leaders who were still alive. This was a time that led to the ousting of the “Spanish” to their southern encampment in El Paso del Norte. After 11 years, in 1692, Diego de Vargas pushed back into northern New Mexico for the Spanish Recolonization of New Mexico. With this history noted, it brings us to the examination of other related, historical information. As I have noted, the census data is a key element for proving that a slave labor system existed. The racial hierarchy was fueled by white supremacy and preserved through language. The power of one superior racial group to benefit from another has long been a history of oppressive and racial projects leading to racial contracts.

The next data set I analyzed was selected in order to connect the 1544 encomienda act discourse to the text I analyzed in the census data from 1750, 1822, to 1845. This connection is critical because it establishes the link between the theory of manifest destiny and a white supremacist ideology to the subsequent application of racial hierarchy. Initially in my prospectus study, and at first glance, my impression was that the use of the term “servant” in the census document might have been removed over time. Also, I initially thought it might have been used but later changed and used more covertly. However, after closer analysis, there was a decline in its use because not as many families owned servants, but enslaved “Indians” were still present from 1750-1845. I would argue that the use of the term “servant” goes far beyond 1845 and into the projection of the “Indian” identity in educational systems. The three census documents I

coded (the years 1750, 1820, and 1845 from the Villa de Santa Cruz de la Canada) showed that the number of “servants” changed: 129, 10, 34 (see Table 4.2). So although there was a decline in 1820, the number increased again in the 1845 census document.

As I was conducting my analysis, a question kept presenting itself: Why is the use of the term “servant” so important to my study? First, the use of this term maintains an identity and positionality within a racial hierarchy connected to historical discourse. It establishes the racial contract (Mills, 1997) and ownership of the human body. The following quote provides a descriptive outline of the RC and how the signatories of this contract may or may not have been willing parties, but they become a party to it regardless of their agreement:

The Racial Contract is that set of formal or informal agreements or meta-agreements (higher-level contracts about contracts, which set the limits of the contracts’ validity) between the members of one subset of humans, henceforth designated by (shifting) “racial” (phenotypical/genealogical/cultural) criteria C1, C2, C3...as “white,” and coextensive (making due allowance for gender differentiation) with the class of full persons, to categorize the remaining subset of humans as “nonwhite” and of a different and inferior moral status, subpersons, so that they have a subordinate civil standing in the white or white-ruled polities the whites either already inhabit or establish in transactions as aliens with these polities, and the moral and juridical rules normally regulating the behavior of whites in their dealings with nonwhites or apply only in a qualified form (depending in part on changing historical circumstances and what particular variety of nonwhite is involved), but in any case the general purpose of the Contract is always the differential privileging of the whites as a group with respect to the nonwhites as a group, the exploitation of their bodies, land, and resources, and the denial of equal

socioeconomic opportunities to them. All whites are beneficiaries of the Contract, though some are not signatories to it. (Mills, 1997, p. 11)

This discourse, based on these tenants of the RC, positions one race in a superior role as the “master” and one in the inferior role as the “servant.” Despite the first use of the term “servant” surfacing in the 1750 data, I would argue that the caste system that was implemented in the first Royal Order issued to Juan de Oñate was established with the earlier onset of societal roles. The structuring and implementation of the *encomienda* is also validated by the use of the term “servant.” If a slave labor force was not established there would be no need to distinguish between people and “servants,” and this reifies the RC I have outlined. The Royal Order also legally sanctioned the inhumane treatment of “Indians” by granting permission through “manifest destiny” (Gomez, 2007) to profit from “Indians” through the use of their bodies as a commodity.

Second, the use of the term “servant” is important to my study because it maintains an identity for “Indians” which they have never symbolically shed. In the societal, political, economic, and educational landscape of New Mexico, “Indians” have been positioned on the last rung of the racial hierarchy ladder, which was created when the royal order was established and contact was made in the Americas. This fact has Indigenous groups in the region facing social determinants of health. The term also reflects an identity that was created through the exclusion of racial groups who were also present during this time—when this land once belonged to Mexico. Furthermore, the term “servant” creates a perception in the mind of the children born into slavery about who they are and who they are to become in the future. These perceptions may have children blaming themselves for being abused and settling for a life of servitude. These types of beliefs are an example of internalized oppression as described by Freire (1993) in



his book *Pedagogy of the Oppressed*. These beliefs then become behaviors that are engrained in every social interaction and relationship for the adults who were born into slavery and labeled a “servant.” This very basic process of internalized oppression is much more complicated and needs further research and exploration. However, without conducting critical research that identifies and validates this process and the experiences of students of color the cycle of racism and institutional racism will persist and prevail.

Third, the term “servant” is important to my study because it shows how the role of “Indians” or “servants” continues into 21<sup>st</sup> century society. It also impacts the socio-economic position of poverty in New Mexico and the United States. The term “servant” has also detrimentally impacted Indigenous groups psychologically, emotionally, physically, and symbolically for future generations battling the wages of whiteness. Table 4.2 illustrates the frequency in each of the census data in which the term “servant” was used to show the ownership of “Indians” by the “Spanish.”

Table 4.2:

*Use of the Term “Servant” in Census Data by Year*

1750	1822	1845
129 “servants”	10 “servants”	34 “servants”

The ramifications of this position, this identity, were noted in political documents that we have access to, including letters from the President to Congress (Delgado et. al, 2000) outlining the intent of the government to oppress this groups of people. It is also important to note how this positionality and identity were further cemented in media discourse with the introduction of newspapers, according to Gonzales and Torres (2011).

Another element that is socially significant and arises from others' work (Nieto-Phillips, 2004) is why/how did certain "Indian" people became known as *genizaros* [*janissary*]? *Genizaros* were better known as "Indians" who chose to stay in "Spanish" families and may have become loyal following the end of the *encomienda*, or they had no other choice. I don't understand this practice and need to do more research to establish the connection to my study. This may have contributed to the decline of the use of the term "servant" after 1845, and those adopted members of the "Spanish" families may have been given "Spanish" names. The use of "Spanish" names was reflected in more contemporary discourse. Keep in mind that the three census documents are from one villa (small city, town) in northern New Mexico: Villa de Santa Cruz de la Canada.

The connection to the text and the terms used in the census data were somewhat limited, but impactful nonetheless. The continued use of male names, the term "servants," and the use of military ranks maintain the racial hierarchy connected to white supremacy. It also maintains the patriarchal heteronormative ideology implemented at that time. Furthermore, the exclusion of other races in the census data eliminates Mexicans (Gomez, 2007) and other races from the records in New Mexico during this time period. We must not assume this is an oversight, but an intentional exclusion to maintain white supremacy (Foley, 1997). Tables 4.3, 4.4, and 4.5 connect the textual exemplars in the census data to some key ordering strategies and the maintenance of the racial hierarchy. It is important to note that on the actual census documents housed in the New Mexico State Archives Museum in Santa Fe, New Mexico, a breakdown of the races in the caste system are illustrated on the cover. Tables 4.3-4.5 specifically reference the census data, which I argue is the evidence reflecting the racial hierarchy further embedded in the discourse and proof of the existence and continued use of the *encomienda* slave labor system.

The analysis of the census data allowed for the supposed neutral and factual information in government documents. These documents are also proof of the slave labor system, or *encomienda*, and its reach into the 1845 census as the term “servant” is present up to this point in time. The historical trauma and generational positioning of “Indians” in an inferior role have been long-standing “family” secrets in the United States. The United States innately and barbarically banged its chest as the 500-pound gorilla imposing its power as the capitalistic machine continuing the European expansion established by the “Spanish” to colonize. It is telling how the shift or exclusion of the language once used to establish humans as property and reflective of ownership vanishes as the United States claims to be more civilized. However, my research shows the presence of “Indian servants” into 1845 despite the exclusion of this oppressed group in the development of the United Constitution in 1787 (Alexander, 2012; Delgado et al., 2000). Regardless of the exclusion of the language in this legal discourse, and continuation of the RC, “Indians” and all races other than “white” (Spanish) maintain the bottom rungs of the social, political, socio-economic, and educational systems. The exclusion of the “servant” or “slave” label does not eliminate social, political, or educational systems that have been structured to maintain the caste system, capitalistic and paternalistic ideologies, and white supremacist interests at all levels. In addition, the exclusion of this language does not relinquish responsibility and “ownership” of the legacies of colonization, which include abuse, reparations, generational trauma, oppression, and numerous impacts on “Indian” social determinants of health and wealth.

The choice the United States government made to not use the word “slave” in the 1787 United States Constitution because the founding fathers thought it would “stain” the development and integrity of the youngest country was strategic. This choice was a reflection of

how the ownership of African Americans and Native Americans were not recognized as contributing to the success or development of the cultural fabric of the United States. Today, neither the “Spanish” nor the “Americans,” which I argue are the same racial group, wants to admit the contribution of non-whites. The “Spanish” helped build the United States through the taking of Indigenous lands, resources, and through the use of slave labor. The use of the term “slave” or “servant” places blame and responsibility on the owner for the treatment of the “property.” It also links this responsibility to larger macro systems and structures of oppression. What does this level of responsibility also do for reparations?

Prior to analyzing the census data, it is important to also note other slave laws that were prevalent during this time period in the United States. It was not uncommon for the “slave codes” to have an inherent application of cruelty and violence. The state of Virginia was the leader in writing slave codes and specifically called for harshness, which was directly connected to the goal of denying slaves their humanity and dignity. These were tactics meant to establish dominance and to send a clear message of who was in control by turning blacks into property. The ultimate goal was to obtain free labor, establish superiority, and to deny blacks their place in society as equal to whites (Delgado et al., 2001). Similarly, these were tactics that had already been established by the Spaniards in their most recent colonization of the “Indians,” which was still taking place in the West. The tactics the Spaniards implemented relative to the enslavement of human beings were also reflected in those implemented by many Americans prior to and leading up to the Civil War. The framers of the United States Constitution were very clear in their perspective of whites being superior to Negros, Mulattos, and Indians (Delgado et al., 2001). The following are examples of this legal discourse that outline “directing the trials of Slaves, committing capital crimes; and for the more effectual punishing conspiracies and

insurrections of them; and for the better government of Negros, Mulattos, and Indians, bond or free” (Delgado et al., 2001, p. 108). There are a total of sixteen statues of the Slave Laws of the State of Virginia from May of 1723. I will cite three of these statutes that are most pertinent to my study and establish the use of language and ideology leading into the census data I analyzed:

- I. Whereas the laws now in force, for the better ordering and governing of slaves, and for the speedy trial of such of them as commit capital crimes, are found insufficient to restrain their tumultuous and unlawful meetings, or to punish the secret plots and conspiracies carried on amongst them, and known only to such, as by the laws now established, are not accounted legal evidence: And it being found necessary, that some further provision be made, for detecting and punishing all such dangerous combinations for the future.
- II. Be it enacted\*\*\*That if any number of negros, or other slaves, exceeding five, shall at any time hereafter consult, advise, or conspire, to rebel or make insurrection, or shall plot or conspire the murder of any person or persons whatsoever, every such consulting, plotting, or conspiring shall be adjudged and deemed felony; and the slave or slaves convicted thereof, in manner herein after directed, shall suffer death, and be utterly excluded the benefit of clergy, and of all laws made concerning the same.
- IV. And to the end, such Negros, Mulattos, and Indians, not being Christians, as shall hereafter be produced as evidences, on the trial of any slave for capital crimes, may be under the greater obligation to declare the truth, *Be it enacted*, That where any such Negro, Mulatto, or Indian, shall upon due proof made, or pregnant circumstances appearing before any county court within this colony, be found to

have given a false testimony, every such offender shall, without further trial, be ordered by the said court to have one ear nailed to the pillory, and there to stand for the space of one hour, and then the said ear be cut off; and thereafter, the other ear nailed in a like manner, and cut off, at the expiration of the one hour, and moreover, to order every such offender thirty nine lashes, well laid on, on his or her bare back, at the common whipping post.\*\*\*

These three statues provide examples of the language of the white supremacist dominant ideology in place parallel to the enslavement of “Indians” in New Mexico. The language used in this discourse also reflects the superior position the whites placed themselves in to have power over the meeting or congregating of slaves. This power was intentional in order to maintain the “divide and conquer” tactic I have identified throughout my study. Lastly, the sentiment of the language used also provides some context for the analysis of the census data I will describe over the next several pages.

More specific to New Mexico, a 2005 blog, African American News and Genealogy (Kenyata, 2005), references the La Historical del Rio Abajo and outlines several key aspects of the more specific slave codes of New Mexico. This information further establishes the presence of the racial contract. According to Kenyata, “New Mexicans have practiced various forms of unfair, often brutal human bondage, from chattel slavery to debt peonage” (2005) at different points during colonization. Kenyata goes on to state that those enslaved included Indians and Blacks since the early acts associated with colonization. She notes that millions of “Indians” died across the United States due to dangerous work conditions in the mines and also from working in the fields under harsh conditions. Kenyata also notes the constant slave raiding that took place between both the Spanish and Indians. She reports that Indians would capture

Spanish children so the Spanish felt justified in their raiding of Indian children. Although my research didn't find any reference to this practice, it does need to be further explored. The following is a lengthy quote that captures these practices and outlines some of the legal discourse supporting this practice within the racial project and upholding the racial contract,

Cibolleta, near the pueblo of Laguna in what was once Valencia County, became the center of raiding activities against the Navajo to the west and northwest. Navajo children captured by Spanish raiders from Cibolleta sold for about \$500 each (in U.S. currency). Wealthy Spanish families often gave a captive child as a wedding gift, with the understanding that the child would serve the newlywed couple as a loyal household slave through much, if not all, of their marriage. Spanish slavery was similar to the English slavery practiced in the British Empire on the East Coast of North America. With rare exceptions, Spanish and English slave owners abused their laborers, both at work and in their private lives. Attractive female slaves were particularly vulnerable to abuse by sadistic male masters. (Kenyata, 2005)

This gives us a lens to look through for the treatment the “servants” experienced in their human existence, stripped of all of their cultural values and future as a whole. Here is another excerpt:

Born in Valencia County, Miguel Antonio Otero Sr. served as the territory's Congressional delegate in Washington, D.C., in the last four years prior to the Civil War. After marrying into a Southern slave-owning family from South Carolina, Otero strongly favored Black slavery and Southern interests overall. (Kenyata, 2005)

While Black slaves were considered permanent property for their English masters, “Indian” slaves in the “Spanish” empire could only be in captivity for a certain period of time, usually twenty years. If they survived their years of captivity, Indians were able to leave their

Spanish masters.<sup>2</sup> There are several aspects of the “slave codes” more specific to the “Spanish” rule which were introduced and passed by Otero in 1859, they include:

- Any Black slave who was insolent in his behavior towards whites could receive a whipping of as many as the 39 stripes across his or her back.
- Slaves could not testify against whites, and inter-racial marriages were strictly forbidden.
- Slaves found guilty of rape faced the death penalty.
- The code also included harsh provisions for those who might attempt to help slaves escape.
- Any person found to have aided in such an escape could be imprisoned for between four and ten years.
- The capture of runaway slaves was encouraged with a reward of at least \$20, plus ten cents a mile for expenses incurred in the pursuit. (Kenyata, 2005)

These codes were more specifically created for Black slaves, but we must question the extent to which “servants” were all treated the same, given the perception that “servants” were not “human.” Kenyata’s (2005) blog also explored a master’s thoughts from the Southern states after visiting New Mexico who explained that the only difference between black slavery and debt peonage (which went on into 1911) was that the black slaves were sold as chattels in the marketplace whereas Indians weren’t. He noted the outcome to be the same as any other “racial project” including slavery in the Americas and that this was only a “charming name for a species

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<sup>2</sup> But where could free Navajo or Apache slaves go? After 20 years among the Spanish, they knew more about Spanish culture, from the Spanish language to the Catholic religion, than their own native culture, especially if they had been taken from their families at an early age. They could hardly feel comfortable among their own people, if they were fortunate enough to find their nomadic tribes after so many years. These displaced, freed Indians, commonly known as genizaros, were literally caught between two cultural worlds. Many solved their cultural dilemma by simply remaining with the families they had formerly served in bondage. Often treated as faithful old servants, they lived out their lives in the only culture they had ever really known. Other genizaros were given the opportunity to settle on community land grants with other genizaro families. Tomé was founded in 1759 by one such group that could enjoy their freedom from bondage and at least live among others like themselves, rather than as servants in a near-slave-like existence. (Kenyata, 2005)



of slavery” (Kenyata, 2005). The blog noted that on the eve of the Civil War there were approximately “30 black slaves and about 85 freed black slaves in the entire territory” (Kenyata, 2005). Finally, according to Kenyata (2005),

It was not until 1911, 46 years after the official end of slavery, that a series of U.S. court decisions found all forms of peonage to be unconstitutional. Despite this federal ruling, the last partido contract that historians have located in New Mexico dates from as late as the 1930s. New Mexico has thus had the unenviable reputation of probably having had the greatest variety of human bondage and the highest percentage of people in bondage over the longest period of time of any state or territory in U.S. history<sup>3</sup>.

I now present my analysis of the census documents. These documents established the perpetuation of the racial contract and, more specifically, the maintenance of white supremacy and the caste racial hierarchy. I start this analysis with the 1750 census.

### **1750 Census Data: Villa de Santa Cruz de la Canada (See Appendix C)**

The Constructing of Groups (CoG) in the census data initially may seem limited in its abundance of meaning, but it is quite to the contrary. In this case, it makes it even that more detrimental to use the documents I analyzed as building blocks for each other because drawing conclusions from one year may be inconclusive. The first document I analyzed established the racial hierarchy, the ideology, the encomienda slave labor system, and the law that maintained this power. The next three sets of census data continued the support of the racial efforts noted, which was the foundation of the racial project (Mills, 1997). Here is an example of what is listed in all of the census entries: “Lieut. JuJoseph Sandoval, his wife, 6 children, 1 female servant.” In

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<sup>3</sup> I selected this blog as a reference due to its detailed description of events that at times during my research seemed to be hidden very well. I have requested the full reference page for this work so that I may analyze this work as I move forward.

each census document, the military rank includes only the names of males, the wives is not named, nor are the children. This example includes one female servant. No ages are listed, which changes in the other census data analyzed later.

In the census, the male is the only person named, further establishing male dominance, hetero-normativity through hetero-patriarchy. Hetero-patriarchy can be identified as another familial/societal ideology that is reflected in the discourse to include a white supremacist ideology (WSI). This is a significant factor because many Indigenous populations operate under a matriarchy, but upon being colonized by the Spanish, the imposing of the contemporary patriarchal ideology took hold. This puts ideologies in further conflict. The military rank separates the superior military male from “others.” Also, the nameless wife and children still are maintained as the “other” based on their being listed before the “servants” but not being given any other identifying markers.

The exemplars for the Order of Groups (ORoG) are the following: “Lieut. JuJoseph Sandoval, his wife, 6 children, 1 female servant.” This exemplar clearly shows the racial hierarchy: those listed first being in the superior role in the hierarchy, and the inferior members listed in their order following the patriarch. The ordering of those listed starts with the male with military rank, followed by the wife and children, listed without names. Then the “servants” are noted with only the gender indicated. These tactics are extremely dehumanizing and serve as constant reminders of the enforced racial hierarchy. It is also telling that only two races are reflected in this data. Given Mexico being in occupation, and other Indigenous groups being in the area prior to the Spanish colonization, it is telling as to why they are not counted in any of the three census documents. This tells me that the “Spanish” wanted to maintain a clear two-race hierarchy so that it wouldn’t complicate the racial landscape further.

The “Othering” of Groups (OoG) in my analysis is clearly reflected here. It is a similar assessment to the one above for the order of groups (ORoG): “Lieut. JuJoseph Sandoval,” “wife,” “6 children,” and “1 female servant.” There were 42 families that had ownership of “servants.” If we count just the servants in the list, there are 129 servants, as noted in Table 4.2. This is a pervasive fact that we shouldn’t hide any longer. It is very telling how many families I have now identified, after my initial feeling was incorrect, about the prevalence and how many of the families used the slave labor established through the *encomienda*. It is important to note again that the three census documents are from one small town in northern New Mexico—one that I grew up in. This was my existence—to sit in classrooms being fed a history that had no relation to my social or political context. This form of brainwashing and projection of the dominant ideology was strategic. It was also shameful that this history was not taught when we sat in classrooms next to Indigenous students without fully knowing about the history of their ancestors. This is a failure on behalf of the Public Education Department and the government of New Mexico. It is easy to hide something when the truth has been buried under a more prominent storyline, a story that shines pride on the Spanish Conquest. I think it is fair to say that not everyone may feel that pride knowing how we have come to own the United States and New Mexico. Through the use of the term “servant” the dominant group further dehumanizes the inferior group. This term also allows for the treatment of the “Indian servants” as less than human, equivalent to property. It also allows for the abuse of “servants” for the maintenance of the established government.

The Eliminating/Exclusion of Groups (EoG) strategy was also present in this data with no other race group listed other than the male Spanish military, his wife, his children and the “servants.” This is a telling element to each of these documents because it doesn’t account for

other races present in the province at that time. Historically, the presence of the Mexican racial group can't be ignored and needs to be further investigated. I do not take on that analysis in this study. The exclusion of races is a key aspect consistent through all the data sets. The exclusion of any other race groups signifies the power to write people in and out of history.

The choice was made to consolidate the total number of "servants" reflected in this particular census document. The prevalence of "servants" is the textual proof of the *encomienda* and the widespread owning of "Indians." If I solely reflected on my family history to claim the presence of "servants," it may be just as quickly dismissed. This is the evidence that more than just my family owned "servants." Each of these entries accounts for the number of families who owned "servants" and further establishes the widespread use of the *encomienda* in New Mexico. This document is also reflective of the overt position of superiority the "Spanish" display in their authority through ownership. It is also telling that the "Spanish" didn't even attempt to hide the existence of the *encomienda*, or the fact that they were slave owners. This serves as a symbolic, intentional, display of their dominance, authority, and power. The next census data I will analyze is the 1822 census from the Villa de Santa Cruz de la Canada. It is important to note that chattel slavery was also taking shape after the 1750 census document I analyzed. The 1789 through 1861 owning of African slaves is a parallel process going on nationally. This is important because it may have also sent a message of acceptance to the "Spanish" for their two hundred years of owning "Indian servants." These documents further cement the RC of not only property ownership, but a continued ownership of human beings as well. This ownership lasted beyond my exploration of census data, which ended with the 1822 and 1845 census documents I analyzed below.

During the time leading up to the 1822 census was the development of treaties establishing the provision of education for all “Indians” ages 6-16-years-old in 1818. There was a key element of contemporary racism through the use of education as a hegemonic mechanism to shape and acculturate the young “Indian” mind. The treatment of the students in these boarding schools was based on military style discipline furthering the maltreatment of “Indians.” The description of the RC allows me to now apply its premises to the experiences “Indians” have had, and continue to have, with whites or the “Spanish” during the racial project employed in New Mexico. Based on Mills’ description of the SC and it’s shift in language use by whites which now creates the RC and it establishes the “manifest destiny” already embraced by the “Spanish” to “indoctrinate and teach” the “Indians” the ways of civility. Through this language use and connection to both the SC and RC, the claims by the “Spanish” in this political and racial process made a stand that the existing communities and government in place on “Indian” land was not acceptable or even a civilization. Hence, the justification to continue to implement the Royal Order and encomienda in order to “civilize the Indians,” was taken as the natural order of how the civilization of acculturation took shape and needed to happen for the “Indians” own welfare in the face of white expansion and the “globalization of white supremacy” (Allen, 2001; Mills, 1997).

#### **1822 Census Data: Villa de Santa Cruz de la Canada <sup>4</sup>**

Leading to the 1822 census, it is important to note the implementation of the Indian Removal Act. This was happening nationally through the order of President Jackson in 1829. I will review this later in this chapter following the analysis of the 1822 census. We must not

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<sup>4</sup> NOTE. I = Indian

forget how President George Washington set the tone for the treatment of “Indians.” In 1791, he wrote in a letter to congress:

Accordingly, at the same time that treaties have been provisionally concluded and other proper means used to attach the wavering and to confirm in their friendship the well-disposed tribes of Indians, effectual measures have been adopted to make those of a hostile description sensible that a pacification was desired upon terms of moderation and justice” (Perea et al., 2007, p. 181).

We have to draw our own conclusions about the definition of “effectual measures” and also ask ourselves, by what methods was “pacification” achieved during the eminent Indian Removal Act put into action following the 1750 census. We must decide whose definition of “justice” was also being enforced. In his letter, President Washington discusses how his efforts have been unsuccessful so he deemed it “necessary to convince the refractory of the power of the United States to punish their deprivations” (Perea et al., 2007, p. 181). This further reinforces the justification by and the entitlement of those imposing their power on “Indians” expressed in the local actions in New Mexico that I have described.

After the fallacy of gold didn’t pan out, the landscape in New Mexico in 1822 was one that also saw the establishment of “Indian” boarding schools and the continued use of “Indians” as the slave labor force to work the farms and tend to the livestock. The free use of human beings became a means for reconciling the fairytales of gold. The failed attempts of finding gold over the years led solely to the servitude of the people who originally owned the land. “Indians” were again in a position where they were working the land that once provided for all of their needs and this is reflected yet again in the 1822 census data.

