

December 2005

Spain Gazing: Postcolonial Aspirations, Neocolonial Systems and Postponed Reckonings—Queries from the Margins

Francisco Valdes

Follow this and additional works at: <https://scholarship.law.ufl.edu/fjil>

Recommended Citation

Valdes, Francisco (2005) "Spain Gazing: Postcolonial Aspirations, Neocolonial Systems and Postponed Reckonings—Queries from the Margins," *Florida Journal of International Law*. Vol. 17: Iss. 3, Article 5. Available at: <https://scholarship.law.ufl.edu/fjil/vol17/iss3/5>

This Article is brought to you for free and open access by UF Law Scholarship Repository. It has been accepted for inclusion in Florida Journal of International Law by an authorized editor of UF Law Scholarship Repository. For more information, please contact kaleita@law.ufl.edu.

SPAIN GAZING: POSTCOLONIAL ASPIRATIONS, NEOCOLONIAL SYSTEMS AND POSTPONED RECKONINGS – QUERIES FROM THE MARGINS

*Francisco Valdés**

I.	INTRODUCTION	495
II.	FROM COLONIAL CONQUEST TO ENLIGHTENED STATE?: SHARED HISTORIES AND PENDING RECKONINGS	504
	A. <i>Hispanismo, Machismo, and Latinas/os: Essential Solidarity Or Critical Coalitions?</i>	506
	B. <i>Enlightened Spain, Pinochet, and Imperial Legacies: PostColonial Justice and Responsibility, or Still Running from the Reckoning?</i>	518
III.	CONCLUSION	521

I. INTRODUCTION

As the century turned, Spain riveted the world, affirmatively helping to raise the stakes of human rights law to unprecedented heights through its determined prosecution of various human rights abuses and crimes, perhaps most notably the murderous acts of former Chilean dictator Augusto Pinochet.¹ These inter/national legal proceedings have taken place at the multidimensional intersection of international relations, human rights, Spain, and Latin America — a site that invites LatCrit and allied legal scholars to focus on the responsibility of the nation-state to ameliorate and transcend the present effects of colonial and neocolonial

* Professor, University of Miami School of Law; Director, Center for Hispanic and Caribbean Legal Studies, University of Miami School of Law. I thank Dean Luis Mariano Negron and the law faculty of the Interamerican University of Puerto Rico for their support of the Annual South-North Exchange on Theory, Culture and Law, upon which this symposium is based. I thank also Jorge Esquirol, Diego Medina Lopez, Dominique Legros, and Angel Oquendo for spearheading the organization of our recent Exchanges, held during 2004 and 2005 in San Juan. I likewise thank the Florida Journal of International Law for co-sponsoring these recent Exchanges and for publishing this Essay and symposium. In particular, I thank the editors and Victoria Redd for their work on this Essay and symposium. All errors are mine.

1. The worldwide attention that Pinochet's prosecution has generated much public controversy. See generally Richard J. Wilson, *Prosecuting Pinochet: International Crimes in Spanish Domestic Law*, 21 HUM. RTS. Q. 930 (1999).

practices. This invitation, though focused in this instance on “Hispanic” or “Latina/o” contexts, applies more broadly, or course.² I thus use the *Pinochet* case in this Essay as a point of departure for some broader, critical thoughts — and perhaps basic and introductory questions — that flow specifically from:

- 1) the continuing “postcolonial” legacy of Spain’s imperial past, especially as it affects Latin America and Latinas/os;
- 2) Spain’s economic “thrust” into Latin America during the past several decades as part of its determined campaign to activate a sentimental and uncritical sense of “Hispanismo” or “Hispanidad” throughout its former colonies so as to bind them even more firmly to her;
- 3) Spain’s persistent self-positioning within world councils and in international relations as an exemplary “model” of a modern and progressive state that upholds human liberty, dignity and prosperity, and;
- 4) Spain’s dramatic leadership in the *Pinochet* proceedings, including the impact of that decisive intervention more generally for the development of human rights and for the cultivation of global justice norms.

In this Essay, *Pinochet* represents more an ethical or social precedent than a technical or legal one: basically, this Essay employs the *Pinochet* case as a point of departure to ask from a LatCrit perspective how progressive states, including Spain today, may or should exercise leadership in other arenas of law and justice in light of the principles underlying — and professedly motivating — Spain’s proactive involvement in the *Pinochet* experience.³

But, in this Essay, I try additionally to “Queer” my LatCrit perspective on the issues and legacies discussed below. While LatCrit perspectivity is most salient in this Essay, I seek also to center the problems that Hispanic essentialisms and imperial legacies create for sexual minorities, especially

2. “Latinas/os” constitute diverse groups of persons. For demographic portraits of Latina/o heterogeneity in the United States, see Berta Hernandez-Truyol, *Building Bridges — Latinas and Latinos at the Crossroads: Realities, Rhetoric and Replacement*, 25 COLUM. HUM. RTS. L. REV. 369 (1991); Gloria Sandrino-Glasser, *Los Confundidos: De-Conflating Latinos/as’ Race and Ethnicity*, 19 UCLA CHICANO-LATINO L. REV. 69, 75-77 (1998).

3. Of course, Spain’s proactivity in *Pinochet* can be cast simply as the idiosyncratic result of a maverick magistrate’s overreaching; this characterization, however, does not account for, much less dispose of, the substantive themes and pending questions addressed in this Essay. See *infra* note 102.