In the 1822 census data, the Constructing of Groups (CoG) persists and is maintained from the 1750 census data. This includes the continued use of military ranks and only males being named in the census. In the census document, there is now the inclusion of the ages of the family members, but not of the servants. For example, all of the entries look like this: “Dn Manual Rada, 32, Priest; Manuel Medina, 18, servant.” In the census, the male is the only person named, further establishing male dominance through patriarchy. As noted, patriarchy can be identified as another ideology that is reflected in the discourse. This is also the first time in the census data that ages are listed, which is also significant because you can see how young “servants” were continually being enslaved and the older “servants” also reflecting the years the slave trade (*encomienda*) was in operation. The military rank separates the superior military male from “others.” Also the nameless wife and child still are maintained as the “other” based on their being listed before the “servant.”

The Order of Groups (ORoG) in this data is also similar to prior census data and is reflected accordingly: “Dn Manual Rada, 32, Priest; Manuel Medina, 18, servant.” The ordering of groups in the census maintains the connection to the Spanish crown. It also orders these individuals before the “servant,” which preserves the racial hierarchy between the years of 1750-1822.

“Othering” of Groups (OoG) is maintained in this census and is identically reflected as it was in 1750. I didn’t list all of the servant entries here, but the maintenance of the slave labor system is evident by these exemplars: “Dn Francisco Gonzales, 61, widower” “Rafael, Ute servant, 18” “2 servants; I, Juan Anto, 19; Madel Refugio; 18 servant, Teresa, 15” “3 servants, I: Juan, 26; Rita, 18; Barbara, 3” “servant, I, Jose Anto, 5” “servant, I; Ma Rosa, 30.”

To me, one of the most important factors that made this analysis at times emotionally draining was how the ages of the servants were listed in the census. When “Barbara, 3” is listed as a servant you can see the cruel and insensitive servitude forced on a child before she had a chance at any other existence. This further illustrates the generational impact of families being born into servitude and embodying and internalizing the identity of being a “servant.”

Through the use of the term “servant” the dominant group further dehumanizes the inferior group and maintains them in the lowest level in the racial hierarchy. This term also allows for the treatment of the “Indian servants” as less than human, equivalent to property. It also allows for the abuse of “servants” for the maintenance of the established government.

No other race group listed (other than the male Spanish military officer, his wife, his children, and the “servants”) were a part of the Eliminating/Exclusion of Groups (EoG) category. The exclusion of other race groups is a key aspect consistent through all the data sets. The exclusion of any other race groups signifies the power to continue to write people in and out of history and existence. This is illustrated in a *First Annual Letter to Congress* from President Andrew Jackson in 1829 regarding the Indian Removal Act:

The condition and ulterior destiny of the Indian tribes within the limits of some of our States have become objects of much interest and importance. It has long been the policy of Government to introduce among them the arts of civilization, in the hope of gradually reclaiming the from a wandering life...Professing a desire to civilize and settle them, we have at the same time lost no opportunity to purchase their lands and thrust them farther into the wilderness...Government has constantly defeated its own policy, and the Indians in general, receding farther and farther west, have retained their savage habits...Our conduct toward these people is deeply interesting to our national character. Their present



condition, contrasted with what they once were, makes a most powerful appeal to our sympathies. Our ancestors found them uncontrolled possessors of these vast regions. By persuasion and force they have been made to retire river to river and from mountain to mountain, until some tribes have become extinct and others have left but remnants to preserve for a while their once terrible names. Surrounded by the whites with their arts and civilization, which by the fate of the Mohegan, the Narragansett, and the Delaware is fast overtaking the Choctaw, the Cherokee, and the Creek...The emigration should be voluntary, for it would be as cruel as unjust to compel the aborigines to abandon the graves of their father and seek a home in a distant land. But they should distinctly inform that if they remain within the limits of the States they must be subject to their laws. (pp. 189-190)

Although lengthy, I selected the passages from the longer letter that reflect trends in language use and the data I have analyzed to this point. Primarily, the language used closely aligns to the ideology shaping the positionality of the “Spanish” and the United States. The similarities are centered on the maintained belief in “manifest destiny,” the superiority of the white race, and the inferiority of the “Indian” race. Lastly, the 1830 Indian Removal Act reflects similar relocation strategies implemented by the “Spanish” to take the land of the “Indians” despite President Jackson’s admittance that the “Indians” were in possession of the land that they were going to now push them off of if they didn’t abide by state law.

The last data set I analyze in this chapter is the 1845 census, which is the first and only census, according to my research, that was conducted by the United States government and not the “Spanish” government. Despite this finding, the census document still maintained the already implemented caste system of racial categorization.

## 1845 Census Data: Villa de Santa Cruz de la Canada

During this time, the continuation of the Constructing of Groups (CoG) strategy is maintained into the 1845 census through the continued use of military rank, males named first, and one use of “m” for male and “f” for female<sup>5</sup>. The following is how each family was entered and reflected on the census document:

“Jose, 45, wife, 40; 4 m: 19, 15, 12, 10 3 f: 13, 9, 8”

“D. Manuel Martines, 60; wife, 63; 1 m: 30; 2 f: 28, 19”

“D. Juan Rosario Abeyta; wife; 2 m: 9, 4”

“1 servant: 9”

In the census data, the male is the only person named, further establishing male dominancy through patriarchy and heteronormativity. Patriarchy can be identified as another ideology that is reflected in the discourse and prevails into contemporary discourse. The military rank separates the superior military male from “others.” Also, the nameless wife and children still are maintained as the “other” based on their being listed before the “servants,” but they are listed first, nonetheless maintaining the racial hierarchy.

The Order of Groups (ORoG) is still maintained as noted above. The order of the father, mother, children, and lastly the “servants” is still evident. The listing of ages also adds another dimension of analysis, which solidifies the oppression of the most vulnerable of those enslaved, as if enslavement wasn’t enough. They are listed as follows:

“Jose, 45, wife, 40; 4 m: 19, 15, 12, 10 3 f: 13, 9, 8”

“D. Manuel Martines, 60; wife, 63; 1 m: 30; 2 f: 28, 19”

“D. Juan Rosario Abeyta; wife; 2 m: 9, 4”

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<sup>5</sup> Census Key: m = male, f = female, I = “Indian”

“1 servant: 9”

The varying ages of the “servants” listed below shows the generational presence of the encomienda system and racial hierarchy since the 1498 colonization. The “Othering” of Groups (OoG) category listed family members first and the “servants” continued to be listed last. This practice is consistent throughout the census analysis. Like the 1750 census, the 1845 census reflected the largest number of “servants,” which totaled 34. The 34 “servants” were owned by 23 families

Through the continued use of the term “servant,” the dominant group further dehumanizes the inferior group into 1845. This term also allows for the continued treatment of the “Indian servants” as less than human, equivalent to property or animals. It also allows for the abuse and use of the “servants” for the continued revenue and maintenance of the established government.

The continuation of the Eliminating/Exclusion of Groups (EoG) is still present; no other race group is listed other than the male Spanish military, his wife, his children, and the “servants.” The continued exclusion of races is a key strategy consistent through all the data sets into 1845. The exclusion of any other race groups signifies the continued power to write people in and out of history. This power even continued as the United States government took shape.

In conclusion, the census data is undeniable in its reflection of the racial hierarchy, but it also helped me connect the historical discourse to the contemporary discourse. The census data is key in demonstrating how white supremacy was established and is transferred over time through legal discourse. In the 1750 census data the language was clear and overt about the racial hierarchy; the document was reflective of the establishment and maintenance of white supremacy. The next census data from 1822 reflected a subtle shift in the presence of “servants.”

However, the 1845 census shows a resurgence of “servants” in New Mexico. These trends are significant because as we progress to a more “multi-cultural” existence, we should hope that the presence of a racial hierarchy would begin to diminish. This is not the case. Nieto-Phillips (2004) illustrates the ever-shifting identity in New Mexico as statehood approached:

From the language of blood that had evolved during Spanish colonization and Mexican times would emerge a new, highly politicized vocabulary that defined Nuevomexicanos as “Spanish” in race, blood, language, and history, and “American” in civic identity and national loyalty. Terms such as “Mexican,” “Spanish,” “greaser,” and “American” would repeatedly be invoked and openly contested in congressional debates over New Mexico’s statehood. A scientific and popular notion of race permeated legal, political, and cultural spheres during the nineteenth century, those deemed to be “non-white” or “of mixed blood” were viewed with contempt or suspicion, their civic identities usually proscribed by both racial and gender restrictions. (p. 48)

This citation is a key description of the ever-changing racial identity that impacted nearly every century since 1700. The shifting identity strategy employed by the dominant white group is significant for the summary of the census data and for making the connection to the more contemporary State of New Mexico Constitution as well as disparity-focused educational acts.

Table 4.3 illustrates the frequency of the categorical presence in the census data. The ability to see the frequency of the coded categories I used for analysis is helpful to note if any kind of racism was institutionalized and if it was cemented in the text. Especially in the census data, sometimes the language used does not seem vivid or packed with meaning unless it is critically analyzed. The critical analysis allows intimate connection to the structure of language and how language is manipulated in order to preserve power. These tables helped me to keep

some connection to the quantitative aspects of my research while maintaining a qualitative methodology and framework of interpretation. This data helped bridge that gap for me.

Table 4.3

*Frequency of Categorical Presence for 1750, 1822, and 1845 Census Data*

Category of Analysis	# of Categorical Occurrences in the 1750 Census	# of Categorical Occurrences in the 1822 Census	# of Categorical; Occurrences in the 1845 Census
Constructing of Groups (CoG)	44 (47)	7	22
Ordering of Groups (ORoG)	47	12	26
“Othering” of Groups (OoG)	47	12	26
Eliminating/Exclusion of Groups (EoG)	47	12	26

In the following section I analyze how the more contemporary discourse in the State of New Mexico Constitution and New Mexico disparity-focused Education Acts serves to perpetuate a racial hierarchy and white supremacist ideology. The language used further establishes significance since the data analysis categories are present. It also reifies the move from more overt racism to covert racism as was previously noted. Bonilla-Silva (2009) reminds us that racism can’t exist without racists; systems were created and maintained by people who wanted to see racial division and thus the people become the underpinnings of the system(-s).

In transitioning to the next chapter it is important to discuss aspects of the RC that Mills (1997) outlined relative to idealism versus realism. I believe this becomes apparent in the evidence I’ve analyzed and noted in this chapter. It speaks to the projection the United States wanted to make for the continued image of “whites” as superior and dominant. Despite this, the census documents that I have analyzed show how uncivilized many parts of the country still were with the continued ownership of human beings into 1845. This was made real by the

number of “servants” reflected in the census data. These “servants,” who maybe once had families, also deserve the recognition of their reality. The realism that exists was impactful to me when a 3-year-old is labeled as a “servant” without her fully understanding what that implies for her future. This is why idealism becomes dangerous. We need to consider the realism that counters the ideally created perspective, because the superior racial group has the power to write and use language to shape what others perceive.

## Conclusion

The census data analyzed in Chapter 5 bring up many questions about the experiences of people who were enslaved. One question is: How was language used in the legal discourse in the encomienda act and in the Spanish and United States census data to construct and maintain a racial hierarchy? The census data continues to maintain the established racial caste hierarchy and is the factual proof that the encomienda slave labor system used “Indians” as “servants.” The language used in the census data also reified the continued superiority through the maintenance of racial, patriarchal, and heteronormative ideologies. Specific to this study, through the language used by the dominant “Spanish” racial group the maintenance of a racial hierarchy that benefits the “Spanish” prevails. Language such as “servants” and the referencing of males who have military rankings are continued uses of dominance and racism preserved in language. The main problem with this strategy is that we see this language in laws and educational policy. This use of language is one component of the bigger picture and an overall strategy to maintain the instituted racial hierarchy. Another strategy was the continued maintenance of the racial project through the perpetuation of the racial contract (Mills, 1997) as New Mexico started to seek statehood in 1912. The use of the term “servant” and the use of the caste racial hierarchy are key aspects of the evidence. As we see in the census data, there is

proof that the encomienda happened over several generations since we see the presence of servants in 1750, 1822, and 1845.

## **Chapter 6: The Racial Contract Reflected in the State of New Mexico Constitution**

In New Mexico, leading up to statehood in 1912, there was an established history of violence and conflicts between the “Spanish” and the “Indians” (Simpson, 1950). This was evident in the text I have reviewed prior to this section. The “Spanish” needed to cement their positionality and their identity into the 20<sup>th</sup> century by maintaining the RC and expounding the terms of the RC to include an educational racial contract (Leonard, 2013).

Anchoring the data of my study is the State of New Mexico Constitution, specifically around the articulation of education for the children of New Mexico. Again, there is a need to situate the context of the development of this document and to paint a clear picture of what the political and social landscape of New Mexico was leading up to statehood in 1912. The history of New Mexico, as Nieto-Phillips (2004) identifies was a time when the emergence and another shift in the identity of who was a citizen and how they were defined was in play in the social and political landscape. The new identity of “Spanish American” was introduced into the racial milieu with the emergence of a group of characters, the Santa Fe Ring, who took the lead in the path to statehood (Acuna, 2000). According to Nieto-Phillips (2004) the Santa Fe Ring consisted of “Anglo and Nuevomexicano politicians, lawyers, and ricos, the elite class” (p. 60), and they made up the members of this political power in New Mexico. This is a critical point, because it took the face of the “Indians” or “Mexicans” off of the movement towards statehood and made it whiter, ironically, even at the expense of some “Spanish.” This is significant because it calls for the “people of New Mexico” to adhere to our nation’s union and the constitution of New Mexico (see the text I cite below). Who this constitution is meant for can be called into question.

According to Delgado et al., (2001) the Treaty of Guadalupe Hidalgo (1848) was a key piece of legal discourse that established land and property divisions based along racial lines. In



the midst of New Mexico seeking statehood, a darker shade of skin color and perceived inability to be a civilized society let alone govern themselves, were some of the concerns we see connected to race and statehood. This is significant because it solidifies the continuance of the racial contract established in the caste racial system. There was concern about New Mexico becoming a state due to the large number of Mexicans, so provisions were written into the law and into the Treaty of Guadalupe Hidalgo so that the United States had the discretion to admit Mexicans as citizens “at the proper time,” as deemed by Congress. Whites were concerned that this legal use of language could put them on an equal playing field as Mexicans and the “Spanish” of New Mexico. “To avoid equality, the Senate gave Congress discretion to admit states containing Mexicans whenever Congress deemed it ‘proper’” (Delgado et al., 2001).

According to Articles VIII and IX of the Treaty of Guadalupe Hidalgo (1848):

Mexicans are now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present Treaty, shall be free to continue where they now reside, or to move at any time to the Mexican Republic, retaining the property which they possess in the said territories, or disposing thereof and removing the proceeds wherever they please; without their being subjected, on this account, to any contribution, tax or charge whatever. (p. 263)

The long history of promises not kept and treaties broken by the United States of America has been a common practice and established division and conflict between racial groups. Given the racial discourse we see in the 2017 United States Presidential election, Donald Trump is using racial discourse in order to maintain division. He uses threats of using immigration law in an attempt to build a wall that we clearly see in the Treaty of Guadalupe Hidalgo that calls for Mexicans to receive the same citizenship as American citizens. This is a perfect example of laws

that were created that are not being followed, and the United States continues to be in violation of its own law. The next citation shows how the language was manipulated in order to silence the racial fears of Senators, specifically Senator John Calhoun who was vocal about feeling threatened by the potential impact to the white ruling of the United States:

In the annexation of New Mexico and California the United States will incur none of the danger which have been predicted of admitting a race of men, differing from us in language, religion, descent, laws, manners, and social condition to an equal participation in the benefits and responsibilities of free government. The country thus acquired is comparatively unsettled, and by the time it has a population enough to send a member of Congress, will be thoroughly Americanized. So all of the forebodings concerning the appearance in the Senate or House of Representatives of a thorough-bred Mexican or half-breed Mexican will be dissipated. (p. 263)

These continued perceptions about race and the inability for those who are not white to be able to govern themselves in a “free government” was the sentiment leading into New Mexico’s statehood. As noted in the previous chapter, there was significant tension during this time historically. Specifically, there was still tension relative to New Mexico’s approach to statehood given its racial history still being present contemporarily (Acuna, 2000; Foley, 1997; Gomez, 2007; Nieto-Phillips, 2004).

The Preamble of the New Mexico State Constitution and Sections 1-5 in the opening pages set the tone for the more specific Article I analyze below. The Preamble states, “We the people of New Mexico, grateful to Almighty God for the blessings of liberty, in order to secure the advantages of a state government, do ordain and establish this constitution” (p. 1). This citation is revealing in two specific ways: 1) it notes the racial group which is considered “the

people of New Mexico,” which has been established in the previous discourse by identifying and labeling the “Indians” as “servants,” not citizens; 2) it continues the use of religious doctrine and ideology maintains those who are considered “the people of New Mexico.” It does this since the Spanish have labeled the religious beliefs of “Indians” to be related to sorcery or witchcraft rather than to the established “Almighty God.”

The power held by the writers of the state constitution can be seen by examining sections 1-5 (pp. 3-4). This text demonstrates their commitment and “inseparable” connection to the “federal union and the United States Constitution of the land.” Ironically, these sections include: popular sovereignty, right to self-government, and inherent rights. In addition, the rights under the Treaty of Guadalupe Hidalgo were preserved. These include the right to bear arms and the rights that the “Spanish” withheld from the “Indians” for hundreds of years. More poignantly, as noted in the Inherent Rights section:

All persons are born equally free, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of seeking and obtaining safety and happiness. (State of New Mexico Constitution, 1912, p. 4)

This citation serves to ensure the legal protection for safety and happiness that has been withheld from many racial groups, including the groups who were still present during the pursuit of statehood. Statehood had been elusive because of the racial make-up and historical racial tension over the centuries. It is also telling that during this time in the territory of New Mexico, as we will see in the data analyzed below, the “Spanish” must have been aware of what was happening nationally with the presence of chattel slavery. This being said, they still attempted to maintain segregation by using boarding schools for “Indians” and at the same time ensured that

the “children of Spanish descent” would not be segregated in separate schools by using the new form of the racial contract.

Another example, section one points to the creation of public schools as reflected in Article XII. However, it is clear that this was a very meager and unintentional attempt to cover up the RC which was being enforced at this time in history: “A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state shall be established and maintained” (State of New Mexico Constitution, 1912, p. 147). I question the intent of those crafting this section who then specify which children in the state shall receive the “right and privilege” of education. This section also makes me question why the use of the language “all children” was selected since there is no other mention of any other racial groups in the State of New Mexico Constitution. It makes me wonder what children are being referred to in this section.

The State of New Mexico Constitution serves to maintain the racial hierarchy introduced by the Spaniards in New Mexico’s caste system since 1598. According to the State Constitution (2005); Article XII-Section 10:

Children of Spanish descent in the state of New Mexico shall never be denied the right and privilege of admission and attendance in the public schools or other public educational institutions of the state, and they shall never be classed in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the state, and the legislature shall provide penalties for the violation of this section. This section shall never be amended except upon a vote of the people of this state, in an election at which at least three-fourths of the electors voting in

the whole state and at least two-thirds of those voting in each county in the state shall vote for such amendment. (p. 147) (See Appendix F)

In the first paragraph, it clearly states the intent and power by the dominant group, which is to preserve the Constructing of Groups (CoG) into modern time. Placing “children of Spanish descent” in the first line instantaneously establishes the racial hierarchy in the contemporary discourse. It cements which racial group has the “rights and privileges” in the education system. It also constructs the group who “shall never be classed in separate schools.”

Children of Spanish descent in the state of New Mexico shall never be denied the right and privilege of admission and attendance in the public schools or other public educational institutions of the state, and they shall never be classed in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the state. (State of New Mexico Constitution, 1912, p. 147)

Unlike “Indians” who had a violent experience and were further dehumanized as they were forced into boarding schools as part of treaties created with the United States the “Spanish” had a different experience. This exemplar cements the intention to not allow the oppression and racism that was perpetrated against “Indians” to happen against the “Spanish.” It also legally constructs the power of one group (the “Spanish”) to maintain its superiority into statehood. The process to change constitutional state law is cumbersome and unlikely, especially in 2016 when the continuation of separation based on financial resource allocation is strong and still evident:

This section shall never be amended except upon a vote of the people of this state, in an election at which at least three-fourths of the electors voting in the whole state and at least two-thirds of those voting in each county in the state shall vote for such amendment. (State of New Mexico Constitution, 1912, p. 147)

The strength of the language used here is undeniable. It is the intent of the dominant racial group in power to make sure that the language in the constitution may never be changed. It illustrates the power of those who were writing the law to preserve the racial hierarchy, which provides the dominant group with resources and unearned benefits. The probability of this section of the State of New Mexico Constitution to change is slim because in order for the people of the State of New Mexico to vote on changing the language it would take approval of the House and Senate, and then the Governor would also have to sign off on the constitutional amendment. Then, the people of New Mexico would have the opportunity to vote on the amendment, which would require that three-quarters of the people in each county would have to vote, which rarely, if ever, happens. This was strategic, and it demonstrates the long lasting impact the use of language can have on a state and its people.

It is important point to note what was also going on in the national landscape in terms of racial projects, race relations, and the overall treatment of people of color. We must not ignore the fact that the United States was already practicing school segregation of African American children as seen in *Plessy v. Ferguson* (Bell, 1980).

The use of boarding schools for the acculturation and assimilation of Indigenous children was a practice implemented based on treaties signed after the Navajo's experience with the Spanish and United States governments (Nies, 1996). So, it is quite telling how the "Spanish" are now in a position to protect their children from segregated schools through the educational racial contract now adopted in the State Constitution (Leonardo, 2013). These provisions attempted to use a legal doctrine of "separate but equal" educational practices, which were repealed in *Brown v. Board of Education* in 1954 (Bell, 1980). Although the contemporary use

of boarding schools has shifted to a cultural preservation approach, the military style run schools lasted into the 20<sup>th</sup> century.

The Order of Groups (ORoG) is a strategy that is continued in the 1912 constitution and it starts with the dominant racial group continuing in the superior role. This is maintained for generations for “Children of Spanish descent in the state of New Mexico.” It is reinforced when the second racial group listed is the superior group again. In this case, the word “they” is still referring to the “Children of Spanish descent,” cementing that “they shall never be classed in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the state.” Lastly, the superior racial group is also named third or last in this section of the constitution but fails to name “other children” specifically: “but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the state” (State of New Mexico Constitution, 1912, p. 155).

Spatially and in appearance, the Spanish are first on the list and on the page in order of importance. This establishes who the priority racial group is for receiving educational benefits. It also specifies that “children of Spanish descent” will never be placed in separate schools and reflects the power to limit their children’s segregation that was perpetrated against “Indians” in boarding schools. It establishes that this will not happen to the “Spanish” and will be punishable by law if it occurs.

The strategy by the superior racial group continues through the “Othering” of Groups (OoG) by identifying those who are entitled to and “shall never be denied the right and privilege” and “they shall never be classed in separate schools.” Lastly, the superior racial group continues to leave “...other children...” nameless but included this clause to ensure that their children will

be placed in schools with “other” children with similar privilege. The real intent is to try to legally ensure that “Spanish” children will not be placed in boarding schools.

Furthermore, the exemplars cited here reflect the establishment in law of the “rights and privilege” of the dominant group. This further “others” those who are not of Spanish decent. They are othered by not awarding “Indians” them the same “rights and privilege” while simultaneously further cementing the dominant racial group’s position for centuries to come. This practice stresses the power of language when a group has control of what is written in the law. The educational racial contract (Leonardo, 2013) takes shape while maintaining the initial racial projects and the original racial contract (Mills, 1997).

Eliminating/Exclusion of Groups (EoG) as a strategy also continues as it has through all of the data sets; no other race group was noted in the document. The exclusion of any race group in the State Constitution is telling, and it reflects how a dominant group sees only their educational needs as important. It further maintains the racial hierarchy into the 20th century and beyond.

This data reflects the maintenance of a racial hierarchy and white supremacist ideology into the 21<sup>th</sup> century. It is significant to be able to exclude all other races of children from education due to their inferior racial position in the hierarchy. The racial hierarchy and white supremacist ideology has informed the treatment, identity, and other major social determinants of health for “Indians.” The implications of this discourse are still present in New Mexico. What I mean is there are too many coincidences to dismiss as happen stance when a dominant group continues to use language and legal discourse in order to preserve their unearned “rights and privileges.” They “Spanish” have taken these “rights and privileges” at the expense of “Indians” and the racial groups who remain unnamed such as Mexicans.



Table 4.4 illustrates the frequency of the research categories found in the State of New Mexico Constitution, Article XII, Section 10. To see the frequency of the coded categories I used for analysis is helpful to draw attention to the covert tactics that were used. If the importance of recognizing the covert tactics isn't a priority, and if critical examination does not occur, the analysis and interpretation would be incomplete.

Table 4.4

*Frequency of Categorical Presence in the 1912 State of New Mexico Constitution*

Category of Analysis	Frequency of Categorical Presence in 1912 State of New Mexico Constitution
Constructing of Groups (CoG)	5
Ordering of Groups (ORoG)	3
"Othering" of Groups (OoG)	3
Eliminating/Exclusion of Groups (EoG)	1

As noted, the covertness of racism and the power to shift language over time is evident, although the categorical presence is not as abundant as the evidence has shown in the census data due to the short length of the exemplar from the State of New Mexico Constitution Article. The contemporary strategy moves the power group to a group in need when seeking state and federal funds. The first step in my methodology for analyzing the contemporary disparity-focused education acts data was to locate all pieces of legislation that can be characterized as *disparity-focused* Educational Acts from 1998-2013 which focused on the "Hispanic" and "Indian" racial groups.

I analyzed twelve pieces of legislation, continuing to utilize my framework of interpretation employing critical race hermeneutics. By no means has it been my intent to not engage the research or trends in my research that investigates the reasons why racial groups that were present during this time, yet eliminated from the discourse, I have analyzed. I examined what is present, and I included in the discourse the dominant group produced. In this analysis, I examined their words, language use, tactics, and strategies that preserved their power. You will notice a much different type of language use through the exemplars I selected to analyze and which are now used to position racial groups in positions of need, rather than overtly claiming their power with the use of the word “servant.”

The shift in language and identity can make the changes hard to follow for scholars and educators. It is easy to support legislation that helps “Hispanics” better their graduation rates and overall long-term socio-economic status for future generations. However, when legal discourse is created, as it was in 1598, the longitudinal impact is significant and must not be dismissed. These sort of legal implications maintain a historical RC, but the use of education is another tactic to manipulate the mind rather than the physical body. The ability to manipulate the mind has been a strategy that has now created excitement among “Hispanic” advocates who forget how, at least in the State of New Mexico, the totality of the social, political, and educational systems has been established for their racial group’s success. This is extremely problematic when looking through the lens of CRT, even more specifically when analyzing discourse through the CRH framework of interpretation, which I have employed. Analyzing discourse through a CRH approach makes implicit positions about how the language that is used influences race relations and, even more so, resources. These resources have included land, natural minerals, water, and natural oil and gas reserves scattered throughout New Mexico and

the Southwest. The educational impact is significant because it informs the students of color about the history the dominant group chooses the content for them to learn. As educators, we must not fall for our government's view of certain races of people based on a historical and political agenda. The perceptions are those in which "Indians" have been portrayed as if they deserve their situation, because it is their choice, and because it is just the "natural" way evolution has unfolded. These are the lies I note above. Educators must be critical thinkers and must teach critical thinking. Although the government has shifted from the "Spanish Crown" to the United States of America, they both have operated under the white supremacist ideology, which has had a hold of the futures of the "other." In addition, and in both cases, they have had the oversight and control of educational systems. This can no longer be ignored. The failure of the government and schools to teach critical thinking to students is an issue. In order for all students to understand the systems of oppression they must understand how these systems fail them. They must be taught to not believe these failures are their fault. They must also not allow the insecurities the system creates to impact them by blaming themselves. If legislators really want to address the achievement gap, they need to look at how the system is failing and how the children drop out as a sign of discontentment, especially among indigenous populations.

### **Sub-Student (i.e., Subhuman) Meritocracy and Protecting White Membership: Language Shifts from the Creation of Subhuman to the Creation of Substudent**

Mills (1997) describes the creation of the sub-human by the implicit creation of the human, which means those who were civilized according to the social contract, which also means the "white" phenotypical body. This process was explicit in the creation of the "expropriation contract," "slave contract," and "colonial contract" (Mills, 1997, p. 73). These contracts identified who the master was while at the same time defining and creating the identity

for “servants” then, and into contemporary times. As I have noted throughout this study, the creation of the “other” is significant and plays a role in how a person is perceived and treated in society. This perception may impact how that person is able to survive in contemporary times regarding educational and socio-economic success. In the Royal Order (for example the Encomienda Act), in the Spanish and United States census data, and in the State of New Mexico Constitution we saw the use of language which positioned one racial group in the superior role and the “other(s)” is the inferior role. The *global periodization* of the RC (Mills, 1997) (which evolves from the more overt racism that publicly and legally shames people of color, in particular African and Native Americans) has now shifted to the more covert racism Alexander (2012) calls *The New Jim Crow*.

Another lens which is closely related to this text is *Racism without Racists; Colorblind Racism and the Persistence of Racial Inequality in the United States* by Bonilla-Silva (2009). This new form of racism may be more covert, but at least when racism was more overt, people of color were able to see racism. Now racism is hidden in legal discourse, in educational lesson plans, attainment, graduation rates, and it also continues in housing and job discrimination (Alexander, 2012; Bonilla-Silva; Lipsitz, 2010). With all this said, the human body never meant the bodies of the “others,” “savages,” “barbarians,” uncivilized,” or anyone else who was not of the white race, or very closely mirrored the white body phenotypically (Spanish). In the historical discourse, it was clear who was in the position of power. In contemporary discourse, it may be more difficult to assess who is in power due to the perspective of abstract liberalism (Delgado & Stefancic, 2001); a perspective that many of the United States and New Mexico legislators, school board members, superintendents, and educators have relative to education. They believe that if education is made available and every racial group’s leaders have the

opportunity to allocate funding that this is the equal playing field that is needed. This position is one of having a color-blind ideology and an abstract liberal perspective, which do not consider the systems that are created to help whites succeed, not people of color. We also need to consider that if students of color do not have the same opportunities as whites (Hispanics), as is made explicit by the State of New Mexico's exclusion of any child or any racial group other than "Spanish" in the provision of education, then these students become the "sub-student" in the educational racial contract (Leonardo, 2012). This is an important shift and strategy to identify and note is being continued through a more covert process. This is nonetheless impactful for the longitudinal success of students of color and their often time poor families who rely on them to generate revenue for the home or community.

The "sub-student" (Leonardo, 2013, 2014) status maintains the position assigned to students of color's ancestors and family members. The hegemonic (Gramsci, 1971) maintenance of the white supremacist ideology, caste racial system of classification, and the encomienda slave labor system tie into the contemporary legal and educational systems children of color are still bound to by the racial contract. These systems are pervasive and must be assessed, analyzed, and countered for children of color to succeed despite the systems being created to see that they fail. Knowledge empowers them to not blame themselves despite our government employing the blame-the-victim ideology (Segal, 2012). We must not allow the RC to hegemonically continue to label our children of color as "servants" of the 21<sup>st</sup> century because they are unaware of how the systems are doing exactly what they were created to do. The American dream has been sold to many students of color while the system they are in is not designed for their success. A main hegemonic component of the sales pitch for the American dream is educational attainment, so the concept, or ideology, of meritocracy becomes a marque of the white supremacist design.

I have ended with this content to help my readers understand and interrupt the role contemporary legal discourse plays in perpetuating the systems of oppression. Chapter 7 provides discourse and content I use to continue my analysis of the disparity-focused educational acts from 1998-2013.

## **Conclusion**

In summarizing this chapter, I want to underscore the racial ideologies about Native American and Hispanic race groups that are reproduced in the legal discourse. It is evident that there is a white supremacist ideology controlling the development of this racial project since its inception in New Mexico. The project is sustained through the evolution to the racial contract as I have outlined. The use of language here again is key to tracking the shifting racial identity. The creation of sub-humans, through the use of the term and positionality in the racial hierarchy, is continued since the initial use and intent of the label “servant.” Some may say that it is a leap to connect the use of the term “servant” to the creation of the “sub-student” category as noted by Leonardo (2013). But it would be a mistake to think this is a leap. This is the shiftiness of race and racism; it changes faces and those people who create the shifts hope that people of color won’t follow and will think that these are the “natural” ways our system and society work.

To further complicate the racial identities and the political terms that were initiated (like the race term “Spanish” to the more recent political and governmental label of “Hispanic”). We must connect the political group and racial group identity of “Hispanidad” as Nieto-Phillips (2004) highlights is a political and identity driven preservation. These terms preserve the original Spanish hierarchy and determine who is indigenous and who is non-Indigenous; who is “Spanish” and who is not becomes the larger discourse connected to the preservation of the caste racial hierarchy. This leads to an understanding between whites and “Spanish” who pass for

white. These two racial groups then form a “white hegemonic alliance” (Allen, 2008), which allows these groups to preserve their local state power by aligning with the larger national white polity. Who is and who is not Spanish becomes the question.

With race being a social construction created to maintain power for whites, the only way for those in power to maintain control was to use notions of phenotype as a means to distinguish between who was white, and who was not white. The larger connection to the national evolution of white supremacy was the maintenance of *Jim Crow* segregation (Bell, 1980) in New Mexico through institutionalizing this practice in education. Since 1912, this was part of a larger social and political practice that used race and skin color, eye shape, hair texture, and other phenotypical characteristics as the mechanism to allow those who physically looked more white to be an honorary member of the white race (Bonilla-Silva, 1996). Language was another distinguishing characteristic that maintained separateness. Historically, it is important to see how education was a racist institution since its inception, separating white children from children of color. This was not done by accident or without intent.

Few scholars have written about race relations in New Mexico. To explore the symmetry between one African American community in New Mexico and the national landscape of racism we can look at the all African American town of Blackdom, New Mexico. Established in 1903, Blackdom was an all African American frontier in Chaves County. This is telling because despite the presence of African Americans in New Mexico this racial group was not included at all in the constitution or in the census data; as I have noted, the only group that was mentioned was “Spanish.” The Constitution used language to legally protect “children of Spanish descent” to never experience “being classed in separate schools,” yet we see a whole racial group here being relegated to one small town in the frontier of New Mexico’s dust bowl. Due to violence

this racial group settled on the outskirts of “Spanish” towns, which eventually allowed this group to establish a town reflective of their values. In the October 1, 1903 issue of *The Santa Fe Journal*, a story title read “The Blackdom Townsite: An Exclusive Negro Settlement to be Located in Southeastern part of Chaves County.” And just two days later on October 3, 1903, W. R. Cummins wrote an article in the *Artesan Sun* titled “A White Man’s Country.”

These micro-aggressions of white supremacy are not new to our nation. The fact is that the romanticizing of New Mexico’s racial relations with non-Spanish people does not negate the truth that New Mexico’s history has been violent and oppressive. In conducting some initial research, to make general connections between national trends and local trends, the history of violence against African Americans in Blackdom, New Mexico was also noted. These historic trends used race and racism as mainstays of oppression for the maintenance of power.



## **Chapter 7: The Educational Racial Contract Used to Maintain Power, White Supremacy, and the Language of Racism**

The time after [colonization] would then be further subdivided into the period of formal, juridical white supremacy (the epoch of European conquest, African slavery, and European colonialism, overt white racial self-identification, and the largely undisputed hegemony of racist theories) and the present period of de facto white supremacy, when whites' dominance is, for the most part, no longer constitutionally and juridically enshrined but rather a matter of social, political, cultural, and economic privilege based on the legacy of conquest. (Mills, 1997, pp. 72-73)

Although many educators agree that education benefits students in certain ways, this study looks at the ways in which schools maintain a racial hierarchy (Bell, 1980) while hegemonically preserving legacies of colonization. Given this statement, a hermeneutical (Gallagher, 1992; Habermas, 1989) approach with a focus on race is imperative. I begin this section with an explanation of the connection between the 1912 State of New Mexico Constitution and contemporary disparity-focused educational acts to provide details about how I see this connection to the racial contract, and more specifically the educational racial contract (Leonardo, 2013, 2014). Primarily, I argue that through the use of language the racial caste system is still in operation based on the "right and privilege" given to those "children of Spanish descent" outlined in the State of New Mexico Constitution. These efforts are attempts through legal discourse (Bell, 1980; Delgado & Stefancic, 2001) to continue to solidify the domination and power that the white Spanish (aka white) dominant group has maintained since colonization. In addition, the exclusion of any "other" racial group in the discourse I have analyzed thus far is significant and can't be dismissed. As I noted in the previous chapter, the presence of "Indians" and Mexicans was noted yet ignored and dismissed, as if their history never existed. Just

because a racial group is not written into existence does not mean they didn't exist. This is the power of who has the "right and privilege" to write the law. In addition, the use of this language hegemonically (Gramsci, 1971) perpetuates the "state apparatus" of the racial contract by employing those instruments of ideology (IOI), which I will explore more in Chapter 8.

### **The Educational Racial Contract: The Contemporary Form of the Racial Contract**

According to Leonardo (2013, 2014), the social and racial contract that Mills (1997) has critiqued is the impetus for the now contemporary educational racial contract (ERC). Leonardo (2013) states, "If educational research implicates the study of ideology, then conducting it is the realm of methodology. Research on race is an interpretive endeavor concerning the role of schools in a racialized society; it is inherently hermeneutical" (p. 1). The educational racial contract evolved and now includes the critical analysis and interpretation of the racialized systems and those administrators, staff, and general *instruments of ideology (IOI)* that perpetuate a white supremacist ideology and domination. According to Leonardo:

School teachers and students mediate structures, interpret them and create meaning out of them. Understanding this subjective reality is important because 'reality' does not merely come to us in the form of unadulterated experiences, and all we have to do is reflect them, even in an imperfect manner, usually through language. Reality doesn't make immediate sense to people; it has to be filtered through interpretative lenses. (2013, p. 2)

In addition, we must not fall for the dominant narrative of "blame the victim" Segal (2012) reminds us of. Most public policy and perceptions of these policies are created through the mass media. In addition, we must not forget to analyze how "whiteness" and "supremacy" are global ideologies (Allen, 2001), and whites do not always take stalk of their superiority by

“unpacking their invisible knapsack” (McIntosh, 1990) of white privilege and power. If “whites” don’t do this work, especially educators, then the “possessive investment in whiteness” (Lipsitz, 1998) goes without critique and interpretation. Then the status quo of what schools teach students (relative to their socio-economic positioning) and earnings being predestined due to people of color’s race becomes fact and unquestioned. The educational racial contract also must draw our attention back to the relationship of the colonized and the colonizer (Memmi, 1965). This relationship is still pervasive and is one in which critical scholars must continue to engage. The engagement should be to fully interpret the intricacies of this strained and conflictual relationship which I and others have noted is still festering (Espinosa, 1988; Nash, 2001; Nies, 1996).

Key elements of the educational racial contract (henceforth ERC) have to do with who has the power within a society and an educational institution. This power to define who is a student, “sub-student,” and also whose racial group’s knowledge prevails and is taught in place of the “others” knowledge. With this said, Mills (1997) and Leonardo (2013, 2014) remind us that the terms of the RC maintain the power of the racial group writing the RC. Those who the RC was written for (i.e., people of color) are subject to its provisions. According to Leonardo (2013):

They define the ‘nature’ of the indigenous, minority or margins through their apprehension of these communities. The dynamics of this relationship are not produced for the benefit of these communities but for the consumption by and self-understanding of the master race. This would have been enough, but these representations do not remain renditions as such, but graduate to policy. From the war on poverty, to the war on

drugs, to the war on school, representations directly impact the lives of people of color through whiteness turned into policy. (p. 5)

Leonardo goes on to say that these representations become racialized and are normalized as the outcome for students of color. At the same time, these students interpret their experiences based on what the media and society tells them about their potential due to their race. These young students of color believe it is their fault if they do not succeed, but they are trapped in a system that was not created for their success. Furthermore, Leonardo (2013) states, “As sub-knowers [sub-student], people of color are targets of epistemological imposition within the industrial complex knowledge from K-12 through college” (p. 9). Leonardo offers two points that are crucial to the fact that, contemporarily, the racial contract has implications that solidify the ERC. First, children live outside the “learning paradigm” because society and educational institutions have not brought them into the realm of being students and, instead, keep them in a subservient role. Second, most educators accept this to be the norm, or status quo, so they remain complicit, rather than advocating and fighting for justice. Because educators do not stand up for students of color they become signatories to the ERC.

As I’ve noted, as has Leonardo (2014), minority students’ bodies become racialized spaces that are “adultified” and criminalized in order to remove them from the process of attaining racially appropriate education. In the next subsections of this chapter I explain how the ERC works to create false hope through the use of meritocracy while maintaining and protecting “white membership.” The contemporary disparity-focused educational acts perpetuate the ERC by relegating the student of color to “substudent” (Leonardo, 2013, 2014) status while making no attempt to support their educational needs (as we see in the continued seeking of funds from the State of New Mexico). Schooling has the goal of perpetuating the ERC through the established

racial hierarchy via the *interest convergence principle* (Bell, 1980, 1992). Whites will only support the needs of “sub-students” (people of color) when it ultimately serves the interests of the white racial group. Contemporary forms of the educational racial contract maintain the caste racial hierarchy while still giving unearned “rights and privilege” to the white dominant group (aka Spanish), further preserving a white supremacy ideology (van Dijk, 1991, 1998, 2000, 2008).

Next, I explore how meritocracy and the protecting of white membership become further mechanisms, strategies, and tactics for the educational racial contract as established by Leonardo (2013, 2014). Lastly, the lack of teaching “critical consciousness” to students of color, and even to white children, is another way the static state of education perpetuates. As Freire (1993) outlines: we must teach students to read the world. We must empower children to not just be static and maintain the function of reproduction in schools (Giroux, 2001) but to resist the racism and domination we have seen for the last 200 years.

### **The False Hope of Meritocracy**

Meritocracy, as I have come to understand it, is the instilling of the belief that people should be judged or assessed based on “merit.” Now, this would definitely be one way to assess people’s worth if the systems of analysis had all children starting from the same point: the same access to knowledge and attainment. Meritocracy plays on the socially-constructed belief in Darwinism and the idea that “only the strong survive.” Although this concept is based on the eugenics movement, I believe students of color, would be just as successful as their white counter-parts if starting from the same starting line socio-economically and educationally while having the same finish line in any race involved in life. But, that is a difficult race to win when there are head starts and unearned shortcuts awarded to privileged whites. Making a parallel

comparison, I use Alexander's (2012) work as she describes the new caste system. (I argue it's the continuation of the caste system I have analyzed in this study.) Alexander describes how the American dream is sold to children of color through meritocracy, yet the data we see does not reflect the American dream coming to fruition. According to Alexander:

The impact of the new caste system is most tragically felt among the young... To put the crisis in even sharper focus, consider this: just 992 black men received a bachelor's degree from Illinois state universities in 1999, while roughly 7,000 black men were released from the state prison system the following year just for drug offenses. The young men who go to prison rather than college face a lifetime of closed doors, discrimination, and ostracism. Their plight is not what we hear about on the evening news, however. Sadly, like the racial caste systems that preceded it, the system of mass incarceration now seems normal and natural to most, a regrettable necessity. (2012, p. 190)

Meritocracy enables society and the United States government to continue to place blame on the youth, their families, and leaders of color without questioning the system that creates the failures. Meritocracy also allows for the white polity to maintain its elite status by serving as a gatekeeper and limiting who is eligible to "pass" the educational hurdles whites have established. The polity of the white body versus that of the body of color is viable and pervasive in our educational systems and helps protect white membership.

### **Protecting White Membership**

Usually, in today's concept of membership, members of the said institution pay a membership fee and receive certain benefits and privileges. Members gain access to services or venues that may entitle them to a certain social and political prestige in the community. In this

description, every person is eligible, despite their skin color, if they can pay the membership fee(s). The key in this scenario is having the means to gain access to membership, which, in this case, is being able to pay the membership fees. However, there may be clauses and exclusions outlined in the institution's by-laws, which are reviewed and approved by long-term members. Some of these clauses state that membership approval be based on existing family membership in good standing with the institution, among other requirements. Also, potential members who have existing family membership may also provide the fees for the potential member through established trust funds and wealth not necessarily generated or earned by the potential member but by his family member. One last clause outlined in the by-laws states that the governing members are able to change the membership fees at their discretion, based on the needs of the institution, and they are also able to vote on what "type" of people or credentials they want as part of their membership. This is often one practice "whites" engage in order to preserve their membership based on the phenotypical traits they deem acceptable.

Mills (1997) explains this process and the function of the social and racial contract. He describes how access and membership to the white polity is based on the protocols of those making the decisions about the process and membership. This is the very same power those who define what race is use their superiority to maintain their power and privilege. "Whites" always shift the membership criteria and access through layers of bureaucracy and disdain by abusing their power. This is a critical element as I move into analyzing the contemporary legal discourse in the forms of disparity-focused educational acts. The creation of the "sub-student" (Leonardo, 2013, 2014) in the contemporary educational racial contract, which is attached to the ideal of meritocracy and white membership through the development of educational capital, is the description I want to leave you with as I move into the final analysis. It is important to describe

this process so that educators of color who also teach students of color can understand, and help their student's understand, how our educational systems are structured for their failure.

The white polity is protecting membership at all costs, criminalizing people of color in schools to ensure their failure. What I mean is, incarceration rather than in-school suspensions has permeated our school systems. In the not-too-distant past, a simple infraction of school conduct did not necessarily equate to a criminal charge, incarceration, probation, and the label of felon, delinquent, troublemaker, and/or gang member. Instead, infraction of a school's rules would equate to visiting the principal's office, serving some days in lunch or after-school detention, and maybe a three-day suspension from school in extreme cases. This has changed. Now, an infraction like property damage results in a lengthy process involving the county or city juvenile probation and detention centers. I'll use a very simple and personal story that provides an example similar to many other stories I've heard and Alexander (2012) documented. My son was in his senior year when he jumped in the gym hallway and partially broke the corner of a ceiling tile. This event ended up taking me and my wife to the local detention center where we had to miss work for three hours in order to attend a session conducted by a county probation officer about the criminal activity our child was involved in and how this may be a result of our poor parenting or lack of supervision. This also meant my son had a write-up in his school file and a deferred sentence if he did not get in trouble for six months following our afternoon probation session. Thankfully, my son was able to meet the stipulations of his probation, but many young men of color do not meet that same fate once they're involved with the criminal justice system. I have always held my children accountable, but I felt this could have been handled differently, and unfortunately many children of color's parents don't have the privilege to leave work to attend all that this error in judgment entailed. I won't get into all the ways this



process clogs up our criminal justice system even more than it already is, while creating the labels for future criminals, which may never be. I would argue, as Alexander (2012) does, that this protocol is enforced by the school as a part of the “Zero Tolerance” movement and connected to the “War on Drugs” movement. The criminalization of the body of color is pervasive and Alexander provides the examples relative to the impact these policies have had on youth and young men of color through her theory of the new form of Jim Crow. Alexander notes:

Convictions for drug offenses are the single most important cause of the explosion in incarceration rates in the United States. Drug offenses alone account for two-thirds of the rise in the federal inmate population and more than half of the rise in state prisoners between 1985 and 2000. Approximately a half-million people are in prison or jail for a drug offense today, compared to an estimated 41,100 in 1980—an increase of 1,100 percent. As a result, more than 31 million people have been arrested for drug offenses since the drug war began...Nothing has contributed more to the systematic mass incarceration of people of color in the United States than the War on Drugs. (2012, p. 60)

Alexander (2012) goes on to note how the original War on Drugs was supposedly intended to arrest and stop the “kingpins” and cartels that are smuggling in the drugs and getting them to the street-level users. According to Alexander, this couldn’t be further from the truth given the statistics, which strongly indicate most arrests and incarcerations are for simple “possession at a rate of four out of five, and only one in five was for sales” (2012, p. 60). Another myth of the war on drugs was that its primary mission was to reduce the use and amount of serious drugs. Yet as Alexander notes, this was false: “quite to the contrary, arrests for marijuana possession—a drug less harmful than tobacco and alcohol—accounted for nearly 80

percent of the growth of arrests in the 1990s” (2012, p. 60). These facts are not debatable and need to be considered before we believe the six o’clock news portraying youth of color as dangerous criminals. We must remember that our youth are not the primary means for importing drugs; for that, we must look at the United States government for its role.

As I noted in Chapter 4, during my analysis of this information and at times throughout this dissertation, it was very difficult for me to compartmentalize the emotions I experienced. I had feelings about assigning some responsibility to myself and to my ancestors for the enslavement and oppression of a three-year-old servant of color during colonization and the encomienda implementation. Now in the 21<sup>st</sup> century and in contemporary discourse, it is just as emotionally difficult and frustrating to see a 13-year-old student of color being enslaved as a criminal through the same racial caste system implemented in 1598.

Resource allocation by the white dominant racial group through the manipulation of legal discourse is a significant strategy and tactic of *The New Jim Crow* and continues the perpetuation of white supremacy according to Alexander (2012). The history of Jim Crow segregation, as we have to understand it historically, is no less prevalent today than it was during the civil rights era. Alexander explores this through one central argument: the contemporary legal system is used to incarcerate young men of color to segregate them from society rather than formally segregating them through enslavement on plantations or in encomiendas. *The New Jim Crow* (Alexander, 2012) is critical in helping to unravel the chaotic, yet organized, systems of oppression and domination which have been created to make members of society believe it is the natural way things are. The positions racial groups are currently in are based on their biological destiny and science base of races being in superior and inferior roles that are socially constructed. As I have noted throughout this study, race is a social and political construction, so the key is finding ways

to assess, analyze, disrupt, dismantle, and reconstruct systems based on love and humanity rather than on hate. Alexander's book helps build this needed momentum and academic approach to start this critical analysis.

As I have noted, Mills (1997) set in motion a process for helping us understand the racial contract as a spin-off of the social contract. Mills calls this process a "global periodization" of the RC. The description he provides lends itself to my study and is reflected in the case study of New Mexico. According to Mills (1997), this process needs to be explained based on the activities and the division between the time before and after global white supremacy was institutionalized. This is what I have attempted to do with the timeline I have covered and provided here. Mills refers to the time around the 13th and 14th centuries called *Before European Hegemony* by Janet AbuLughod (as cited in Mills 1997). Mills explains how we have moved through the periods of the racial contract since the fifteenth century which started with the intent of the RC being overt and more transparent through the use of de jure white supremacy. Mills explains, "The Racial Contract was explicit, the characteristic instantiations—the expropriation contract, the slave contract, the colonial contract—making it clear that whites were the privileged race and the egalitarian social contract applied only to them" (1997, p. 73). Mills goes on to note that, based on this transparency about racial superiority and maybe even pride in it, the RC then was written in a way that we did not have to read for subtext or create critical race hermeneutical frameworks to analyze the many layers and covertness, which is now a part of the contemporary RC. The main shift that Mills notes during this period after de jure white supremacy and the formal extension of rights was the extension of the superiority to now include whites' dominance over all "persons" rather than designating racial groups. These shifts in the RC are inclusive and extend to contemporarily include housing, employment

discrimination, restrictive covenants, and “political decisions based on resource allocation” (1997, p. 73).

The last data I examined was disparity-focused educational acts. These acts, I argue, are used as abstract liberal tools to make it seem like fair opportunities are being given to all racial groups to address their education needs through legislation. This is a form of abstract liberalism aligned with CRT and CRH that shows the practice by whites to extend and highlight the opportunities for racial groups to seek their own resources, yet their efforts are delayed, rejected, or flat out questioned about their need. This strategy is a key contemporary practice that white supremacy embraces, despite the legal, judicial, and educational systems being structured for the sole success of whites. The last part of the contemporary RC is to note the importance of *instruments of ideology* (IOI) that maintain the systems and are the cogs in the wheel of white supremacy. I will explore this in more depth in the implications section of Chapter 8.

To finish, it is crucial to note the “racing of space” (1997, p. 73) that Mills also notes is present in the contemporary RC. (I connect this to the legislative and educational systems in Chapter 7.) The “racing of space” is really an entirely separate research endeavor that needs to be undertaken. It may be a branch out from this study, but we must not discount the impact of spaces that have been created for the success of whites and how these spaces have been perpetuated over time. Mills (1997) provides this description:

Globally, the Racial Contract effects a final paradoxical norming and racing of space, a writing out of the polity of certain spaces as conceptually and historically irrelevant to European and Euro-world development, so that these raced spaces are categorized as disjointed from the path of civilization (i.e., the European project). (p. 74)

In 1998, as I noted in the review of the literature, on the eve of the Cuatrocentenario (400 year celebration) since the colonization of the Americas, a bronze statue of revered colonizer Don Juan de Onate had the right foot severed off. This act was claimed by “Friends of the Acoma” who made it a point of civic contempt and public discourse to cut off the right foot of Onate, as he had ordered this to be done to Acoma men during his tenuous time as the Governor of New Mexico (Trujillo, 2009). A letter to the Albuquerque Journal made reference to the abuse and barbaric practices that were perpetrated historically to threaten other “Indians” who thought they might revolt or challenge Onate’s authority. This is just one of many acts of disdain for the historical, and contemporary, maltreatment of Indigenous people in the Southwest. It is significant that this act would be carried out in 1998, after 400 years had passed. It tells of the continued distrust for the “Hispanic” people and the emotion contemporarily felt by the ancestors of those who were brutally exterminated or forced into slavery.

My analysis establishes the link between the text used in historical discourse and the maintenance of a racial hierarchy and racial ideology (-ies) in more contemporary discourse. The political and social landscape of New Mexico and the United States in the 21<sup>st</sup> century has shaped the contemporary use of language. This includes both the “Spanish,” or now “Hispanic,” racial group and the “Indian” racial group. Language has been used contemporarily to position the dominant racial group in a position of need due to them facing educational disparities. The power the dominant racial group has to shift their identity by using language to be in a position of need nationally also helps them to justify this need locally (Foley, 1997; Nieto-Phillips, 2004). The social tension around racial issues is still unresolved between the two highest racial populations inhabiting the State of New Mexico: the Indigenous populations

and “Hispanics.” Furthermore, the contemporary practice of each racial group seeking legislative funds for their racial group is a highlighted trend in my findings. This practice furthers the division and the conflict between these racial groups. Conflicts between racial groups have been going on since 1598, as demonstrated in the first discourse I analyzed, and it continues here through seeking funding.

In 2002 the first of several legislative acts were introduced on behalf of “Indian” and “Hispanic” students and families. These acts aimed at closing the “national achievement gap,” perhaps without looking at the local achievement gaps. The RC further notes how “needs based” policy specific to education is another unattainable goal dangled in front of students of color as promises. The promises are often not attainable given the intrinsic racism embedded in the system that approves these policies: the New Mexico legislative body. As noted earlier, after reviewing the years these acts were introduced, I infer that the number of bills introduced over the span of 15 years is another symbolic message of the inferiority of “Indians” and the lack of recognition for their educational needs compared to that of “Hispanics.” The number of attempts to get legislative recognition and funding made by “Indian” legislators in the state capitol exceed that of the “Hispanic” legislators introducing disparity-focused legislation. Through the lens of critical race theory, the claiming by our legislative body that they are concerned about “Indian” needs while denying and not funding their legislative requests could be considered one connection to abstract liberalism.

This disparity is also significant to how current legislation positions the power group as being in need of funding for education or being the victim of educational injustices. As is the case with all of the disparity-focused education acts, there are trends that point to each act having elements of the categories I outlined in my framework of interpretation: constructing of

groups, ordering of groups, “othering” of groups, and eliminating/excluding of groups. The last category is consistent with the legislation reflecting the superior race group’s needs with no other mention of “other” race groups. Table 4.5 illustrates the years there were *disparity-focused* educational acts focusing on racial groups, i.e., “Hispanic” and “Indian,” introduced in the New Mexico State legislature. I’ve established how the historical use of text is more overt, and now I will establish how the power of racism perpetuated in contemporary discourse is relative to the white supremacist racial ideology and hierarchy. These policies were selected as contemporary evidence (from the last 15 years) that may still be preserving the dominant ideology and racial hierarchy in New Mexico. It reifies the resources identified for the dominant racial group, and no other racial groups. It also shows a change in strategy: trying to portray the dominant group in a position of need, specific to educational resource allocation. Lastly, if these forms of educational policy continue an “us” and “them” dichotomy and the legacies of colonization through the maintenance of divide-and-conquer strategies, racial alliance will not be fostered through education.

Table 4.5

*Search Results of “Hispanic” and “Indian” Disparity-focused Educational Acts: 1998-2013*

Years Produced/Legislative Session Type	Contemporary Discourse/Disparity-Focused Legislation:
1998 Regular	0 Results
1998 Special	0 Results
1999 Regular	0 Results
1999 Special	0 Results
2000 Regular	0 Results
2000 Special	0 Results
2001 Regular	0 Results
2001 1 <sup>st</sup> Special	0 Results
2001 2 <sup>nd</sup> Special	0 Results
2002 Regular	<i>HB 28/SB 198</i>
2002 Special	0 Results
2003 Regular	<i>HB 150</i>
2003 Special	0 Results
2004 Regular	0 Results
2005 Regular	<i>HB 115/HB 127</i>
2005 Special	0 Results
2006 Regular	<i>SB 731</i>
2007 Regular	<i>SB 1049</i>
2007 Special	0 Results
2008 Regular	0 Results
2008 1 <sup>st</sup> Special	0 Results
2008 2 <sup>nd</sup> Special	0 Results
2009 Regular	<i>HB 50</i>
2009 Special	<i>HB 50 continuation</i>
2010 Regular	<b>HB 19/HB 150 SB 132 (ALL Hispanic Education Acts) Almost identical language in both of these acts.</b>
2010 1 <sup>st</sup> Special	
2010 2 <sup>nd</sup> Special	0 Results
2011 Regular	<i>SM 52</i>
2011 Special	0 Results
2012 Regular	0 Results
2013 Regular	<i>HB 342</i>

Key: House Bill = (HB)  
 Senate Bill = (SB)  
 Senate Memorial = (SM)  
 Hispanic = Bold  
 “Indian” = *Italicized*

I argue that the continued separation of resources based on race, and specific to education, continues the “us and them” dichotomy, which maintains a separation of racial



groups. The following exemplars were taken from the legislation. (See Appendices F-Q for the contemporary discourses, which are the 1998-2013 disparity-focused educational acts.). These exemplars include the interpretation of the legislation reflected by year. Furthermore, they reflect the division between the “Indian” and “Hispanic” racial groups and the “Hispanic” group attempting to construct its need of preserving its language, finances, and rights through the use of the law. Also, in the legislation, the construction of the “Hispanic” dominant racial group is a reflection of the “Spanish” having a history of stripping the language from “Indians” through the use of the laws and through boarding schools. As was noted in the historical discourse, as well as in the contemporary constitution, these educational acts do not include other racial groups. The only other time we have seen two racial groups in the same data was to establish superiority and inferiority, or “Indians” requesting what the “Spanish” have in language preservation. Next, I review the analysis of each of the disparity-focused education acts, beginning in 2002.

## **2002 “Disparity-Focused” Indian Education Act**

The 2002 “disparity-focused” Indian Education Act is the start of legislation that is largely racially driven but takes a more covert approach, as I have outlined above. In summary, the main arguments in the educational acts are to solidify resources in order to better serve the “Indian” racial group educationally. The acts demonstrate how the State of New Mexico has failed the “Indian” children for whom the legislation was attempting to aid educationally. On the surface, many would not consider it to be an issue for a racial group to seek state legislative dollars and resources for their racial group’s children. However, as I have argued throughout this text, these practices maintain conflict, division, and the “divide and conquer” strategy employed since colonization. If we are considering these policies and analyzing them using CRT and CRH as the framework of interpretation, then this practice is especially troubling.

At first glance, these exemplars, which construct racial groups, may illuminate a group trying to close the achievement gap through the allocation of state funding. This Indian Education Act as well as other legislative acts reflects the practices embedded in the state for groups to seek their own funding, which establishes the contemporary strategy for the Constructing of Groups (CoG). The construction of groups attempts to create the perception of a racial group's educational needs by lobbying the state to "...ensure equitable educational opportunities for American Indian students enrolled in public schools" (New Mexico Senate Bill 28, Begaye, 2002, p. 1). "Indians" also constructed themselves as wanting the state to "ensure maintenance of native languages" since their own language was diminished, and the "Spanish" attempted to eliminate their language by a provision of treaties meant to educate "Indians." This was done violently, and "Indians" were violently punished for speaking their language. Self-identification is significant for the "Indian" racial group and is reflected in this discourse; "'tribe' means an Indian nation, tribe or pueblo located within the state" as they attempted to establish their presence and their needs. This is also constructed by the following exemplar: "provide assistance to school districts and tribes to meet the educational needs of American Indian students." The wording of this example provides insight into how the "Indians" saw the lack of assistance from the state in educational attainment and sought help to: "provide assistance to school districts and tribes in the planning, development, implementation and evaluation of curricula in native languages, culture and history of American Indian students." Also, the identity construction continues here through the need for an instituted plan to address the failures of the state, so the act requests that the State of New Mexico:

provide assistance to school districts and tribes to develop instructional materials in native languages, culture and history in conjunction and by contract with native language

practitioners and tribal elders, unless the use of written language is expressly prohibited by the tribe. (New Mexico Senate Bill 28, Begaye, 2002, p. 3)

This is significant due to the history of the annihilation of Indigenous languages. Furthermore, the language in the act continues to construct a group in need of a professional body to better serve students by asking the state to “develop and implement the following support services for the purpose of increasing the number of American Indian teachers and principals and providing continued professional development for teachers and principals serving American Indian students.”

Lastly, the state is also called upon to make sure there is an evaluation process created to maintain the educational infrastructure “Indians” requested:

[S]chool performance shall be measured and reported to tribes: (1) student achievement as measured by a statewide test approved by the state board; (2) school safety; (3) the dropout rate; (4) attendance; (5) parent and community involvement; (6) educational programs targeting American Indian students; (7) financial reports; (8) current status of federal Indian. (New Mexico Senate Bill 28, Begaye, 2002, pp. 5-6)

The exemplars cited here reflect the construction of a group in need; a group distinguished for their native language, for their lack of success in educational attainment, and for having federal tribal recognition. The exemplars also reflect a racial group that has school districts that are failing “American Indian students.” It also reflects the need for the “development, implementation and evaluation of curricula in native languages, culture and history of American Indian students.” Lastly, the racial group seeking funding is constructed in these exemplars as requiring curriculum in specific historical perspectives and highlights the

shortcomings or areas of needed improvement by the State of New Mexico for “American Indian students” and their families.

The Order of Groups (ORoG), from the group identified as inferior (“Indian”) in the racial hierarchy, begins to seek funds separate from any funds which may be legislated for the “Spanish” and more superior racial group. The “Indian” racial group is listed first, second, and third, “Indian Education Act,” “American Indian students enrolled in public schools,” and “American Indian students” with no other racial groups listed yet again.

In my analysis, this legislation serves as an example of the “Indians” feeling as though their education needs are not being met. The practice of “dehumanizing” solely based on separate racial groups is a common theme since the days of boarding schools.

“Dehumanization” is the practice of the “Spanish” to seek their own resources and does not include or reflect the needs of “Indians.” This practice of solely seeking funding for racial groups separately may be seen as common practice, hence, setting the tone for future racial groups seeking their own funding separate from the “other children.”

As a mechanism of internalized oppression, the analysis starts to illustrate how the inferior group, which was labeled as inferior, now uses the strategy of “Othering” of Groups (OoG) themselves. At this time in history, 2002, they had an opportunity in state law to define themselves as Indigenous or Native American or American Indian, but they continued to use the name given to them by the colonizer: “Indian.” Also, the following exemplars show the local, regional, and national othering of “Indian” groups:

- A. ensure equitable educational opportunities for American Indian students enrolled in public schools;
- B. ensure maintenance of native languages;
- C. study, develop and

implement educational systems that positively impact the educational success of American Indian students. (New Mexico Senate Bill 28, Begaye, 2002, p. 1)

As established in the original encomienda act (Royal Order) the term and racial marker used for “othering” was the race label “Indians.” As I noted earlier, these terms have historical meaning that may impact people in many ways. The next examples follow suit specific to the differentiation as an “Indian nation, tribe, or pueblo” with the further distinction of “American Indian” children.

The continued use of the Eliminating/Exclusion of Groups (EoG) strategy continues in the contemporary discourse. The practice of one group eliminating the “other” was established by the Spanish in the first encomienda act. This practice continued, as seen in all of the data, and is now an established contemporary practice by “Indians.” When racism is transferred over time through hegemony by way of discourse, the practices of the superior group get embedded in law; this doesn’t allow for building unity among all children, learning together for the betterment of our communities, state, region, nation, and world. The fact that no other racial group was noted in this document, as it was in the historical discourse as well as in the contemporary constitution, says to me that groups are maintaining the “divide and conquer” legacy. Again here, the only other time we have seen two racial groups in the same data was for establishing superiority and inferiority. The next education act replicates very similar language. This is pretty consistent when it comes to the language in all of the legislation. One reason to consider the redundancy in the language is that the process of getting financial support from the state by “Indians” took several attempts over several years. I now look at another disparity-focused act introduced in 2003 by “Indians.”

### **2003 Regular “Disparity-Focused” Education Acts HB 150**

As is the case with the previous act, this 2003 piece of legislation continues to seek funding, administrative support, and other resources for the “Indian” children of New Mexico. The language used in this legislation is identical to the previous act since the 2002 legislation was not approved. As I have noted, the language is identical in all the “Indian” education acts since their requests for state funding were denied year after year.

The Constructing of Groups (CoG) persists in this 2003 legislation. The exemplars I have cited below continue to resemble a need for “Indians” to “ensure equitable educational opportunities for American Indian students enrolled in public schools.” This part of the legislation reflects the need for the assigned inferior group to also “ensure maintenance of native languages,” which is historically significant given the punishment experienced by “Indians” for speaking their language during colonization and in the boarding school era.

The next exemplar constructs a perspective from the educational experience of “Indians” who have experienced an educational system that has failed their needs, hence the need to “study, develop and implement educational systems that positively impact the educational success of American Indian student.” To me this exemplar is significant because it speaks to the experience and structure of the educational systems which were created to “indoctrinate and teach” the ways of the Spanish Crown rather than preserving native culture.

The following exemplars are more specific about the need for the Indigenous populations to now define themselves: “as used in the Indian Education Acts, ‘tribe’ means an Indian nation, tribe or pueblo located within the state.” The following exemplar provides more evidence of a failing educational system and requests the state to “provide assistance to school districts and tribes to meet the educational needs of American Indian students.” Again, the specific request

tells a lot about unmet educational needs, but, more poignantly, it illustrates requests to the state to honor Indigenous values by asking to “provide assistance to school districts and tribes in the planning, development, implementation and evaluation of curricula in native languages, culture and history of American Indian students.” The need to request these specific elements is telling, given this has already been granted to the superior group that has solidified their “right and privilege” to structure an educational system to benefit themselves. Lastly, another request from the state of New Mexico is to:

[P]rovide assistance to school districts and tribes to develop instructional materials in native languages, culture and history in conjunction and by contract with native language practitioners and tribal elders, unless the use of written language is expressly prohibited by the tribe. (p. 3)

At first glance, these exemplars, which construct groups contemporarily, may solely illuminate a group trying to close the achievement gap through the allocation of state funding. Both this data and the other acts reflect the practices embedded in the state legislation for groups to seek their own funding. This practice maintains the history hegemonically by dividing and conquering groups through the contemporary practice of separating resources and having each racial group seek their own funding. This is yet another function of abstract liberalism where the dominant group does not impede the seeking of financial resources by its subordinates yet uses sovereignty as a legal loophole to alleviate themselves of any educational resource allocation responsibility until their needs have first been met. This is a common practice to look for in legal discourse and in racism-embedded institutions when looking through the lens of CRT and CRH.

The data cited here reinforce these points by the constructing of a group in need, distinguished for their native language, unsuccessful in educational attainment, and having federal tribal recognition. Also, the following exemplar shows Indigenous students seeking the support that “Hispanics” already have in schools, which includes the need to:

[D]evelop and implement the following support services for the purpose of increasing the number of American Indian teachers, and principals and providing continued professional development for teachers and principals serving American Indian students. (p. 4)

The provisions requested in this act also include the assessment of outcome measures through:

[S]chool performance shall be measured and reported to tribes: (1) student achievement as measured by a statewide test approved by the state board; (2) school safety; (3) the dropout rate; (4) attendance; (5) parent and community involvement; (6) educational programs targeting American Indian students; (7) financial reports; (8) current status of federal Indian. (p. 6)

These exemplars also reflect a racial group that has school districts that are failing “American Indian students.” It once again reflects the need for the “development, implementation and evaluation of curricula in native languages, culture and history of American Indian students.” Lastly, the racial group seeking funding is constructed in these exemplars as requiring curriculum in specific historical perspectives and highlights the shortcomings or areas of needed improvement for “American Indian students” and their families.

The Ordering of Groups (ORoG) also continues with only one racial group being listed on the page and in the request for funding which are “American Indian students enrolled in public schools” and also includes again “American Indian students.” The three exemplars are cited due to the first racial group being listed on the document, and spatially, referencing



“Indian” education. It also highlights how legislators are seeking resources for inferior students from their specific racial group.

The “Othering” of Groups (OoG) continues when we see the use of the original label assigned to the inferior group in the racial hierarchy, “Indian.” This term in the language continues as the use of it persists from Indigenous groups using it to identify them. There is evidence of these shifting identities, like in the next exemplar, which distinguishes a shifting racial label now as “American Indian,”

A. ensure equitable educational opportunities for American Indian students enrolled in public schools; B. ensure maintenance of native languages; C. study, develop and implement educational systems that positively impact the educational success of American Indian students. (p. 1)

The last exemplars cited in the OoG also reflect the language used to define the larger racial group: “tribe means an Indian nation, tribe, or pueblo located within the state.” This exemplar illuminates the individuals students connected to the larger racial group: “American Indian students.” These examples are significant because it seems that historically the superior groups define the inferior groups. In this case, the Indigenous groups are now in a position to write their own existence and to define themselves, maybe for the first time in several centuries.

As established in the original encomienda act, the term and racial marker used for “othering” was the race label of “Indians.” As I noted earlier, these terms have historical meaning that may impact people in many ways. Many of these experiences are traumatic and may be connected to historical trauma (Yellow Horse Braveheart, 1998). This is not a focus of this study, but it is important to note, as I have documented throughout.

Lastly, Eliminating/Exclusion of Groups (EoG) is also present in these disparity-focused educational acts even though they are drafted and authored by the Indigenous group(s). So, no other racial group was noted in this document, which is the same pattern seen in the previous discourse. As in the historical discourse and in the contemporary constitution, no other race groups are noted in these educational acts. The next piece of legislation, in 2005, is another “Indian” disparity-focused education act introduced by “Indians.”

**2005 Regular Session “Disparity-Focused” Native American Language Endorsement House Bill 127**

In this 2005 piece of legislation we see a slight shift in the language from “Indian” to “Native American.” This shift in identity is something I note later in my analysis, but it is important to note that it may have occurred in order to get their needs met. In this legislation, the “Indian” racial group is seeking funding to develop a Native American Bilingual Endorsement based on their native languages. This is one of the only times we see the inclusion of any other racial group in all of the acts I analyze. Here it is to seek resources for the teaching and preservation of their native language that the “Spanish” have already solidified for themselves through the State of New Mexico Constitution.

The continued use of the Constructing of Groups (CoG) strategy persists into the 2005 legislative session. Again, there are several exemplars I’ve cited below which continue to construct the only racial group noted in yet another piece of contemporary discourse. The need for this racial group to construct its group as in need of “Indian Education” is also evident. These exemplars continue to construct a racial group by creating “Incentives for integration of Native American Bilingual Programs...” in the educational system and demonstrate the need for “creating a Native American Language Endorsement.” This legislation is created so that the Native language becomes institutionalized. This legislation is also introduced in order for native

language not to continue to be shamed or beaten out of someone because they value their language and want it seen as equal to the Spanish, "...Native American language study on the same basis as credit awarded for Spanish language study." Lastly, the "Native American language" continues to construct the group as in need of legal affirmation and the need for a "Native American language license" that supports educators to also be fluent and able to teach the "Native American language" (p. 1). It is extremely important to note: This is the only disparity-focused educational act that reflected another race group "Spanish." This is significant because it does so in order to show the power of the "Spanish" group and to historically preserve "their" language. This is done to show a differentiation in the treatment of one racial group's language preservation over another's.

The Ordering of Groups (ORoG) continues, but in this case the "Native American language" becomes a central component for the request that the State of New Mexico legally sanction their language on the "same basis as credit awarded for Spanish license." This is extremely important because it maintains the group-to-group racial conflicts we have come to understand from critical theory on the basis of language preservation. It is also reflective of what we learn from CRT, but in this situation it places the Indigenous population in a position to use the law in their favor. These two exemplars were selected because they reify the use of racial descriptors used to maintain difference. There is only one racial group here, the one that is seeking funding, so they are the first and only race group listed.

The "Othering" of Groups (OoG) continues to be a mechanism of "divide and conquer." As we see in this case, the two racial groups continue to compare resources and build legal discourse based on their needs. I have yet to find legislation that encompasses the needs of all children in the State of New Mexico. The "Native American" racial group continues to seek the

same educational provisions as the “Spanish,” and it is evident, due to the numerous acts reviewed here, that the needs of the “American Indian” students are not being met.

The “othering” in these exemplars is reflected in the attempt to allocate funds for a group in poverty, in the state and nationally. Also, the difference in language may also be seen as a feature of being “othered.” However, in this case, there needs to be exceptions when the racial group in need is seeking to preserve a language that was once facing extinction.

In this case, Eliminating/Exclusion of Groups (EoG) was somewhat present due to their only being “Native American” and “Spanish” racial groups noted, and all other racial groups are excluded. The framing of this data is similar to the historical discourse in that it continues to put one racial group in a superior role and one in an inferior role, seeking what the superior group has access to in education. The next disparity-focused act reifies the framing of financial support for language development programs for “Indians.”

### **2005 Regular Session Disparity-Focused” Indian Education Act HB 127**

In this 2005 piece of legislation we see another attempt to solidify resources for the preservation and teaching of Native American languages. The continued requests for these funds usually reflect a lack of funding the prior year, legislation not being passed, or the pursuit of funding in addition to what had already been awarded.

In the act, the Constructing of Groups (CoG) is maintained as follows. Using the term “Indian” maintains the modern racial group that was constructed in the first encomienda act and is now attached to legal discourse in the “Indian Education Act.” The term “Indian” also frames the racial group as being in need of a specialized education connected to the reinstatement of “Bilingual Education.” Also, the “Indian” racial group is now specifically calling for the state to address its failures in the educational system through the allocation of funds: “A. Two hundred

fifty thousand dollar (\$250,000) is appropriated” to preserve “Native American bilingual language programs” (p. 1). Again, this is significant into the 21<sup>st</sup> century given the attempts historically to try to strip this group of their “Native American language.” Also, the group constructs itself as needing the financial support of “fifty thousand dollars (\$50,000) for a pilot program to train teachers” (p. 2) due to the lack of a specialized teacher workforce. This is a direct result of the acculturation process trying to eliminate “Native American language.”

As in the other acts, the Ordering of Groups (ORoG) continues by listing only one group in the “Indian Education Act.” This act was seeking to preserve the language of the racial group through the provision of “Bilingual Education.” In the ordering of groups, this is consistent with the other acts and with the other data as a whole.

“Othering” of Groups (OoG) is a strategy that persists in this document by positioning the inferior group proposing the “Indian Education Act.” The act maintains their difference through the need for specialized “Bilingual Education” and funding. “A. Two hundred fifty thousand dollars (\$250,000) is appropriated” for the development of “Native American bilingual language programs” in order to preserve the historic “Native American language.” The strategy of using “othering” language to seek funding is a common practice in more recent legislation. Lastly, the continued request for funding is critical for purposes of developing a more diverse and unique workforce that is responsive to Indigenous groups, “fifty thousand dollars (\$50,000) for a pilot program to train teachers” (p. 2).

Eliminating/Exclusion of Groups (EoG) is a continued practice in the historical discourse as well as in the contemporary constitution. No other race groups are included here. This practice is significant because it tells a lot about the continued division of the two largest racial groups in New Mexico. The racial groups are competing rather than creating racial alliances.

Ideally educators and legislators should work together for children of all racial groups who will eventually lead this state. The next piece of legislation is another “Indian” disparity-focused educational act in 2006 specific to post-secondary education.

### **2006 Regular Session Senate Bill 731**

Along with this 2006 Regular Session Senate Bill 731 sister bills were introduced.<sup>6</sup> I chose to bundle these three acts together and provide the analysis for Senate Bill 731 because they use identical language in most of the document, and the parts that were slightly different did not impact my analysis. The years in which each of these acts were introduced, and the number of times they were introduced, is reflective of the four-year span from 2006-2009 that “Indians” attempted to solidify funding. The practice of Constructing of Groups (CoG) is maintained and now takes place in the positioning for adoption of the “Indian Post-Secondary Act.” This act will “assist in the development of culturally relevant learning environments and post-secondary education opportunities for American Indian students” in order to continue the relearning of “native languages and cultures” which were once stripped through colonization and “pacification.” This act constructs and frames the same needs as above based on a failing education system and the need to develop “post-secondary educational systems that positively affect the educational success of American Indian students.” Instituting these practices starting in the Public Education Department and “the department and tribal colleges” and “the department; post-secondary institutions; students and parents; community-based organizations; the public education department; and tribal, state and local policymakers work together to improve post-secondary educational opportunities for American Indian students” (pp. 1-2).

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<sup>6</sup> See the sister bills 2007 Regular Senate Bill 1049, & 2009 Regular House Bill 50.

The Indigenous group continues to frame the need for a “tribal college,” and a “tribe means an Indian nation, tribe or pueblo located within New Mexico” specific to the “higher education needs of American Indian students.” The issues they continue to use in order to construct their group are areas that one would think that in 2006 would already be in place:

[I]ncrease the enrollment, retention and graduation rates of American Indians in post-secondary institutions: (a) recruitment; (b) retention; (c) academic support and transition programs; and (d) academic financial support; (4) develop a system for consistent data collection and sharing on the enrollment, retention and graduation rates of American Indian students in post-secondary institutions. (p. 4)

At first glance, the exemplars may solely illuminate a group trying to close the achievement gap through the allocation of state funding, but tactic continues division between groups. Not only this data, but also the other acts continue to reflect the practices embedded in the state for groups to seek their own funding based on a failing educational system.

The data cited here reflect the constructing of a group in need, distinguished for their native language, unsuccessful educational attainment, and having federal tribal recognition. The exemplars also reflect a racial group that has school districts that are failing “American Indian students.” The exemplars also reflect the need for the “development, implementation and evaluation of curricula in native languages, culture and history of American Indian students.” Lastly, the racial group seeking funding is constructed in these exemplars as requiring curriculum in specific historical perspectives. It highlights the shortcomings or areas of needed improvement for “American Indian students” in post-secondary education and their families in the State of New Mexico.

Ordering of Groups (ORoG) is also continued in this 2006 legislation. These exemplars again reflect the order in which race groups are listed when seeking legislative support, and they again only list one racial group: “American Indian students” and, more specifically, “American Indian students in post-secondary institutions” (p. 2).

The “Othering” of Groups (OoG) strategy also continues through the use of identifying an older generation now seeking culturally and racially appropriate education through the “development of culturally relevant learning environments and post-secondary educational opportunities for American Indian students” with the need to “ensure maintenance of native languages and culture” specifically to “serve American Indian students” (p. 2).

The need for the development of environments that support culturally relevant learning clearly distinguishes how groups are now contemporarily “othering” themselves. This is done to ensure survival of language, educational attainment, and preserve cultural practices. The pattern of Eliminating/Exclusion of Groups (EoG) of different races continues with no other racial group noted in this document. The following legislative acts introduced in 2010 are significant for several reasons I will explore more thoroughly in my analysis.

### **2010 Regular House Bill 19 (Appendix E)**

The 2010 Regular Session House Bill 19 was part of a trio of legislation introduced in one legislative session. This is not uncommon.<sup>7</sup> It is a strategy and tactic that the superior racial group (Spanish aka white) is now using to place them in a position of having their racial group’s educational needs met. The superior racial group manipulates the law and the language in the legal discourse to now position their group as having the “right and privilege” to obtain the necessary resources for their “students” success. I am not disputing the educational needs of

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<sup>7</sup> See sister bills House Bill 150S and Senate Bill 132.



“Hispanic” students, but these documents make it evident that their needs are given priority over any other racial group in New Mexico. I combined these acts for analysis because they use identical language. I selected House Bill 19 to present here, but I analyzed each piece of legislation separately in my coding, and they are in the appendix.

The Constructing of Groups (CoG) continues, but now the group that has the highest socioeconomic status in the state, compared to the inferior group, has labeled and created the hierarchy. This group (the “Hispanic” group) is still at the top and seeking funding. The strategy of introducing sister bills in both the House and Senate is common, and in this case, a third bill was introduced. All of the bills had similar or identical language. It is also significant that the “Spanish,” or now “Hispanic,” group is also now competing for the same funds that the Indigenous groups have been fighting for. “Spanish” are positioning themselves as needing educational resources that include institutional, monetary, and laws. Despite that all of the State of New Mexico educational systems are set up to give the “rights and privileges” to the “Hispanic” group, the leaders who proposed this legislation still see the need to develop “The Hispanic Education Act,” which would create the “Hispanic Education Division.” This is critical because they now have the power to change racial identities and decide what race means, and they can benefit from this privilege and power both locally and nationally. The intent of The Hispanic Education Act is to: “A. ensure equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for Hispanic students enrolled in public schools” (pp. 1-2). In several places in this legislation, the language mirrors the legislation introduced in previous educational acts by “Indian” groups, yet the “Indian” groups’ requests have not been funded. Also, it is concerning that the “Hispanic” racial group has the capability to position itself in a superior role locally and in a victim role nationally.

Given their dominant role in the colonization of New Mexico, for the “Hispanic” group to falsely say that they need to “ensure equitable and culturally relevant learning environments,” while making these basic rights inaccessible for “Indians,” is a significant demonstration of their power, and it is appalling. It clearly shows how short-term memory is present when the dominant racial group can’t see the historical trauma their ancestors may have caused. This is another point of racial power and privilege when a group can ignore the inequality that has been perpetuated for centuries by simply dismissing it as something that happened in the past.

The other major exemplar I have cited here shows the lengths that policymakers representing the “Hispanic” racial group go to in order to preserve their power:

B. provide for the study, development and implementation of educational systems that positively affect the educational success of Hispanic students; C. encourage and foster parental involvement in the education of their children; and D. provide mechanisms for parents, community, and business organizations, public schools, school districts, public post-secondary educational institutions, the department and state and local policymakers to work together to improve educational opportunities for Hispanic students. (p. 3)

The access and opportunities that this legislation provides here reflect the contemporary positioning of “Hispanics” in a victim role, or in a position of need. It speaks to what I have outlined in terms of the dominant racial group having the power to write people in and out of existence, then to have the “right and privilege” to manipulate the law to favor the future generations. This is too much power for any one racial group to possess. Legislation needs to start being more inclusive of all children’s experiences and needs.

The following language in the exemplar continues to provide legal implications for an already powerful group. The group now corners the Public Education Department to provide

“Hispanic education” to “Hispanic students” through the recruitment and hiring of “Spanish speaking teachers.” This request is framed in a victim stance by mandating to “mitigate the effects of poverty and mobility on Hispanic student success.” I don’t have an issue with these provisions being provided through taxpayer dollars, but my tax dollars are not solely for the benefit of an already privileged and powerful racial group. The legislation goes further by asking educators to “lower truancy rates and increase graduation rates among Hispanic students.” The bill mandates efforts to “improve health statistics for Hispanic students” while also mandating that the Hispanic Education Division “work with school districts, the higher education department and public post-secondary educational programs to facilitate the successful and seamless transition of Hispanic students to post-secondary education and training” (p. 5). This legislation is similar to the other acts I analyzed earlier that reflect the need to introduce separate bills for “Indians” addressing these same areas, including the post-secondary transition. It perplexes me why these requests can’t be combined and inclusive of all children.

Similar to the “Indian Education Act,” the text used here to construct the power group also attempts to solidify state funds to support education. The text used in all three pieces of legislation appeared in the only year I found that the “Hispanic Education Acts” were introduced in the state legislature. This is significant because they were funded in the only year they were introduced. These exemplars reify how the power group now frames itself as being in a position of need, both locally and federally, as “Hispanics” facing an achievement gap crisis. The language is more similar than it is different when compared to the “Indian” education acts. The construction continues to reify the need for a group to have support in educational attainment, teachers who speak a certain language, and strategies that prevent health issues. It also places the “Hispanic” group in the SES of poverty, which may be the case nationally, but not locally.

The Ordering of Groups (ORoG) continues with only one racial group being listed in this legislation: the dominant racial group “Hispanic students.” As I have noted, this is significant if we are to address racism and counter “divide and conquer” legacies that continue to make racial groups think they have to go after separate tax dollars and create separate educational agendas based on race. As was noted in the other exemplars for “Indian Education Acts,” the ordering of the groups usually depends on the racial group seeking funding or legislative action.

“Othering” of Groups (OoG) is still a strategy whether it is to distance the superior racial group from the inferior racial group, or whether the superior group is now “othering” themselves in order to leverage funding and educational capital for future generations. The following example was used above in the CoG, but it is also useful here to “other” themselves to a point of being in need: “Hispanic Education Act is to: A. ensure equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for Hispanic students enrolled in public schools.” It would be an oversight to not think about the timing of this legislation nationally. Locally the legislators who represent the interests of the “Hispanic” racial group have seen legislation introduced by the “Indian” racial group. So they may feel some need to legislate those funds before they can no longer ignore Indigenous group needs. Again, the dominant racial group positions itself and essentially “others” their racial group in order to leverage dollars legislatively:

B. provide for the study, development and implementation of educational systems that positively affect the educational success of Hispanic students; C. encourage and foster parental involvement in the education of their children; and D. provide mechanisms for parents, community, and business organizations, public schools, school districts, public

post-secondary educational institutions, the department and state and local policymakers to work together to improve educational opportunities for Hispanic students. (p. 3)

Lastly, these two exemplars continue to show how a dominant racial group sees the need to legislate a specific type of education based on race, the need to not include other races, and the need to create education that is specific to the needs of “Hispanic students” (p. 1). As was the case with the “Indian Education Acts,” the racial group here is also presenting itself as needing culturally relevant learning environments to include relevant curriculum for “Hispanic students.” The practice of “othering” continues in the exemplars by including not only the students but also the families of “Hispanic students” as in need of mechanisms to ensure educational success. This is ironic given that the entire system (from the encomienda slave labor system, reflected in the census data, to the current legislation) was created to support the socio-economic success of the group now “othering” themselves as in need.

As was the case with all but two documents I analyzed, there was no other racial group noted in this document, so the strategy of Eliminating/Exclusion of Groups (EoG) continued. As was noted in the historical discourse, as well as in the contemporary constitution, no other race groups are included. This is a problem when looking through the lens of CRH. The next piece of legislation I analyzed was a legislative memorial, which was intended to remind the legislative body and the State of New Mexico that there were unfunded acts. These acts would help meet the needs of “Indians,” and that these acts should to be remembered since the needs hadn’t been met.

### **2011 Regular Session Senate Memorial 52**

This senate memorial bill is another piece of legislation that is still seeking support from the state on behalf of “New Mexico Indian children” for failed educational promises going back

to the treaties establishing education for all “Indians” ages 6-16. Memorial legislation is usually introduced to the State of New Mexico legislative body in order to draw attention to or to remember to study an issue impacting the state. Another key term used to create a new identity is the addition of New Mexico before “Indian children.” I imply this was done in order to try to establish some responsibility the state has to not just “children of Spanish descent” receiving the “right and privilege” to not be “separated and forever enjoy perfect equality” in schools as noted in the State of New Mexico Constitution (p. 147).

Constructing of Groups (CoG) in this piece of legislation is reminiscent of the other “Indian Education Acts” in the sense that the language is very similar with more poignant and somewhat meaningful language. The language used may show some frustration with the history of this legislation failing to be funded. It is important to note that this is a Senate Memorial, which means the sponsors are bringing this issue to the state’s awareness by drawing attention to an unaddressed issue. Like the other pieces of legislation this begins with a request for the “The Indian Education Act,” which differentiates the needs of “New Mexico Indian children” (p. 1). Furthermore, the language used also constructs this racial group as worthy by stating, “Indian children deserve a quality education to continue the legacy of strong Indian leadership for tribal nations and the state” (p. 1). It further explores the failing workforce and the need for a “tribal teacher preparation initiative [to] be authorized and geared toward educators working or interested in working at Native American schools or wherever there are significant numbers of Native American students enrolled” (p. 2).

This is significant because it shows the failure of the PED to serve in the role of recruiting qualified teachers, which should already be a priority given the region and the State of New Mexico’s Indigenous populations. It also reflects the continued failure to “provide for the

study, development and implementation of educational systems that positively affect the educational success of American Indian students” (p. 2) while at the same time still attempting to “address the Native American achievement gap” (p. 3). Lastly, the following two citations show the long-term, failed attempts of the State of New Mexico to help one of its most vulnerable populations:

[T]hese solutions include: A. funding, implementing and enforcing the Indian Education Act; B. increasing the authority of the Indian education advisory council; C. ensuring that funds follow Indian students; and D. redefining Native American student achievement and developing alternative assessments. (p. 3)

[R]esearch and identify mechanism to foster parental involvement in the education of Native American students; E. reassess the utilization of funds to improve Native American students’ academic outcome; and F. develop an action plan with accompanying time lines to improve Native American students’ academic achievement and narrow the achievement gap. (p. 4)

In this memorial, legislation was reintroduced to remind the state of why the requests relative to the original legislation were not implemented or may not be solving what they were intended to address. The third exemplar shows the main point of the memorial: that “Indian children deserve a quality education to continue the legacy of strong Indian leadership for tribal nations and the state” (p. 1).

Ordering of Groups (ORoG) is a common feature consistent throughout this legislation, and it makes sense that racial groups are going to go after their own needs and not be inclusive of other race groups’ needs simultaneously: “New Mexico Indian children” is the only racial group

listed as well as “Native American students” (p. 1). This maintains the pattern of ordering the racial group in need first, and solely, in the text.

“Othering” of Groups (OoG) has shifted from the dominant group “othering” racial groups, which were considered inferior, to now seeking legislative funding by “othering” themselves in order to present their needs. Another shift in the language is less use of the racial label “New Mexico Indian children” and “Indian children” to now putting it in the context of “Native American students” (pp. 1-2) in need of educational systems that support their needs. Although the maintenance of the “other,” based on the race label of “Indian,” is still present here. The Exclusion/Eliminating of Groups continues in this piece of legislation with only the sponsoring racial group being identified yet again. The last piece of legislation and contemporary discourse I analyze is a bill in 2013, which seeks state funding to improve “Indian” language.

### **2013 Regular Session HB 342**

In this past piece of legislation, I analyze the contemporary discourse connecting the racial caste racial hierarchy and WSI to white supremacist practices. This legislation is another attempt to solidify funds for “Indians.” The legislation reflects the continued lack of funding for the educational needs of the established inferior group. These contemporary strategies are more covert than ones used in the previous disparity-focused acts I analyzed. The contemporary forms of the racial contract (Mill, 1976) are illuminated through this analysis, which also exposes what Alexander (2012) calls *The New Jim Crow*. For example she highlights the high rates of private for-profit prisons and the amount of men of color incarcerated for minor crimes. Lastly, it seems that there is a continued disregard for the poorest racial group in New Mexico—the Indigenous populations—and so legislative funding is still needed for them.



In 2013 House Bill 342 continues the Constructing of Groups (CoG) strategy. This piece of legislation was an appropriation bill, which meant it was solely trying to allocate funding: “Section 1. APPROPRIATION. One million dollars (\$1,000,000)” for the “Indian” racial group with the continued “emphasis on culturally relevant teaching and language maintenance” (p. 1). The continuation of seeking funding year after year for the inferior racial group without seeing the same recurrence in requests from the superior racial groups reflects the fact that one racial group’s needs are being met based on the continued requests that go unfunded for “Indians.”

This piece of legislation reflects the financial shortcomings, or inadequate funding, for a racially strong group maintaining its original construction of being in poverty and having financial need. The emphasis of these exemplars also reflects the maintenance of culturally relevant language.

Ordering of Groups (ORoG) is also present in the last piece of contemporary discourse by only naming the “Indian” racial group. This practice is similar throughout the disparity-focused acts, which are different when we look at the Royal Order, census data, and even in the State of New Mexico Constitution.

Through the continued use of “Othering” of Groups (OoG) the racial self-labeling continues with the original label given to the inferior group (“Indians”) in the Spanish *encomienda*, and we see it here again in 2013: “Indian.” The maintenance of the “other,” based on the race indicator of “Indian,” is still present here. We also see the continued Eliminating/Exclusion of Groups (EoG) by the now inferior group (“Indians”) continuing to not note other races in this document, or in any other data I analyzed. As was noted in the historical discourse and in the contemporary discourse, no other race groups are included in this legislation.

In analyzing the 15-year span of *disparity-focused* education acts introduced from 1998-2013, there are some trends that ultimately confirm the preservation of the racial hierarchy established since colonization. In total, there were 12 different bills and one memorial; of the 12 bills introduced, three bills were for the “Hispanic” race group and nine were for the “Indian” race group. For instance, “Indian” education acts focusing on disparities have been introduced almost annually since 2002. In comparison, the “Hispanic” race group education acts focusing on disparity were introduced in only one year, in 2010. “Indian” education acts were introduced at a 9:3 ratio compared to education acts for “Hispanics.” This is significant because it reflects one group’s needs being met over another’s. The Hispanic education acts were approved in the one and only year they were introduced; the Indian education acts had to be reintroduced year after year with continual requests of similar administrative and funding support as those made by the “Hispanic” group. Ironically, the text used in the “Hispanic” education acts was adopted and similar, if not identical, to the original “Indian” acts introduced. This is another example of the interest convergence principle playing out in the contemporary discourse when the dominant group starts to present themselves in a position of need but will only consider funding “Indian” education acts after the predominantly run “Hispanic” legislators fund their own racial group’s legislation.

Another element I felt important to note is presented in Table 4.6: the frequency of the categories that were present in the contemporary disparity-focused educational acts by year. This is consistent with the tactical shift to more covert racism embedded within the law connected to education.

Table 4.6

*Frequency of Categorical Presence/Contemporary Discourse Education Acts by Year Introduced*

Category for Analysis	2002	2002	2003	2005	2005	2006	2007	2009	2010	2010	2010	2011	2013
Constructing of Groups (CoG)	31	23	15	18	9	33	32	20	27	16	16	12	4
Ordering of Groups (ORoG)	13	12	10	8	8	20	3	3	6	4	3	5	2
“Othering” of Groups (OoG)	15	17	14	14	9	20	5	10	20	14	13	9	4
Eliminating/Exclusion of Groups (EoG)	1	1	1	1	1	1	1	1	1	1	1	1	1

This table shows the frequency of data occurring in legislation using the categories relative to my CRH framework of interpretation. It shows oppressive tactics and racial strategies are still in practice despite the changing landscape of contemporary society. It highlights the covertness and language that tries to hide racism (Bonilla-Silva, 1996) because it is not politically correct in today’s society to be racist.

It further brings to light strategies which are embedded and internalized in a society and in institutions. Acknowledging these strategies and tactics helps educators of color see how institutions and schools are set-up to help certain students succeed. This success is usually beneficial over other students who don’t have the same cultural and educational capital as their white counterparts. Validation may lead to empowerment and is part of the healing that can take place when race groups come together. This is a process very similar to grief work when dealing with losing a family member; this is what Yellow Horse Braveheart (1998) describes as the experience of American Indian and Alaskan Natives when working through legacies of colonization. She cites the work of Freire and outlines his description of the internalized

oppression that many people of color experience as they go through histories of trauma, genocide, and oppression.

## **Conclusion**

The analysis of disparity-focused education acts was done to examine racial language that was used in the historical discourse and to see if there was similar text, or embedded meanings, used in the contemporary discourse. The analysis answered my research questions by establishing the connection between language and the preservation of a white supremacist ideology, power, and racial hierarchy. My interpretation of the data is that the caste system serves (the racial hierarchy) supported by a white supremacist ideology. This racial hierarchy has been maintained since colonization in 1598. This hierarchy has material and psychological benefits for the “Spanish” over “Indians,” and this is evident in the census data from 1750, 1822, and into 1845 with the persistent reflection of “Indian servants.” The language used establishes a dominant narrative, which assigns the “Spanish” as the superior race and the “Indians” as the inferior race. This assigning of positionality has implications into future generations, beginning with the State of New Mexico Constitution and concluding with the race based disparity-focused education acts. By placing one group in a position to benefit from the racial hierarchy, the narrative continues by symbolically and legally maintaining who is serving in the role of the master and who is serving in the role of the “servant.” Through the use of text to solidify the “Hispanic” group’s power, a racial educational contract (Leonardo, 2013; Mills, 1997) based in education emerges and is now imposed on those who are impacted by the constitutional law; the law that was established historically is now used in a contemporary context.

### **The Strategic Use of the Shifting Identity**

A trend in the discourse that seems to be strategic and common is the shifting identity of the dominant racial group. This trend was initiated in the first piece of discourse I analyzed and continued through the contemporary discourse. As I have noted throughout this analysis, when one dominant racial group has the power to change their racial identity, they possess a significant amount of political, legal, and social power. This power continues to be used to manipulate the perceptions of the dominant racial group by their ability to place their group in a position of need, or perceived need. This strategy started with the time period leading up to statehood, as Foley (1997) and Nieto-Phillips (2004) have noted. This strategy is continued contemporarily as I have shown how the “Spanish” now use the race label “Hispanic” to create perceptions of their socio-economic status and of their need to improve education. These perceptions may in fact be reality, but the detail that one racial group can manipulate its identity to benefit nationally and locally must be considered. It is also manipulative to shift that identity while dismissing the needs of the other racial groups present in the state.

The power lies in the ability to manipulate language through the use of the law, as CRT teaches us. Following the CRH framework of interpretation places me in a position to question the intent of these type of strategies by a dominant racial group when all children are not set up to be successful for the greater good of the state, nation, and world. My analysis is needed because there is a call to be more critical of institutional racism while identifying the factual data to support these claims. The research may also lead to conversations between scholars and educators to interrupt these practices and develop counter-racism strategies. If these strategies to maintain a racial hierarchy are never questioned, then the cycles of racism are repeated. The poor people in the state will continue to be blamed for their poverty and their commitment to

education questioned. It also allows for the educational system to blame Indigenous students for their “ignorance,” their feelings of being unsafe, their feelings of feeling unwelcome, their feelings about not having their experiences reflected in what is being taught in schools, or their feelings of teachers not even looking like they do. It allows for the continued irresponsible treatment of a vulnerable population who has been oppressed and racialized since the introduction of a Royal Order.

These practices have allowed the punishment of a group of people because they didn’t speak the same language, have the same color of skin, or maybe even believe in the same values as the dominant group. As a critical mass of members of society, we must make progress by helping people who have been racially discriminated against for four centuries to now be included in all of the benefits of our government and especially in our educational systems. As educators, there is a responsibility to teach accurate and factual accounts of history pertinent to the students we teach, or there should be. Too often, we take what we think are neutral stances against systems, curriculum, or lesson plans that are not historically inclusive or racially accepting of the realities that have been created in the State of New Mexico. This “neutrality” does not come across as neutral to students of color. This practice becomes a clear sign to students that educators do not support them or at least acknowledge the injustices they’ve experienced and the systems that are set up that don’t benefit their racial group.

### **Racialized Space: Mapping Spaces of Knowledge**

Ultimately, the meaning and implementation of racism does not just rest in the racialization of the human body. The dominant racial group must also attach a space and place to house racism which becomes the structure and the underpinnings of racist institutions. Mills (1997) describes knowledge as having space and implies colonialism has created this ideology:

“intellectually are thus restricted to Europe, which emerges as the global locus of rationality” (p. 43). He also explains how other places can’t have any cultural or civility because it had not been occupied by European white bodies. Mills discusses an example of this when it comes to spaces prior to European colonization. He explains that the Americas did not have culture or knowledge because white bodies had not privileged the land with its presence. This superiority and elitism is the common theme many readers of this study would not be surprised by. This above description by Mills is also applied to schools or educational institutions. When schools become racialized spaces, they oppress students of color and promote messages that the students’ cultural heritage, experiences, ideas, and creativity will not be fostered. Just like their bodies become a racialized space, so does their learning environment. This powder keg is a recipe for what we see today with the lack of students of color success in most public schools.

This process is also relative to schools serving as racialized spaces and ideological incubators for white supremacist discourse. This perpetuates what the State of New Mexico Constitution proposes: that “Children of Spanish descent” should be privileged over all other children not named in the provision of education.

When I have discussed my topic in different circles, critics of this line of critical analysis try to negate the importance these larger aspects of the RC contract have on the micro interactions in schools. The question is often asked, “How does the 1912 State of New Mexico Constitution impact actual school sites in 2016, and how does this, on an individual level, impact the way children of color are treated?” This is not an easy question to answer, and oftentimes I would be limited by rebuttals and academic references because this is an area that I have to really process, and are why I made the connections over the history from 1598 until 2013 through legal discourse. Many times politicians and other leaders promise changes and other things to their

constituents. I have learned in my training as a clinical social worker that we must pay attention to the behavior not to the lip service in order to hold people accountable. This is the same for what language leaders and politicians choose to use in their structuring of legal discourse. So, in my opening statement I mentioned how schools serve as racialized sites stemming from racist legal discourse in the form of the constitution and disparity-focused educational acts; this process happens mainly through *instruments of ideology* (IOI). I refer you back to Chapter 6 and Chapter 8, where I outline how IOI become key conduits to the perpetration of racism in schools and other educational institutions.

Most of the school personnel that make up institutions believe that schools are created for the benefit of the students who attend and education is open to all children. The problem is that the student the legal discourse has always been written and intended for is the white student, not the “sub-student” —the student of color. Many lawmakers have good intentions, but they fail to realize how schools and educational institutions are structured. The laws are purposefully intended to benefit white students over students of color, and people tend to believe the stereotypical and racist perceptions the media create (Gonzalez & Torres, 2011). Many times this is a significant issue in rural schools and communities where the perceptions that contain strong white supremacist, political, and negative racial messaging are prominent. Many times these stereotypes and oppressive ideals are perceived as factual due to not having accurate countering discourse about children of color. This is true also for teachers of color with limited racial analysis skills, but usually it’s most obvious when white teachers don’t match their pupil’s race. Teachers must serve as advocates for children of color if they are teaching in a public or charter school system. I suppose in private schools teachers are allowed to follow the educational doctrine of the owners of those schools. Public schools are funded by the taxpayers,



and teachers must understand their ethical responsibility to teach and advocate for students who don't have a voice in their institutions. I would hope any teacher that has been licensed and has taken ethics courses should be bound to this responsibility. I've been in schools in many different roles, and some teachers push a dominant ideology or their own and don't have a qualm treating children of color as if they are adults. Criminalization is the norm for students of color because they are phenotypically born into a racial group defined as inferior.

In summary, as Mills (1997) does so well, he draws our attention back to what I have tried to summarize here:

They are domesticated, transformed, made familiar, made a part of our space, brought into the world of European (which is human) cognition, so they can be knowable and known. Knowledge, science, and the ability to apprehend the world intellectually are thus restricted to Europe, which emerges as the global locus of rationality, at least for the European cognitive agent [school personnel], who will be the one to validate local knowledge claims. In order for these spaces [schools and educational institutions] to be known, European perception is required. (pp. 45-46)

This citation is key for describing IOI who become complicit in how they are conduits of oppression and racism if they are not aware of and reflecting critically of the ideology(-ies) that they are embedding in their talk, language use, lesson plans, content selection, and treatment of students of color.

In closing, there is significant evidence which establishes a racial hierarchy and ideology that empowers the "Spanish" racial group to maintain their unearned "rights and privileges" into the 21<sup>st</sup> century. These strategies, which employ legal doctrine, the implementing of an encomienda slave labor system, and the maintenance of power through the use of the State of

New Mexico Constitution in 1912, are continued through the use of systematic racism embedded within educational discourse. In the next chapter I outline the implications this study has for the interpretation and interruption of racist educational systems.

### **In Summary**

The continuation of the racial contract evolves in the contemporary discourse. My third research question “How are the historical racialized legal discourses of New Mexico represented in recent state disparity-focused Native American and Hispanic education acts?” guides this conclusion. The representation of historic legal discourse is evident in the contemporary disparity-focused education acts in the following ways:

- 1) The perseverance of white supremacy through caste racial hierarchy continues,
- 2) The “white hegemonic alliance” continues,
- 3) The power to shift racial identity is evident, and
- 4) The dominant white “Spanish” racial group establishes themselves in a position of need by claiming educational disparity through the use of language.

First, white supremacy continues in the contemporary discourse through the referential strategies and positioning of racial groups in the writing of disparity-focused educational acts. It is also evident through the trends of the submission and resubmission of “Indian” acts compared to those of “Hispanic” acts of which the requests for legislative funding were approved the first years they were introduced.

Second, the hegemonic alliance continues between the local trend and the national trend of positioning “Hispanic” people as being in need of resources because of the disparity that exists at the national level. As I have stated before, by no means am I trying to invalidate the high number of “Hispanics” dropping out of school compared to that of Anglo whites. However,

here again we see the whiteness of “Hispanics” only going so far nationally because they are still people of color beneath the purity constructs of national whiteness.

Third, as we see in the above paragraph and in the analysis of the discourse I have conducted, the “Hispanic” group in New Mexico has the power to shift their identify from a position of power in the state to a place of disparity and need in the national landscape. Unfortunately, Indigenous populations and other racial groups in New Mexico don’t have the power to change their racial identity because they have been permanently positioned in the bottom of the racial hierarchy.

Fourth, the connection each of these points has to one another is not accidental. Being able to shift racial identities is a powerful position for “Hispanics” in New Mexico since they were originally “Spanish.” This is not happenstance nor coincidence; this is part of the racial collusion the dominant white group nationally (Anglo whites) has granted to the de-facto whites now called “Hispanic” who can pass for white. However, because they are perceived by Anglo whites as not pure enough white they will never reap the rewards of true whiteness through full-white membership.

## **Chapter 8: Findings and Implications for Critical Educational Policy Reform and Critical Self-Awareness**

[R]acialized social systems are societies that allocate differential economic, political, social, and even psychological rewards to groups along racial lines; lines that are socially constructed. (Bonilla-Silva, 1996, p. 474)

The echoing of the language of racism is pervasive, as my study reveals. The questions that initially drove this study created more questions the more I uncovered. There were clear indications of those questions being validated in three specific areas, which I will explore through various subheadings in this chapter. Most notably: specific language was used in the historical legal discourse to institute a racial hierarchy, a dominant racial ideology was also reproduced throughout the discourse, and racialized hierarchy has been maintained in contemporary educational discourse. This contemporary legal discourse focuses on disparities and is based on needs. The language used by the dominant racial white group (Spanish) set in motion a white supremacist ideology supported by the racialized caste system the Spanish continued in the Americas during their pursuit of global power (van Dijk, 2008). The discourse truly points to the globalization of white supremacy as Allen (2001) outlines when he describes the manifestation of white supremacy as a global structure. He provides several examples of how white supremacy is evident in schooling and in relation to the capitalistic force driving greed and racial dominance.

The language that was used by the Spanish, such as: “them,” “Indians,” “profit by them,” indoctrinate,” “teach,” “right and privilege,” and “servant,” was not neutral. This language structured the racial caste hierarchy that reaped benefits and unearned “rights and privileges” to the superior racial group at significant cost to the inferior racial group(s). These

benefits are associated with the provisions of the racial contract (Mills, 1997), which include social, educational, and, most significantly, political power. In the more contemporary educational racial contract, the language once used to murder and oppress Indigenous populations during Spanish colonization in the *encomienda* act (Royal Order) is now more covert in the form of needs-based educational policy used to maintain the substudent (Leonardo, 2013, 2014) through legislative political power.

### **Critical Educational Policy Reform**

A central question we must ask is whether or not we can create change for the betterment of all races through solely critical policy reform. Given the perpetuation of a white supremacist ideology connected to the caste racial hierarchy, which I have established in my research, policy reform may be very difficult as the sole strategy. The continued dialectical relationship between race, power, and the use of oppressive language meant to preserve white dominance and superiority must still be expounded upon in research analysis and critical methodology in order to make strategic plans for change (Morrow & Brown, 1994; Siegal, 2012). These questions continue to provoke further inquiry given the findings I have presented in this study.

Given the continued support from whites, white allies, and others who perpetuate a dominant racial ideology, policy alone won't make the needed changes. As instruments of ideology (IOI), those who perpetuate the white supremacist ideology benefit in some way from the way the system is operating and will do very little to become anti-racist. (I explore more of the concept of IOI in the next section in this chapter.) There needs to be a parallel process of change that includes implementing critical policy reform, educating teachers of the exact and true history of the United States, and engaging education students to do critical self-reflective work prior to teaching. We also must employ and support the study of racial discourse through

the appropriate methodologies, ones that don't perpetuate dominance through the appropriation of knowledge (Foucault, 1969).

Research and any type of action-oriented approaches to political, educational, and social justice must include creativity, which has typically been jaded by educational institutions. Too often, students are not taught how to read the world around them (Freire, 1993) and this limits their power politically and educationally. Education has been a force to control the minds of masses of young people of color rather than empowering them to be involved in addressing social and political issues creatively. Reform is needed. Bell (1992) argues for changes in social policy in the form of the regulation of racism through the issuance of a "racial preference" license. This would allow people to be racist while having them identify this preference legally. This unorthodox approach may be the kind of strategy we must start to engage. Let's be creative and not try to legislate moral conduct but, instead, license those who choose to be a racist. This approach may seem extreme, but in light of the racially-driven killings in recent months, the presence of racism exists. So if people truly want to support racial division through unjust policies, laws, and education, then they should be able to do so, but those of us who choose equity have the right to know who is racist; lives depend on it. This form of critical policy reform is but one example but does not exclude the review of potentially racist policy in all forms that have been introduced or adopted in any state legislative body. One example of this approach is the analysis I conducted in this study of the contemporary disparity-focused educational acts using a *critical race hermeneutical* framework of interpretation.

In order to explain the trends in my work, I make the connection back to my theoretical framework—specifically, the work of Teun van Dijk (1987) as he connects the intent and cognitive importance of how individuals impact larger groups with their ideas and racial values. I

also draw from Eduardo Bonilla Silva's (1996) work on "Re-Thinking Racism Towards a Structural Analysis" and his six points for assessing the racialization of institutions (pp. 475-476). These authors help me explain how racism is transferred from the individual (micro) to the group (mezzo) and then to the institution (macro). Understanding this process is important to my research because it shows how an institution becomes racialized through the hegemonic and tactful implementation of the white supremacist ideology of an individual who is connected to their larger social and political groups. This impacts law and policy development and the institutions those policies guide.

### **Instruments of Ideology**

Furthermore, educators become conduits of this dominant ideology, or *instruments of ideology* (IOI). Instruments of ideology in any structure or system of domination are conductors, or "social actors," that practice, maintain, and perpetuate these structures/systems. These "social actors" serve as IOI. Others have identified them as "social actors," as did Foucault (1969), and prior to him the Gramscian (1971) discussed the role of "social actors" for the perpetuation of domination and oppression by those in power vis-à-vis hegemony. In both these critical authors' use of the term, it is described as individuals in a group or society who see those in power as leaders or visionaries, so they become tools for the dominant power to infuse hegemonic messages and practices. Even though the individuals know something is not right in the system, they receive benefits that keep them committed to the dominant ideology. Instruments of ideology, as I use the term, are meant to describe legislators, school board members, and teachers as key proponents of a white supremacist ideology for those in power.

Legislators in any democratic society are voted in by their constituent groups and by other lobbying groups. This does not come without a price for many legislators who then owe

favors. Now, these legislators come with a philosophical and ideological perspective just as those lobbying groups do, and also with an agenda (whether hidden or explicit). This agenda is either reflective of a conservative or liberal perspective. As these legislators are sworn in and start to introduce legislation, they are also lobbied by special interest groups, which usually have a conservative view of social programs and, in this example, schools. I forgot to mention, many of the legislators who are voted into office are not educators but business people and owners of businesses. This has a direct impact on the legislation that is introduced. Another major influence is the ideological view they have been raised with, and unfortunately, too often, it is closer to whiteness, even if it is a legislator who is a person of color. With this said, many times the legislation introduced is in the form of bills that preserve their (and lobbying groups') power and interests. As IOI, these legislators are preserving structures of domination and oppression in the very laws that are implemented for social and educational purposes. For instance, as I have noted, the introduction of the disparity-focused Education Acts in New Mexico has caused a few community members and liberal legislators to challenge the acts. They are asking if these types of legislative acts really strengthen the Hispanic group, or are they creating more group conflict and racism in our state? After all, shouldn't all the children in our state be treated equally? As these bills/acts are enacted into law, those in charge at the county and city level are then elected to School Boards and further institutionalize racism and group conflict.

School Board Members at the local level become the implementation and accountability mechanism as an IOI as they interpret and implement the bills/acts because they have agreed to serve the dominant ideology. They do have a choice, in most cases, to be critical and examine the impact of these bills/acts and introduce counters to the dominant ideology, however most of the time these individual members of the school board also have pressures and are for the most



part vested in the dominant and oppressive system. Also, school board members are under pressure to maintain funding, which is now tied to drawing down of federal and state funds based on implementation and outcomes (for example: NCLB). So, capitalists use capital as the carrot for the weak and poor who will never attain the wealth because they too have become an IOI and accepted the system for what it is. School board members, as a group, also have interests and ideologies they are trying to maintain and serve. The question then becomes: How do they not become IOI in this system that has given them a certain amount of power and influence the teaching in our schools? These boards are also set up under an order of committees and voting practices that typically does not go well for those proposing new ideas or challenging the dominant ideology from the community or from within.

Teachers at the local or school district level become another and key IOI. This is pretty easy to see when you visit classrooms or attend trainings where teachers are pressed or questioned about their position on racism and their commitment to the dominant and oppressive ideology that is guiding and structuring the schools. Despite teachers being relatively smart, many have never been challenged or forced to be self-reflective about their role as an IOI. Furthermore, teachers are corrupted by Schools of Education which do not require students to take any courses on critical theory, critical race theory, whiteness, or even critical discourse analysis (or critical discourse studies). So, many of the teachers who graduate and go on to practice teaching are white, middle-class women who benefit from their whiteness and have rarely been challenged about their contribution to domination and oppression of children who do not come from the same neighborhoods, have the same skin color, and do not have the same struggles dealt to them by society because of their race. Let me be clear, by what I have described I do not mean to be an extremist because there is a minority of teachers who challenge

the dominant ideology, but as I said, this is the minority. As an IOI countering domination, there are small movements of resistance that can be built upon. Let's not get caught up in the magnitude of the work ahead but start the work, so we have momentum towards social justice, peace, and love.

For example, when I have visited schools there are clear signs of who is in charge and who has control of the school. By the very nature of how the school is set up, there are no opportunities for the exploration of creativity or an empowerment model for the children. Also, it is evident that teachers are not putting love into their work or caring for the children since it has become a taboo or legal issue to love our children. Teachers as IOI do not allow this love to happen because they will be criminalized for it, and it tarnishes or jeopardizes their status and closeness to the dominant ideology. I know teachers are over-worked and under-paid and many times are not rewarded for their work, but love doesn't cost anything and won't impact a budget or the bottom line. What I mean is, in many schools I have visited I do not see love present, especially in the public school setting. In some charter schools I have visited I get a different sense of a commitment to the children. But, in many public schools this is a different story. There are very few signs, assignments, or messages of love and true caring about the welfare of children of color in schools. I agree with Fromm (1969). He believed that the art of loving is lost in our schools and does not take a priority in the schooling of children; this is a huge mistake in my estimation. Hence, there are also teachers who become resentful towards the children because they are not getting any type of appreciation for their teaching. When you are teaching from a place of resentment and inferiority there won't be a true appreciation for teaching and learning. The student and the teacher do not feel as though the connection is genuine. Children are perceptive and have great instincts for when they are genuinely cared for and loved. I know

this is difficult to comprehend because the dominant ideology has also hegemonically engrained a separation between love and schools. Remember, school systems are systematically infusing hate and a “divide and conquer” ideology.

I want to be considerate of all of our leaders and public officials, but there comes a time when you have to be forthright and critically identify the hegemonic IOI who perpetuate dominance and oppression. I know there are several teachers who do counter dominant ideologies as they can, but we need to remember they are in the minority. So, as I see it, we are in a state of emergency and need to critique the structures and systems of domination. Children continue to flourish in despair and have to take on the burdens of society, and IOI continue to allow this to happen in their schools and classrooms. Legislators, school board members, and teachers need to see the power they have collectively to counter this perpetual domination of children. They also need to be aware of how countering domination and oppression can ignite resistance in people who want to challenge what I have described in this study. IOI can also be humanizing and can challenge the current state of their practice as an IOI for domination and power. What I am trying to say is that being an IOI does not have to have a negative connotation, but IOI can also be for countering domination and serve as an instrument for an ideology that is loving of all humans and is humanizing in its nature and mission (Leonardo & Allen, 2008).

### **Contemporary Racism in Visual Discourse**

A contemporary example of the racial discourse that dehumanizes Indigenous populations is reflected in an image presented by University of New Mexico students who are a part of The Red Nation Group, an activist coalition that was established in 2014 and is based in Gallup and Albuquerque. This image (see Figure 3) is an example of contemporary discourse

connected to the historical meaning and how this emotion is connected to the racial hierarchy of the State of New Mexico and its roots in the colonization of New Mexico in 1598.

In 2016, power and the continued use of the language of racism are reflected in contemporary discourse as illustrated here.



*Figure3.* Red Nation Group: Abolish Racist Seal

This form of discourse is an attempt to counter, or disrupt, the continued use of racist symbols by the State of New Mexico, its educational institutions, and its policies and brings into question how institutions are supported by IOI.

The students who released this through the use of fliers, local news outlets covering the situation, and social media explained how the presence of the frontiersman and colonizer are racist towards American Indians. They note that they added the skeletal remains of their

ancestors to get people's attention and to illustrate the history of the genocide of millions of men, women, and children indigenous to New Mexico and the Americas. They claim that this seal of the University of New Mexico, which is used on degrees, graduation regalia, and other official institutional documents, continues as a sanctioning mechanism of the racist history of this state. It also shows the continued maintenance of the original racial project (Mills, 1997) I have outlined and connected to the discourse I have analyzed. According to the transcripts of a newscast on KRQE Channel 13, the students of an "Albuquerque activist group calls the university's official seal racist," and they go on to say that "it's hurtful and racist to Native Americans." The response by the University of New Mexico stated: "the seal isn't used for marketing purposes. It's used mostly during graduation and for official matters only." Relating this back to my analysis, we see how the contemporary manifestation of racism instituted within state education systems continues. Furthermore, it's a problem that they don't see this as an issue, and they don't see the relationship this has to the historical trauma that exists in this state. It draws our attention to the hegemony of racism that Gramsci (1971) discussed: the "state apparatuses" of racism. It is telling that the university sees no issue with the use of this symbol as the official seal, stamped on the degrees issued to students. Furthermore, we must ask the question, what other "official matters" is the seal used for and how does its use reflect on the state of New Mexico and the university? The student group goes on to say, "This is the stamp that legitimizes it all" a sophomore Jennifer Marley notes speaking about the seal being stamped on her degree upon completion of the institutional requirements. She also notes, "For people who don't understand why the seal is offensive, it's the depiction of a conquistador and a frontiersman and the celebration of deep colonial violence." This illustration frames the next section by describing the contemporary tactics we see used by groups of color who are seeking to

disrupt discourse to counter racism. The next section makes the connection back to critical race theory, the theoretical cornerstone for this study. This section also outlines the strategies of the dominant group, which will be explained in separate sections throughout Chapter 8.

### **The Theoretical Connection: Critical Race Theory and Interest Convergence**

The manipulation of text and law provides for the longitudinal allocation of resources and educational capital for those who are, by law, “white.” The maintenance of resources, tied to the legal implications for school segregation, is a significant marker of the attempt (-s) to maintain white supremacy. The use of legal discourse to maintain the control of resources (educational capital) is a form of power and is a strategy educators must be aware of.

The *interest convergence principle* (Bell, 1980; 1992) is validated through my study in the contemporary discourse I have analyzed. It happens, in this case, when a group uses the role of the victim to portray itself in need of resources to the broader federal audience, yet is a power group locally in the state. Also, as noted above, it is evident in the “Hispanic” race group allowing for only minimal gains for their “Indian” subordinates by funding their (“Hispanic”) children’s education first. This is the case for “Hispanics, Nuevo Mexicanos,” or the like according to Nieto-Phillips (2004); they are positioning themselves as oppressed when they are the ones oppressing. They only allow for slight gains by awarding state funds to “Indians” after the “Hispanic” group’s needs are met. The Spanish build on “multiculturalism” only when it benefits them to draw revenue through tourism, yet the schools that serve Native Americans are substandard and funding is withheld for years, while the dominant group is funded on its first try. The conflict between actions and words are pervasive and consistent, too consistent to say it’s a coincidence.

One difficulty and possible shortcoming of this study is clearly articulating how racism is transferred from one person to the group and then to the institutions. Although I have explained this process through this analysis I will examine this process in more detail in the next section and as I conclude this study.

### **Connecting Individual Values to Group Ideology**

Teun van Dijk (1987) explains the process of how ideologies become a part of groups, and he uses the explanation of “global level of analysis.” This includes analyzing text for themes, schematics, and local meaning. This process helped me understand my findings specific to the transferring of ideology (-ies) and racism from the individual to groups, and then to systems. He describes the use of themes, which relate to “topics, semantic macrostructure of conversations;” schematics, which relate to “organization, argumentation structures, and narrative structures of stories; and local meaning, which relates to “structures of individual turns, moves, sentiments; and speech acts, and their mutual relationship” (van Dijk, 1987, p. 15). He further illustrates his points by discussing how discourse is also a cognitive and social “accomplishment” in a communicative context. The local-level meaning of discourse has a specific meaning and experience for members of a society. This example is closely related to the analogies and examples provided in this study, and the examples that were provided specific to the local meaning of the term “Hispanic” when used federally (Foley, 1997; Nieto-Phillips, 2004).

### **The Power of Language and the Significance for Education Using a Structural Interpretation**

The significance of interpreting discourse using critical discourse analysis and a critical race hermeneutical framework of interpretation is three-fold. First, my work has implications for educators and how to critically reflect on the text and language we use. Second, my work has

implications for the interpretation of textual discourse across generations and for making connections between historical and contemporary discourses using my methodology. Third, my study may provide tools to uncover the evidence to identify and disrupt racialized systems in education and society and to identify continued strategies of “whites” and/or “white” allies.

*The language and text we use (-d) in educational policy is not neutral.* It has historical, political, emotional, and traumatic meanings that have significance in the lives the language influences. The symbolism of language, the maintenance of a dominant ideology through the use of hegemony, and the solidifying of power by the use of language and legal discourse are significant and evident in my findings.

In “Re-thinking Racism: Towards a Structural Interpretation,” Bonilla-Silva (1996) illuminates six elements for analyzing structural racism (described below) to bring the analysis of racism to a systems-level interpretation. Bonilla-Silva’s model is specifically created for the analysis of racialized structures. In my experience in education, this is sometimes an area of analysis teachers have a difficult time understanding because their training has solely been in the micro connections to students without much, if any, training in how macro structures maintain racism. This process happens through the “apparatus [individual] of the state” (Gramsci, 1976) creating membership based on superiority of their race and then aligning with others (mezzo). Then the state apparatuses go on to create the laws and policy, which inform the structure, operation, and ideology of the institutions (macro). Without training educators about this process the blame and focus of failure is placed on the students of color. The focus needs to stay on the people and systems that create and maintain racism, rather than blaming the individual for experiencing racism in a racialized society.



Bonilla-Silva (1996) highlights five points of analysis that helped my study maintain a systemic focus of interpretation. All five points were present in my analysis of the data. These five points are:

- 1) Racialized social systems are societies that allocate differential economic, political, social, and even psychological rewards to groups along racial lines; lines that are socially constructed. After a society becomes racialized, a set of social relations and practices based on racial distinctions develops at all societal levels.
- 2) Races historically are constituted according to the process of racialization; they become the effect of relations of opposition between racialized groups at all levels of social formation.
- 3) On the basis of social structure, there develops a racial ideology (what analysts have coded as racism). This ideology is not simply a “superstructural” phenomenon (a mere reflection of the racialized system), but becomes the organizational map that guides actions or racial actors in society. It becomes as real as the racial relations it organizes.
- 4) Most struggles in a racialized social system contain a racial component, but sometimes acquire and/or exhibit a distinct racial character. Racial contestation is the logical outcome of a society with a racial hierarchy. A social formation that includes some form of racialization will always exhibit some form of racial contestation.
- 5) The process of racial contestation reveals the different objective interests of the races in a racialized system. (Bonilla-Silva, 1996, p. 474)

Also, Nieto-Phillips (2004) and Foley (1997) explain the practice of using a shifting political identity and how a white group of people separated themselves from Mexicans (or any

other perceived sub-human species, i.e., African Americans) and maintained themselves in the highest position in the racial hierarchy. This aligned with my study when the dominant “Hispanic” group positioned themselves in a state of need, almost as victims, and as more distant from “Spanish” in a racialized system where they could oppress others. This was done strategically and politically to allocate federal and state funding to support education for “Hispanic” children in New Mexico. As we saw in the historical discourse I analyzed, the “Spanish” presented themselves as the superior racial group then they found themselves having the power to use language to contemporarily position themselves in a state of need, victim-like. The power to manipulate language is significant, and even more significant is the power to shift positionality in a racialized structure. This is power that groups of color may never have in a racist society.

### **The Psychological Wages of Whiteness and the Politics of Identity**

To this day, the public and psychological wages of whiteness continue to shape the racial politics of the US. (Allen, 2004, p. 122)

The power a dominant group has to hegemonically maintain its power is necessary to analyze in order to eventually disrupt the process. Educators must understand how these tactics are done strategically and, more covertly, but the use of psychological manipulation and the manipulation of systems occurs still occurs. In my analysis I explored these trends in the contemporary discourse and established these occurrences in my findings.

As illustrated in the opening quote, Allen (2001) poignantly talks about the political influence of racism and points to how the “globalization of whiteness” manifests in many systems, particularly in education. Violence and abuse moved from the physical body of the oppressed to the manipulation of the mind. The education system serves as the main systematic

way to manipulate the young mind. Allen's article (2004) "Whiteness as Critical Pedagogy" demonstrates this and connects to my study in that we must not forget to assess systems and the language that guides those systems. These systems may be operating under a white supremacist ideology, while at the same time maintaining whiteness (Daniels, 1997; Lipsitz, 2006). In the documents examined for my study, the intentional use of language that contains racial meanings connected to resource allocation draws the discourse back to a WSI.

The manipulation of language begins with the description in the census data of Military rankings and uncovers how terms such as "servant(s)" illustrate the labels used for hierarchical positionality and racial classification in a racialized system. This separation of groups and the labels selected to describe the groups are used intentionally to show superiority. They are also used to maintain dominance and create more access to voting, property, and educational resources. Not to mention, identity labels were also a significant sign of who was free, truly a free person, and not a "servant" or slave (Freire, 1993; Fromm, 1969). It also indicated whose offspring would be educated and economically stable in the next generations.

A key element of this power is the ability of the white dominant group to shift its identity. In this case, the power of the dominant group to shift between "Spanish" to "Nuevomexicano" (Nieto-Phillips, 2004) to now "Hispanic" (Foley, 1997; Nieto-Phillips, 2004) is significant. The tactics and strategies the white dominant group possessed when using language to shift their identity depending on what was being sought in terms of resource allocation was a powerful position to be in. Foley (1997) talks about this in his colorful description of this practice:

"Hispanic identity thus implies a kind of "separate but equal" whiteness—whiteness with a twist of salsa, enough to make one ethnically flavorful and culturally exotic without, however, compromising one's racial privilege as a White person. (p. 53)

As I've come to learn in my research, the ever-changing political identity is significant when comparing a national perspective to a local one. John Nieto-Phillips (2004) explains this trend, which is also evident in the data I analyzed. Nieto-Phillips describes how the making of the Spanish identity, and those whom have the power to make this identity, allows the group with this power to change their identity as needed in order to thrive in a racial hierarchy. One example of this is the ability of the dominant group to be federally positioned as the victim in need of resources for education. For example, in New Mexico, in 1598, the "Spanish" race group was locally positioned as superior, in power, and in control of all aspects of education, politics, and socioeconomic status (SES). Now, the "Hispanic" race group seeks resources nationally while dominating labor and work in New Mexico, which is evident in my analysis. However, why is the success of whites to the detriment of the Native American and Mexican racial groups? The shifting identities were a direct connection to politics and to the resources the racial group at the top of the racial hierarchy was able to attain.

These strategic acts in the construction of identity maintained racial strife in the state of New Mexico during colonization, and the strife continues in 2016. As Lipsitz (1998) identifies, whites maintain their possessive investment in whiteness because it is connected to privilege and resource allocation. They have too much invested in the system (the racial hierarchy) that was created to benefit them. This system also maintained the "other" racial groups and the perceived benefits they might receive in the future by their positionality in the racial hierarchy. The ability and power to change racial groups' identities has significant implications for all aspects of society. In education this is significant because children educated in a racialized system think that these practices are normal, or natural. They start to see themselves as inferior and the internalized oppression (Freire, 1993) begins to manifest through students of color never seeing

themselves as equally smart and equally as able as their white counterparts. They accept mediocrity and they blame themselves for their inferiority in a socially constructed racialized system that intentionally has them struggling to survive.

The “Spanish” had/have the power to write into law the authority to legally colonize. This power allowed for the implementation of the *encomienda*, which was the slave labor system that maintained the “Indians” as the laborers and “servants.” In contemporary law, the “Spanish” now have the ability to write themselves into positions of need by seeking state and federal funding to help their racial group in education. In the meantime, the “other” racial groups are maintained as the laborers and as the lowest class in the economic, political, and educational milieu by not having the same funding opportunities. The maintenance of “Spanish” superiority is one key strategy that there is evidence of and it is used locally in the economic and educational areas of New Mexico. Federally, the Spanish have the power to shift their identity to “Hispanic,” the group currently in need of financial support given its positionality from a national and even global perspective. Locally, they maintain their ethnic roots and superiority as the “Spanish.”

In the meantime, the “Indians,” in the racial hierarchy are maintained in their position as sovereign and the lowest attaining racial group in the state when it comes to the social determinants of health (Siegel, 2012). The priority that is given to the white-”Hispanic” group in economic and educational attainment maintains the originally established racial hierarchy steeped in white supremacy since colonization. Given priority status in the state as “Nuevo Mexicanos” or “Spanish” has significant benefit, even if it is solely psychological (Allen, 2001), which we have seen it is not solely psychological. In the *Language of Blood*, Nieto-Phillips (2004) specifically reflects on the shifting identities of the Spanish and how this power is

interconnected for the maintenance of superiority (pp. 48-49). In *White Lies*, Daniels (1997) illustrates how discourse is used to preserve white supremacy, in this case, the use of legal doctrine not only supports this study but it also reflects how the dominant group will move to more covert strategies to hegemonically maintain power.

The maintenance of the “us/them” dichotomy as a mechanism of *divide and conquer* is evident in the disparity-focused education acts and illustrates how the use of power becomes more covert. Eduardo Bonilla-Silva (1996) and Derrick Bell (1980) have established how a racialized system becomes covert in the dominant group’s maintenance of their power. This was evident in my study as well. There was intent and direct attempts to oppress one group in the implementation of the encomienda act by inhumanely punishing the “Indians” for their beliefs, using them as slave labor, and stealing their land through forced migration to prisoner of war camps. We then saw how this crystalized overs years in the use of the term “servants” and in the proof of the encomienda system being maintained into the late 1800s. Now, the discourse covertly uses statehood and a constitution as its cloak, which I argue is a continuation of the New Mexico “racial project” (Mills, 1997) and the contemporary educational racial contract (ERC) (Leonardo, 2013).

### **Utilizing Critical Self-reflection as a Means of Achieving “Full-Humanity”**

The unfinished character of human beings and the transformational character of the reality necessitates that education be an ongoing activity...The pursuit of full humanity, however cannot be carried out in isolation or individualism, but only in fellowship and solidarity; therefore it cannot unfold in the antagonistic relations between oppressors and oppressed. No one can be authentically human while he [or she] prevents others from being so. (Freire, 1993)

Critical self-reflection may be one of the most important elements of my study, and keys to social transformation. I hope this work serves as a reminder to educators to critically interpret the language that has been used in educational discourse by “understanding the words that wound” (Delgado & Stefancic, 2004). The wounds that have been established through language have been highlighted in this study and are connected back to the words that have been used to form our laws. Language also serves as a reminder of how power is forged in discourse by those in a position to write the laws. Too often we consider words to be neutral, carrying no historic meaning that may be oppressive to those we are trying to educate. This not only includes the words that are used in the policies created to make our laws which control our behaviors, but also those words which make up the textbooks we use and the curriculum we implement in our lesson plans.

Sisneros (2012) explores specific strategies for critical self-reflection when working with students of color and when those students have an experience with the “loss of a language” which has been exploited through the massacre of their history. Sisneros’ work has been significant in my own reflection and in preparation for writing this study, which was initially based on the racial dimensions I came to understand in my family. Dr. Sisneros was a mentor and colleague of mine, and his work and his commitment to racial equity will live on through my work. My work has helped me to reflect on my position in my research. I now understand how my life is not only connected to my racial experience and my position in the current racial hierarchy, but experiences put me in a position to now take a stance against how Indigenous people have been and are being treated in New Mexico. Kondrat (as cited in Sisneros, 2012) notes that there are three specific aspects needed in order to move towards self-awareness. The first steps I took and continue to take toward self-awareness were inspired by him. These aspects

of critical self-reflection are also critical in leading people to “full humanity” as Freire (1993) notes in the opening citation:

1) [In] reflective self-awareness one examines oneself in order to become aware of personal biases and the interactive process of identity construction, 2) reflexive self-awareness is a process through which one becomes aware of how meaning is created through one’s interactions with others, and 3) critical reflectivity allows one to acknowledge oneself as both affecting and being affected by society and requires analysis of social structures. (pp. 20-21)

These steps are critical; steps can’t be skipped; and each step is necessary in order to take the next step towards “full humanity.” For me personally, this journey has taken more than five years. I have made strides at times, and at times I felt as though I could not be any more vulnerable or willing to expose myself to the pain I experienced. Looking back on this journey, if I am honest and true to my journey, about seven years ago I would’ve never seen myself selecting a chair of my dissertation committee who was white. Despite my white-by-default status because of the assigned race and clear distinction my family gave me, being “Spanish” or “Hispanic” didn’t make me feel like I could trust someone with one of the most important journeys of my life. Through this journey and through my attempts to stay true to the steps noted above, I have come to build many relationships I may have missed out on if I hadn’t initiated this humanity seeking process. I wouldn’t have had the opportunity to work with a chair who has pushed me and questioned me about my positionality, and who encouraged me to insert myself in my past in order to liberate my experiences and to help people I teach in the future. I am committed to teaching my students from a place of love and humanity. Too often, school personnel and teachers are disconnected emotionally from their students. This reinforces the



feelings of inadequacy and isolation for students of color. It also leaves their “white” counterparts to maintain their separation and biases. Based on the media perceptions created for them due to their lack of experiencing diverse relationships with students of color beginning in elementary school. Although the last statement is not a primary focus of this study, in the future, more research needs to be conducted on how progressive schools have effectively built racial alliances through the infusion of critical thinking, self-governance, and diverse racial interactions amongst the student body.

As I noticed the racism and oppression that was present in my own family, it would’ve been emotionally easier, and perhaps less professionally and personally risky, to conduct a more neutral study and to not take a stance against injustice. However, I have learned from my studies, colleagues, professors, and experiences, and from my chair Ricky Lee Allen, that complicity does not equate to neutrality.

### **Methodology Model for Interpreting Textual Discourse**

A CRH approach to interpret textual discourse has proven useful. It allows the researcher to interpret racism and take a stance against oppression (van Dijk, 1998). If words that are used in education and society are not neutral, the researcher must also take a stance against oppression through opposing the use of racist text and those who perpetuate it. This methodology also allows for a strong theoretical foundation for analysis with critical race theory, critical hermeneutics, and critical discourse analysis as the underpinnings of interpretation for this model. Each one of these theoretical underpinnings has their own merit for interpreting racial discourse. The shortcoming of other studies (as I noted in the literature review) is that most analysis only assesses discourse from one theoretical view. This is a mistake given contemporary racial discourse having made its way into more than just a racial hierarchy. Based

on the hegemonic infusion of racism in today's discourse, it is crucial that we assess this discourse using a hybrid of theories, like the one I have employed using a critical race hermeneutical approach. This allows for the analysis of multiple systems employing a racial hierarchy and ideology by employing multiple theoretical lenses. The evolution of racism demands a meta-theoretical approach, which also calls researchers and educators to collaborate with each other. Educators must be aware of their own background. If their backgrounds are not diverse with cross-racial experiences, or if they have not worked in diverse settings, they should reach out to scholars of color to collaborate.

Racism takes several shapes and has multiple facets to its strategies and applications. However, if as educators we can't approach research using a methodology that does not solely look at variables through one theoretical lens, then we may not be able to expose how multi-dimensional racism is perpetuated in the 21<sup>st</sup> century. If racism evolves as a mechanism of a historical racial hierarchy, yet educators continue to use one method for assessing racism, we wage missing how racism is now more covert than it was in the initial discourse I analyzed. We also may risk missing how the content in our lesson plans may be perpetuating the long-standing attempts by those who embrace racism to maintain it for their own benefit. Racism takes many forms in educational policy, which we may miss when it comes to a power group now positioning themselves in a position of need in order to solidify state funding. On the other hand, this methodology also draws our attention to the need to take note of racial groups that are still struggling after centuries of abuse and to the contemporary attempts of subordinate groups to solidify funding in order to address the long standing effects of colonization.

I have found that there are three aspects connected to establishing the evidence needed to identify and disrupt racial projects (Mills, 1997) and educational racial contracts (Leonardo,

2013). First, establishing proof for those experiencing racism is significant. It helps to validate and help them stay in tune with their gut feelings and instincts about being treated different because of the color of their skin. This methodology also helps educators and researchers prove that institutional racism may exist in the systems we come in contact with. Second, the validation of the emotional, visceral, and physiological experiences of racism from a societal or systemic level for students of color in schools is critical. It changes the ideology of blaming the victim, to one of empowerment. It is an empowering point of clarity, as I have experienced, to have your feelings of being subjugated validated. This shift to empowerment is an incredible experience I hope to pass on to my students. Third, this methodology allows researchers and educators to create a line of inquiry to establish that racism may be present in text, in legal discourse, in lesson plans, and in educational systems. Lastly, it may give students of color the “repertoire of responses” (Bell, 1992) needed in order to not maintain complicity.

The consistently changing strategies of “whites” using a white supremacist ideology make it difficult for educators to validate experiences of racism in the educational system for students of color. In the scheme of how the American way of life has been constructed, the impact education has as a social determinant of health is significant. So, validating students and helping them understand the racism they are experiencing, or perpetuating, are also of significance practices we must engage. In the courses I teach in a public university I have seen how my progressive white students try to understand their positionality and how, despite them being connected ancestrally to historical racism, they can now be racial allies to people of color. They also realize what it means to take a stance against racism, and how they may consciously and unconsciously perpetuate racism if they are complicit to it. This is especially true if the racism is generated from an unjust educational system, which is supposed to be there to protect

students and empower students to change society. I think this may be the most important role we have as educators.

### **Final Thoughts**

The language of racism is pervasive. When you have the skill and appropriate methodology to fairly, but critically, analyze discourse and interpret those findings, it places a tremendous amount of power back in the hands of those who have typically been in the position to be analyzed. The methodology that I implemented in this study has proven to be useful and applicable to textual discourse analysis. It has also helped me to be organized given the flexibility allowed in a critical discourse analysis methodology. Although this methodology posed challenges at times, the methodology helped me to stay true to the categories of analysis I developed in order to see the strategies that the white dominant group was undertaking hegemonically to preserve their power.

Conducting this study pushed me to my emotional limits at times. I believe this is why it took me longer to finish my analysis than I initially thought it would. There were times that I had to walk away from the data in order to try to understand my emotions surrounding these events. I tried to understand what the colonizers might have felt, and I also tried to empathize with the many “Indian” victims of these acts in the landscape of American history. At times I felt disconnected from the data because of my ancestral heritage and how my family came to reside in New Mexico. These may have been my coping or defense mechanisms, established through the “us and them” dichotomy I was acculturated through.

The manifestation of racism through the use of text and language is not by accident. The power to manipulate language, to use language to write the laws, and having the power to enforce the law places the dominant racial group’s destiny in a very different place than it does

for people of color in a racialized hierarchy. Probably the most powerful strategy and tactic I have noted throughout this analysis is the power for the dominant racial group to shift its identity. This power is not a right of the poor. The poor children have never had the power to write into existence their identity, lawfully take resources, and to secure their educational destiny for future generations. Since this right and power have never been granted or shared by the dominant racial group, and probably never will be, critical and progressive educators first must validate the experiences of students of color. Second, educators must empower students of color by teaching them analysis strategies and common sense research methodologies that validate the students' experiences. This empowerment hopefully will lead to more educational and civic disruption by students of color regarding the practices and institutions that promote, perpetuate, and permeate racist beliefs and practices. Too often, what is taught in schools goes unquestioned by parents of color, and many members of our community (who are not taught critical thinking skills) leave the educating of their children to the "experts." This is a significant barrier to engaging parents and empowering them to question the status quo and the content their children are being taught. Parents of color must be more involved in the education process that they have strategically been excluded from. This has significant implications for those who don't have this "right and privilege."

## **Conclusion**

The shifting application of racial identity by whites and those who pass as white makes race as a research variable challenging to specify, track, measure, and analyze over a 400-year span. In the example of the State of New Mexico Constitution as a racial contract (Mills, 1997), it reminds us of the longstanding and generational systemic institutionalism of racism in New Mexico that has been maintained in legal discourse and in our educational system. Allen (2008)

reminds us to focus on the continued use of the “white hegemonic alliance” which allows those who may pass as white to have continued membership to the white race, with some benefits withheld and some gained. There are certain limitations to this allegiance because New Mexico is still one of the poorest states in the nation, yet many New Mexicans claim “Spanish” or “Hispanic” ancestry so that they feel closer, psychologically, to being of the white race. The shifting identity of those who claim whiteness is more complex than many people think it is. As I have described, the complexity lies within the shifting white identity and the allegiance to whiteness while not having any of the monetary or institutional power in our nation, and yet the allegiance continues. Locally, this power is stronger because when the New Mexico constitution was developed the framers (New Mexico Ring) of that document colluded with white lawmakers from Congress who made a deal to preserve some benefits of being white (or being perceived as white). One critical benefit was the ability to write the law and govern people who had been historically oppressed by maintaining the racist caste hierarchy. Through collusion the preservation of white supremacy continues unabated, therefore allowing the continued use of an oppressive white supremacist ideology.

The language of racism is pervasive. When you have the skill and appropriate methodology to fairly, but critically, analyze discourse and interpret those findings it places a tremendous amount of power back in the hands of those who have typically been in the position to be analyzed. The methodology that I implemented in this study has proven to be useful and applicable to textual discourse analysis. It has also helped me to organize the data given the flexibility allowed in a critical discourse analysis methodology. Although posing challenges at times, the methodology helped me stay true to the categories of analysis I developed. This

helped me see the strategies that the white dominant group was undertaking hegemonically to preserve their power.

Conducting this study pushed me to my emotional limits at times. I believe this is why it took me longer to finish my analysis than I initially thought it would. There were times that I had to walk away from the data in order to try to understand my emotions surrounding these events. I tried to understand what the colonizers might have felt, and I also tried to empathize with the many “Indian” victims of these acts in the landscape of American history. At times I felt disconnected from the data because of my ancestral heritage and how my family came to reside in New Mexico. These may have been my coping or defense mechanisms established through the “us and them” dichotomy I was acculturated through.

The manifestation of racism through the use of text and language is not accidental. In a racialized hierarchy, the power to manipulate language when writing the laws and having the power to enforce the laws provides a different destiny for the dominant racial group than for people of color. Probably the most powerful strategy and tactic I have noted throughout this analysis is the ability of the dominant racial group to shift its identity. This power is not a right of the poor. Poor children have never had the power to write into existence their identity, lawfully take resources, and to secure their educational destiny for future generations. Since this right and power have never been granted or shared by the dominant racial group, critical and progressive educators first must validate the experiences of students of color. Second, educators must empower students of color by teaching them analysis strategies and critical research methodologies that validate the students’ experiences. This empowerment hopefully will lead to more educational and civic disruption by students of color regarding the practices of the institutions that promote, perpetuate, and permeate racist beliefs. Too often, what is taught in

schools goes unquestioned by parents of color, and many members of our community (who are not taught critical thinking skills and critical frameworks of analysis) leave the educating of their children to the “experts.” This is a significant barrier to engaging parents and empowering them to question the status quo and the content their children are being taught. Parents of color must be more involved in the education process that they have strategically been excluded from. This involvement would have significant implications for students of color who don’t have this “right and privilege” that has been unearned and given to “students of Spanish descent.”



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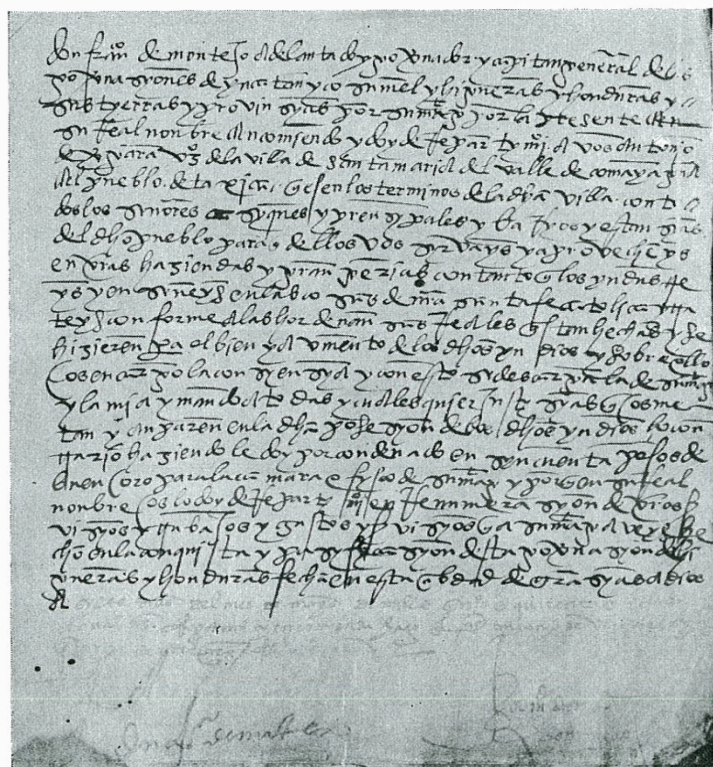
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## Appendix: Appendices (A-F)

## A. Photo copy of original encomienda grant in Spanish, not specific to the colonization of NM but an example of one originated in Spain (referenced from Simpson, L.B., 1966)



Facsimile of title to an encomienda granted by Francisco de Montejo, Governor of Yucatan, to Antonio de Vergara, May 7, 1544. See the translation in Appendix I.

**B. Translation of encomienda grant from Spanish to English in Appendix A (referenced from Simpson, L. B., 1966)**

## Appendix I

*Title to an encomienda granted by Francisco de Montejo, Governor of Yucatan, to Antonio de Vergara, May 7, 1544. (From facsimile reproduction in the frontispiece.)*

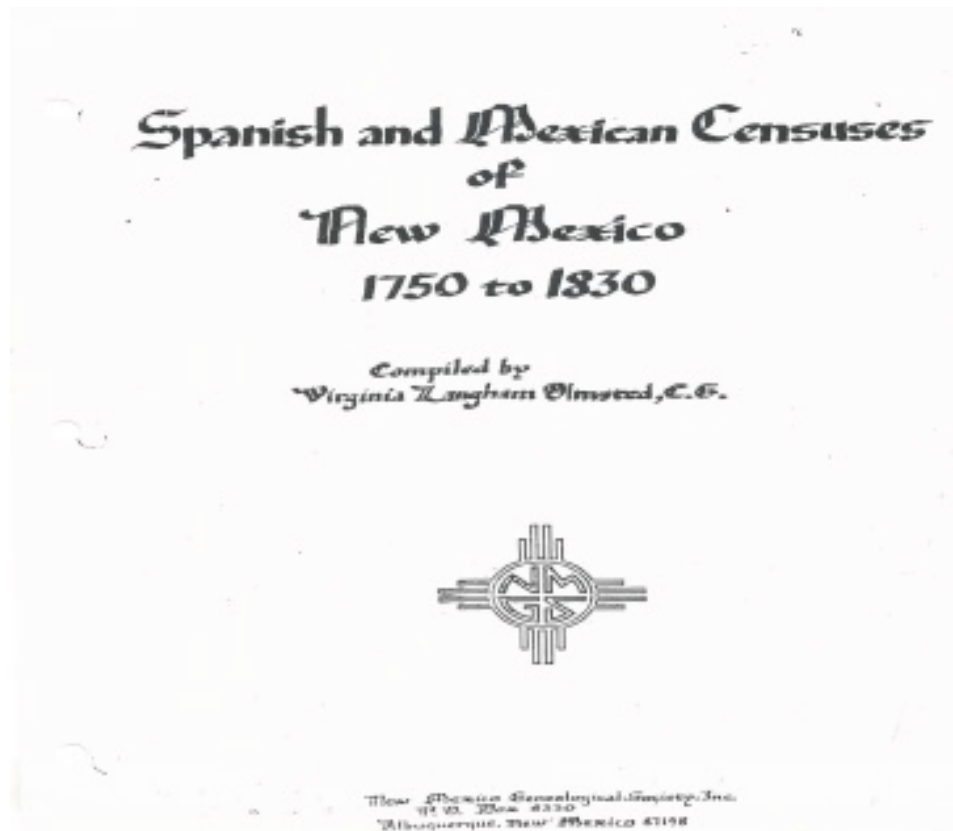
Don Francisco de Montejo, Adelantado and Governor and Captain-General for his Majesty in the jurisdiction of Yucatan and Cozumel and Higuera and Honduras, and of their lands and provinces, by these presents, in his Royal Name, I give in encomienda and repartimiento to you, Antonio de Vergara, citizen of the Villa de Santa María of the Valley of Comayagua, the town of Taxica, which lies within the boundaries of the said Villa, with all its lords and caciques and nobles, and all the divisions and subject villages of the said town, so that you may use and profit by them in your estates and commerce, provided that you indoctrinate them and teach them in the things of our Holy Catholic Faith, and treat them according to the Royal Ordinances which have been issued, or which may be issued, for the good and increase of the said Indians; and in this I charge your conscience and discharge that of his Majesty and mine; and I command any and all magistrates to put you in possession of the said Indians and to protect you in it; and if anyone should do the contrary I condemn him to pay a fine of fifty pesos of good gold for the King's treasury and exchequer; and in his Royal Name I give it you in remuneration for your services and hardships and expenditures, and for the services which you have rendered his Majesty in the conquest and pacification of the jurisdiction of Higuera and Honduras.

Done in this city of Gracias a Dios, the seventh day of May, 1544. The said repartimiento and encomienda I grant unto the said Antonio de Vergara without prejudice to any third party.

[signed] El Adelantado, Don Francisco de Montejo  
By command of his Lordship [signature of notary] <sup>1</sup>

<sup>1</sup> "Probanza de Antonio de Vergara." 1543. MS, Archivo Colonial de Guatemala.

C. NM 1750 Spanish census: Santa Cruz De La Canada (NM State Archives)



## INTRODUCTION

Censuses of the Spanish and Mexican eras in New Mexico are filled with valuable information for Hispanic and native American genealogists. This collection of censuses, together with a first volume, Spanish and Mexican Colonial Censuses of New Mexico, 1790, 1823 and 1845, gives the researcher a century of New Mexico families before the area came under the jurisdiction of the United States.

Although the 1750 census of New Mexico is a complete census, the information recorded by the enumerators varies with each locality and official. I have compiled the censuses with all information given by the friars or civil officials who recorded the original documents. The archaic spellings and the abbreviations of baptismal names and surnames have been retained.

Abbreviations of baptismal names that the enumerators frequently used are:

Alex <sup>o</sup> -Alejandro	Ju <sup>n</sup> , Ju <sup>n</sup> -Juan
Ant <sup>o</sup> -Antoni <sup>o</sup>	Leon <sup>o</sup> -Leonardo
Aug <sup>n</sup> -Augustín	Lorn <sup>zo</sup> -Lorenzo
Bueny <sup>ra</sup> -Buenaventura	Man <sup>l</sup> (a)-Manuel (a)
Xptol <sup>n</sup> -Christóval	M <sup>a</sup> -María
Encar <sup>n</sup> -Encarnación	Marg <sup>ta</sup> -Margarita
Fern <sup>do</sup> -Fernando	Max <sup>o</sup> -Maximiliano
Franco(a)-Francisco (a)	Mig <sup>l</sup> (a)-Miguel (a)
Gert <sup>s</sup> -Gertrudis	PO-Pedro (or Pablo)
Greg <sup>o</sup> (a)-Gregorio (a)	Ros <sup>o</sup> -Rosario
Guad <sup>e</sup> -Guadalupe	Sant <sup>o</sup> -Santiago
Joaq <sup>n</sup> -Joaquín	Ygn <sup>o</sup> (a)-Ygnacio (a)

Surnames that were often abbreviated include:

Arm <sup>ta</sup> -Armenta	Manz <sup>s</sup> -Manzanares
Barr <sup>s</sup> -Barreras	Marq <sup>z</sup> -Márquez
Cand <sup>a</sup> -Candelaria	Mar <sup>n</sup> -Martín
Card <sup>s</sup> -Cárdenas	Mart <sup>z</sup> -Martínez
Chav <sup>z</sup> -Chávez	Mondr <sup>n</sup> -Mondragón
Cont <sup>s</sup> -Contreras	Mont <sup>o</sup> -Montaño
Cord <sup>a</sup> -Córdoba	Mont <sup>a</sup> -Montoya
Esq <sup>yl</sup> -Esquivel	Pach <sup>o</sup> -Pacheco
Fern <sup>dz</sup> -Fernández	Pad <sup>a</sup> -Padilla
Fresq <sup>z</sup> -Frésquiz	Quint <sup>a</sup> -Quintana
Gabal <sup>n</sup> -Gabaldón	Ram <sup>z</sup> -Ramírez



Gonz<sup>z</sup>-González  
Gut<sup>z</sup>-Gutiérrez  
Her<sup>a</sup>-Herrera  
Hur<sup>t</sup><sup>o</sup>-Hurtado  
Jar<sup>o</sup>, Xar<sup>o</sup>-Jaramillo  
Mald<sup>o</sup>-Maldonado

Rodr<sup>z</sup>-Rodríguez  
Rom<sup>o</sup>-Romero  
San<sup>z</sup>-Sánchez  
Sand<sup>l</sup>-Sandoval  
Trujo<sup>o</sup>, Trux<sup>o</sup>-Trujillo  
Velas<sup>z</sup>-Vélasquez

During the Spanish era, census enumerators were supposed to record ethnic origins of the members of each household. Many of the enumerators seem to have been careless in their interpretations of the various ethnic terms, and a different term would be applied to the same family by another recorder. When ethnic terms were used by the enumerator, I have used abbreviations immediately following the individual names.

They are:

C-Coyote  
G-Genízaro  
L-Lobo  
Mu-Mulato  
S-Spanish

Ca-Castizo  
I-Indian  
M-Mestizo  
N-Negro

For an explanation of these terms, you may consult Pedro Alonso O'Crouley, A Description of the Kingdom of New Spain, 1774, translated and edited by Sean Galvin, published by John Howell-Books, 1972. These terms have also been explained in the Introduction to New Mexico Spanish and Mexican Colonial Censuses, 1790, 1823, 1845, translated and compiled by Virginia L. Olmsted and published in Albuquerque, New Mexico, by the New Mexico Genealogical Society, Inc., 1975.

Names of the Indian families were often difficult to read. Most of the names were not surnames, although a few have survived as modern surnames in use by pueblo families. The names were spelled phonetically as the enumerator heard them.

I want to thank a number of public institutions that have made the censuses available for my use: the Chancery of the Archdiocese of Santa Fe, Albuquerque, New Mexico; the Coronado Room of Zimmerman Library, University of New Mexico, Albuquerque, New Mexico; the State Record Center and Archives, Santa Fe, New Mexico; and the Bancroft Library, University of California, Berkley, California. All of the censuses

56 inhabitants (Signed) Juan Ant<sup>o</sup> de Ezeiza

\* \* \* \* \*

VILLA NUEVA DE SANTA CRUZ DE LA CAÑADA

Lieut. Ju<sup>a</sup> Joseph Sandoval; his wife; 6 children #1, #2, #3, #4, #5, #6  
 Lazaro Córdova; his wife; 3 children #7, #8, #9  
 Joseph Córdova; his wife #10, #11, #12  
 Gregorio Córdova; his wife; 1 daughter #13, #14, #15, #16  
 Ju<sup>a</sup> Roque; his wife  
 Pablo Córdova; his wife  
 Ant<sup>o</sup> Córdova; his wife; 6 children  
 Ant<sup>o</sup> Sandoval; his wife; 2 children  
 Pedro Córdova; his wife; 6 children  
 Josepha Machuco; 1 son  
 María Guadalupe (no surname); 6 children  
 Xavier Tafoya; his wife; 2 children  
 Xavier Mondragón; his wife  
 Clemente Montoya; his wife; 6 children; 1 female servant #17, #18, #19, #20  
 Sebastián Mondragón; his wife; 2 children  
 Andrés Martín; his wife  
 Polonia Martín; 3 children  
 Salpador Valera; his wife; 6 children  
 Man<sup>a</sup> Martín; his wife; 4 children; 1 female servant #21, #22, #23, #24  
 Sebastián Martín; 3 children  
 Rosa Martín; 1 daughter  
 Juan Tomás (no surname); his wife; 3 children  
 María Montoya; 3 children; 1 female servant #25, #26, #27, #28  
 Joana de Medina; 6 children  
 Ramón Montoya; his wife; 1 daughter  
 Joseph Padilla; his wife; 2 children  
 Joseph M<sup>a</sup> Montoya; his wife; 2 children  
 Pasquala Padilla; 1 daughter  
 Felipe Romero; his wife; 3 children  
 Josepha Medina; 3 children  
 Ju<sup>a</sup> Mascareñas; his wife; 4 children  
 Domingo de la Cruz; his wife; 6 children  
 Sebastián de la Cruz; his wife; 3 children  
 Domingo de la Cruz; his wife; his mother-in-law; 4 children  
 Josepha (no surname); 4 children  
 Fran<sup>co</sup> de la Cruz; his wife  
 Ant<sup>o</sup> Martín; his wife; 4 children #29, #30, #31, #32  
 Lorenzo Velasquez; 1 male servant #33, #34, #35, #36  
 Fran<sup>co</sup> Mascareñas; his wife; 6 children; 1 female servant #37, #38, #39, #40  
 Luis López; his wife; 5 in the household  
 Man<sup>a</sup> Dominguez; 7 children  
 Pasqual Trujillo; his wife; 3 children  
 Ant<sup>o</sup> Martín; his wife; 7 daughters; 1 female servant #41, #42, #43, #44  
 Joseph Gomes; his wife; 4 children  
 Pedro Trujillo; his wife; 2 children

Catharina Martín; 7 in household  
 Ysidro de Medina; 6 children  
 Joseph Ontiveros; 12 in household  
 Ju<sup>n</sup> Joseph Bustos; his wife; 1 son  
 Fran<sup>co</sup> Baldés; his wife; 10 in household  
 Phelís Bustos; his wife; 3 children  
 Ju<sup>n</sup> Martín, el Moso; his wife; 6 children  
 Ju<sup>n</sup> Alonzo Mondragón; his wife; 3 children  
 Fran<sup>co</sup> Mondragón; his wife  
 Ant<sup>o</sup> Mondragón; his wife  
 Gregorio Atiensio (Atencio); his wife; 2 children  
 Fran<sup>co</sup> Atiensio; 4 siblings; 3 female servants; #7 #10 #11 #12  
 Ju<sup>n</sup> Atiensio; his wife; 2 children  
 Lugarda Tafoya; 5 children  
 Rosa López; 6 in household  
 Lario Trujillo; his wife; 2 children  
 Eusevio Durán; his wife; 4 in household  
 Joseph Esquivel; his wife; 2 children; 4 female servants; #8 #12 #13 #14  
 Josepha Gonzáles; 4 in household  
 Sebastiana Martín; 12 in household  
 Ant<sup>a</sup> Archuleta; 4 in household  
 Ju<sup>n</sup> de Archuleta; his wife; 6 children; 4 servants; #9 #13 #14 #15  
 Cristóval Nestas; his wife; 2 children; 1 brother-in-law; 2  
 servants; #10 #11 #12 #13 #14  
 Pasqual Archuleta; his wife  
 Joseph de Herrera; his wife; 2 children; 1 female servant; #11 #15 #16 #17  
 Leandro Archuleta; his wife; 4 children  
 Ant<sup>a</sup> Trujillo; 7 children  
 Thomás de Herrera; his wife; 2 children  
 Casilda de Herrera; 5 children  
 Rafael Archuleta; his wife; 1 son  
 Ju<sup>n</sup> Pacheco; his wife; 3 children; 3 servants; #12 #16 #17 #18  
 Luis de Archuleta; his wife; 5 children; 2 female servants; #13 #17 #18 #19  
 Pablo Vijil; his wife; 3 children  
 Gregorio López; his wife; 3 children  
 Ant<sup>o</sup> Córdova; his wife; 4 children  
 Gertrudis López; 4 in household  
 Christóval López; his wife  
 Miguel Martín; his wife; 1 son  
 Pedro Sánchez; his wife; 6 children; 6 servants; #14 #17 #18 #19  
 María Trujillo; 7 children  
 Sebastián Martín; his wife; 3 children  
 Salvador Salazar; his wife; 4 children  
 Ju<sup>n</sup> Joseph Salazar; his wife; 2 children; 1 female servant; #15 #18 #19 #20  
 Ju<sup>n</sup> Esten<sup>a</sup> García; his wife; 3 children; 10 servants; #16 #19 #20 #21 #22  
 Gertrudis Moreno; 1 in household  
 Ju<sup>n</sup> Quintana; his wife; 2 children  
 Man<sup>l</sup> Quintana; his wife; 3 children  
 Nicolás Quintana; his wife; 3 children  
 Ju<sup>n</sup> Bapt<sup>a</sup> Vijil; his wife; 3 children  
 Christóval Vijil; his wife; 3 children  
 Joseph de Medina; his wife; 3 children  
 Mig<sup>l</sup> Martín; his wife; 4 children  
 Man<sup>l</sup> Martín; his wife; 6 in household  
 Ju<sup>n</sup> Luis Martín; his wife; 6 in household  
 Ju<sup>n</sup> Martín; his wife; 2 in household

Martín Balerio; his wife; 5 in household  
 Xavier Martín; his wife  
 Franco Gonzales; his wife; 4 children  
 Franco Martín; his wife; 7 children  
 Nicolás Martín; his wife; 7 children  
 Marcial Martín; his wife; 5 children  
 Joseph Lauriano; his wife; 5 children  
 Ygnacio Pacheco; his wife; 3 children; 2 servants #17, 20, 20, 20  
 Michaela Aragón; 3 in household  
 Domingo de Herrera; his wife; 3 in household  
 Elena Vigil; 4 children; 3 servants #18, 21, 21, 21  
 Joana de los Reyes; 5 children; 3 servants #19, 22, 22, 22  
 Ma Bargas; 5 children  
 Joana Moraga; 5 in household  
 Joan Trujillo; his wife; 2 children  
 Migl de Espinosa; his wife; 2 children  
 Juán Martín; his wife; 4 children; 2 servants #23, 23, 23, 23  
 Franco Vigil; his wife; 10 in household  
 Nicolás Romero; his wife; 5 children  
 Juan Antº Gamboa; his wife; 5 children  
 Ygnº Vargas; his wife; his mother-in-law; 4 in household  
 Manuela Gonzales; 4 children  
 Bernardo Romero; his wife; 5 children  
 Chaterina Mondragón; 5 in household  
 Calletano Rodríguez; his wife; 1 son  
 Manº Montoya; his wife; 7 children  
 Juán Romero; his wife; 1 children  
 Andrés de la Cruz; his wife; 2 children  
 Juán de Diós Romero; his wife; 3 children; 1 female servant #21, 24, 24, 24  
 Juán Franco (no surname); his wife; 2 children  
 Pedro Oliba; his wife; 3 children  
 Matheo Nestas; his wife; 5 children; 6 servants #22, 25, 25, 25  
 Juán Bapº (no surname); 3 in household  
 Manº Vigil; his wife; 5 in household  
 Joseph Fresquis; his wife; 7 in household  
 Domingo Vigil; his wife; 2 children; 2 servants #23, 25, 25, 25  
 Pedro Vigil; his wife; 5 in household  
 Roque Garamillo (Jaramillo); his wife; 3 children  
 Manº Garamillo; his wife; 1 son  
 Juán Garamillo; his wife; 1 son  
 Phigenia Sanches; 3 in household  
 Joseph Sanches; his wife; 5 children  
 Antº Bernal; his wife; 5 in household  
 Franco Bernal; his wife; 5 children  
 Antº Baldés; his wife; 5 in household  
 Felipe López; his wife; 4 children  
 Franco Herrera; his wife; 5 children; 2 servants #24, 27, 27, 27  
 Juan Marcos Hº (Herrera); his wife; 1 son  
 Marcos Martín; his wife; 5 in household  
 Sebastián Durán; his wife; 1 son  
 Juán Martín; his wife; 1 son  
 Joseph Luján; his wife; 7 in household  
 Rosa Valdés; 9 in household  
 Juán Valdés; his wife; 2 children; 1 servant #25, 28, 28, 28  
 Ygnº Valdés; his wife; 1 children; 1 female servant #26, 29, 29, 29



Fran<sup>co</sup> Gonzales; his wife; 7 children  
 Fran<sup>ca</sup> Gamboa; 3 in household  
 Ju<sup>n</sup> de Abeitia; his wife; 5 children; 1 female servant #27, 30, 30, 30  
 Bentu<sup>a</sup> Mestas; his wife; 2 children; 14 servants #28, 31, 31, 31  
 Ant<sup>o</sup> Mestas; his wife; 4 children; 3 servants #29, 32, 32, 32  
 Fran<sup>co</sup> Xavier Mestas; his wife; 4 children; 2 servants #30, 33, 33, 33  
 Phelipe Valerio; his wife; 4 children; 1 female servant #31, 34, 34, 34  
 Blas Martín; his wife; 1 daughter; 11 in household  
 Ysabel María Montoya  
 Joseph Martín; his wife; 3 in household  
 Gerónima Pacheco; 4 children; 2 female servants #32, 35, 35, 35  
 Ju<sup>n</sup> Baptista Muñis; his wife; 3 children  
 Ant<sup>o</sup> Balverde; his wife; 1 children; 1 female servant #33, 36, 36, 36  
 Carlos Lopes; his wife; 4 in household  
 Lazaro Durán  
 Fran<sup>co</sup> Durán; his wife; 10 in household  
 Bernardo Olguín; his wife; 1 son  
 María Varela; 5 children  
 Salvador Torres; his wife; 3 children; 5 servants #34, 37, 37, 37  
 Thomasa Mansanares; 3 in household  
 D<sup>n</sup> Bizente Ginzo; his wife; 4 children; 10 servants #35, 38, 38, 38  
 D<sup>n</sup> Carlos Miraval; 6 servants #36, 39, 39, 39  
 Christóval Tafoya; his wife; 4 children; 1 female servant #37, 40, 40, 40  
 Diego Luzero; his wife; 10 children; 6 servants #38, 41, 41, 41  
 Pablo Trujillo; his wife; 10 children; 2 servants #39, 42, 42, 42  
 Pasqual Manzanares; his wife; 4 children  
 Bizente Apodaca; 3 children  
 Juan Martín; his wife; 6 in household  
 Ju<sup>n</sup> Ant<sup>o</sup> Salazar; his wife; 3 children; 1 female servant #40, 43, 43, 43  
 Fran<sup>co</sup> Marques; his wife; 2 children  
 Mig<sup>l</sup> Salazar; his wife; 11 children; 2 servants #41, 44, 44, 44  
 Pedro Martín; his wife; 11 children; 4 servants #42, 45, 45, 45  
 Ant<sup>o</sup> Martín; his wife; 2 children; 3 servants #43, 46, 46, 46  
 Ygn<sup>o</sup> Martín; his wife; 3 children; her mother  
 Ju<sup>n</sup> Lorenzo Valdés; his wife; 1 son; 1 male servant #44, 47, 47, 47  
 Bartholome Trujillo; his wife; 4 children; 11 in household  
 María de Herrera; 12 in household  
 Lazaro Atencio; his wife; 11 in household  
 Gerónimo Martín; his wife; 13 in household  
 Santiago Martín; his wife; 2 children  
 Man<sup>t</sup> Balerio; his wife; 10 in household  
 Ju<sup>n</sup> Mansanares; his wife; 7 children

197 Families

25 July 1750

100 Indians

(signed) D<sup>n</sup> Ant<sup>o</sup> Gabaldón

129 SERVANTS

\* \* \* \* \*

SANTA CLARA

Census of the inhabitants of the pueblo:

**D. New Mexico State Constitution, Article 12, Section 10 (1910-1912)**

school or institution shall ever be required to attend or participate in any religious service whatsoever.

Sec. 10. Children of Spanish descent in the State of New Mexico shall never be denied the right and privilege of admission and attendance in the public schools or other public educational institutions of the State, and they shall never be classed in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the State, and the legislature shall provide penalties for the violation of this section. This section shall never be amended except upon a vote of the people of this State, in an election at which at least three-fourths of the electors voting in the whole State and at least two-thirds of those voting in each county in the State shall vote for such amendment.

Sec. 11. The University of New Mexico at Albuquerque, the New Mexico College of Agriculture and Mechanic Arts near Las Cruces, the New Mexico School of Mines at Socorro, the New Mexico Military Institute at Roswell, the New Mexico Normal University at Las Vegas, the New Mexico Normal School at Silver City, the Spanish-American School at El Rito, the New Mexico Asylum for the Deaf and Dumb at Santa Fe, and the New Mexico Institute for the Blind at Alamogordo, are hereby confirmed as State educational institutions. The appropriations made and that may hereafter be made to the State by the United States for agricultural and mechanical colleges and experiment stations in connection therewith, shall be paid to the New Mexico College of Agriculture and Mechanic Arts.

Sec. 12. All lands granted under the provisions of the Act of Congress, entitled, "An Act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original

**E. New Mexico Senate Bill 19 (2010): Hispanic Education Act “Disparity-focused Educational Policy” (Example)**

HOUSE BILL 19

49th legislature - STATE OF NEW MEXICO - second session, 2010

INTRODUCED BY

Mary Helen Garcia

AN ACT

RELATING TO EDUCATION; ENACTING THE HISPANIC EDUCATION ACT; CREATING THE HISPANIC EDUCATION DIVISION OF THE PUBLIC EDUCATION DEPARTMENT; CREATING AN ADVISORY COUNCIL; PROVIDING POWERS AND DUTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 9-24-4 NMSA 1978 (being Laws 2004, Chapter 27, Section 4, as amended) is amended to read:

"9-24-4. DEPARTMENT CREATED.--

A. The "public education department" is created in the executive branch. The department is a cabinet department and includes the following divisions:

- (1) the administrative services division;
- (2) the assessment and accountability division;
- (3) the charter schools division;
- (4) the educator quality division;
- (5) the Hispanic education division;

[(5)] (6) the Indian education division;

[(6)] (7) the information technology division;

[(7)] (8) the instructional support and vocational  
education division;

[(8)] (9) the program support and student  
transportation division;

[(9)] (10) the quality assurance and systems  
integration division;

[(10)] (11) the rural education division; and

[(11)] (12) the vocational rehabilitation division.

B. The secretary may organize the department and divisions of the department and may transfer or merge functions between divisions and bureaus in the interest of efficiency and economy."

Section 2. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 2 through 6 of this act may be cited as the "Hispanic Education Act"."

Section 3. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] PURPOSE.--The purpose of the Hispanic Education Act is to:

A. ensure equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for Hispanic students enrolled in public schools;

B. provide for the study, development and implementation of educational systems that positively affect the educational success of Hispanic students;

C. encourage and foster parental involvement in the education of their children; and

D. provide mechanisms for parents, community and business organizations, public schools, school districts, public post-secondary educational institutions, the department and state and local policymakers to work together to improve educational opportunities for Hispanic students."

Section 4. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] HISPANIC EDUCATION DIVISION--CREATED--DUTIES.--

A. The "Hispanic education division" is created in the department.

B. The division shall:

(1) focus on issues related to Hispanic education and advise the secretary on the development of policy regarding the education of Hispanic students;

(2) advise the commission on the commission's development of the five-year strategic plan for public elementary and secondary education in the state as the plan relates to Hispanic student education;

(3) assist and be assisted by every other division and bureau in the department to improve elementary, secondary and post-secondary educational outcomes for Hispanic students;

(4) serve as a resource to enable school districts to provide equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for Hispanic students enrolled in public schools;

(5) assist at the state level in the implementation of the Bilingual and Multicultural Education Act and provide support for implementation of that act so Hispanic students have the opportunity to become bilingual and biliterate in English and Spanish;

(6) work with school districts on strategies to:

(a) recruit and retain Spanish-speaking teachers and instructional support providers;

(b) mitigate the effects of poverty and mobility on Hispanic student success;

(c) lower truancy rates and increase graduation rates among Hispanic students; and

(d) improve health statistics for Hispanic students;

(7) work with school districts, the higher education department and public post-secondary educational programs to facilitate the successful and seamless transition of Hispanic students to post-secondary education and training;

(8) support and consult with the Hispanic education advisory council; and

(9) conduct research into any matters related to its duties and make periodic reports to the secretary, the governor and the legislature."

Section 5. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] HISPANIC EDUCATION ADVISORY COUNCIL--CREATED.--

A. The "Hispanic education advisory council" is created as an advisory council to the Hispanic education division. The council shall advise the division and the department on matters related to improving public school education for Hispanic students and increasing the number of Hispanic high school graduates who succeed in post-secondary academic, professional or vocational education.

B. The secretary shall name members to the council who are knowledgeable about and interested in the education of Hispanic students, including representatives of public schools, post-secondary education, teacher preparation programs, parents, Hispanic cultural, community and business organizations, other community and business organizations and interested citizens. The secretary shall give due regard to geographic representation. Members serve at the pleasure of the secretary.

C. The council shall elect a chairperson and such other officers as it deems necessary. As the department's budget permits, members who are not public or school employees may receive per diem and mileage pursuant to the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance.

D. The council shall meet as necessary, but at least once each year.

E. The council shall advise the division, the department and the commission on matters related to Hispanic education in New Mexico."

Section 6. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] STATEWIDE STATUS REPORT.--

A. The Hispanic education division, in collaboration with other divisions of the department, the Hispanic education advisory council, the commission and school districts, shall submit an annual



statewide Hispanic education status report no later than November 15 to the governor and the legislature through the legislative education study committee. A copy shall be provided to the legislative library in the legislative council service.

B. The status report shall include the following information, by school district, charter school and statewide, which may be compiled from data otherwise required to be submitted to the department:

- (1) Hispanic student achievement at all grades;
- (2) school safety;
- (3) attendance, all grades;
- (4) graduation rate for Hispanic students;
- (5) parent and community involvement;
- (6) educational programs in each school district targeting Hispanic students;
- (7) school district initiatives to decrease truancy and dropout rates;
- (8) results of experimental initiatives to improve educational opportunities and student achievement for Hispanic students;

(9) number of Hispanic students in schools that make adequate yearly progress and in schools at each level of school improvement or restructuring; and

(10) number and type of bilingual and multicultural programs in each school district."

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

- 8 -

**F. Framework of Interpretation—Instrument for the Analysis of Racism**

Textual Method:	Exemplar Evidence:	Visual Evidence:	Symbolic Evidence/Meaning:
	Present: ___yes___no	Present: ___yes___no	Present: ___yes___no
<b>Constructing of Groups (CoG):</b> the dominant race groups naming, defining, labeling and describing other racial groups with negative racial characteristics or as having deficiencies.			
<b>Ordering of Groups (ORoG):</b> the dominant race groups positioning of other race groups through text discourse in resource allocation, legal documents, census, and in educational policy.			
<b>“Othering” of Groups (OoG):</b> the dominant race groups referencing of other race groups as less educated, less human and in need of the dominant race groups values, beliefs and religion (Use of terms: them, us, we, other), thereby making other racial groups different than white.			

<b>Eliminating/Exclusion of Groups (EoG):</b> the strategic and purposeful non-inclusion of other race groups by the dominant group in text and legal documents.			
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