Latina/o sexual minorities. I thus seek to apply in this Essay principally a “LatCrit perspective”⁴ — an evolving subject position that has been adopted by many critical legal scholars in the United States during the past decade, both Latina/o and otherwise.⁵ But I also bring to this analysis a QueerCrit perspective — another evolving subject position among critical scholars in law and other disciplines that has gained currency in recent years.⁶ This Essay is a reflection, from these perspectives, on still-pending

4. “LatCrit theory” comprises many scholars with varying views, and therefore it is somewhat misleading to speak of “LatCrit theory” in the singular. Nonetheless, the diverse critical legal scholars who have coalesced around the collective effort to articulate LatCrit theory have “exhibited . . . [a] sense of shared groupness.” See Francisco Valdés, *Foreword — Latina/o Ethnicities, Critical Race Theory, And Post-Identity Politics In Postmodern Legal Culture: From Practices To Possibilities*, in 9 LA RAZA L.J. 1, 7 n.25 (1996).

5. During the past decade, LatCrit scholars have produced nearly twenty law review symposia based on LatCrit-organized academic programs in which we explore the manifold ways in which these colonial and neocolonial legacies continue to deform law and society. See Symposium, *LatCrit Theory: Naming and Launching a New Discourse of Critical Legal Scholarship*, 2 HARV. LATINO L. REV. 1 (1997) (LATCRIT I); Colloquium, *International Law, Human Rights and LatCrit Theory*, 28 U. MIAMI INTER-AM. L. REV. 177 (1997) (publishing the proceedings of the first LatCrit colloquium focused on international law); Symposium, *Difference, Solidarity and Law: Building Latina/o Communities Through LatCrit Theory*, 19 CHICANO-LATINO L. REV. 1 (1998) (LATCRIT II); Symposium, *Comparative Latinas/os: Identity, Law and Policy in LatCrit Theory*, 53 U. MIAMI L. REV. 575 (1999) (LATCRIT III); Symposium, *Rotating Centers, Expanding Frontiers: LatCrit Theory and Marginal Intersections*, 33 U.C. DAVIS L. REV. 751 (2000) (LATCRIT IV); Colloquium, *Spain, The Americas and Latino/as: International and Comparative Law in Triangular Perspective*, 9 U. MIAMI INT’L & COMP. L. REV. 1 (2000-01) (publishing the proceedings of the first and second colloquia held in Malaga, Spain on LatCrit theory and international and comparative law); Symposium, *Class in LatCrit: Theory and Praxis in a World of Economic Inequality*, 78 DENV. U. L. REV. 467 (2001) (LATCRIT V); Symposium, *Latinas/os and the Americas: Centering North-South Frameworks in LatCrit Theory*, 55 FLA. L. REV. 1 (2003) & 54 RUTGERS L. REV. 803 (2002) (LATCRIT VI); Symposium, *Coalitional Theory and Praxis: Social Justice Movements and LatCrit Community*, 13 LA RAZA L.J. 113 (2002) & 81 OR. L. REV. 587 (2003) (LATCRIT VII); Colloquium, *Law, Culture, and Society: LatCrit Theory and Transdisciplinary Approaches*, 16 FLA. J. INT’L L. 539 (2004); Symposium, *City and Citizen: Operations of Power, Strategies of Resistance*, 52 CLEVE.-MARSHALL L. REV. 1 (2005) (LATCRIT VIII); Symposium, *Countering Kulturkampf Politics Through Critique and Justice Pedagogy*, 50 VILL. L. REV. 749 (2005) & 35 SETON HALL L. REV. (forthcoming 2006) (LATCRIT IX). In addition to these conference-based publications, two joint LatCrit symposia also have been published during this time. See Joint Symposium, *LatCrit Theory: Latinas/os and the Law*, 85 CAL. L. REV. 1087 (1997) & 10 LA RAZA L.J. 1 (1998); Joint Symposium, *Culture, Language, Sexuality and Law: LatCrit Theory and the Construction of the Nation*, 5 MICH. J. RACE & L. 787 (2000) & 33 U. MICH. J.L. REFORM 203 (2000). For more information on these and other events, visit the LatCrit Web Site at www.latcrit.org.

6. As with LatCrit, Queer perspectivity comprises various scholars who bring to the subject various diversities in viewpoint, even while adopting Queer positionality. For general readings on Queer legal theory, see Francisco Valdés, *Queers, Sissies, Dykes and Tomboys: Deconstructing the*

postcolonial reckonings, as illustrated specifically by the situation of Spain and Latinas/os after *Pinochet*.

In bringing to bear these critical perspectives on Spain, I am, of course, activating and enveloped by the love/hate relationship that exists between “Latinas/os” and Spain (as well as the United States). After all, who are “Latinas/os”?⁷ We are, to a great extent, the “mixed” progeny of Spain’s and other European powers’ imperial assaults on indigenous peoples in what was then called the New World and today is known as the Americas,⁸ a hemisphere that encompasses rich terrains stretching from the North to the South poles of the Earth. Consequently, we are, in a very real sense, a “universal that contains all particulars, and whose liberation is therefore intricately intertwined and directly implicated in the liberation of all particulars.”⁹

“Latinas/os” are diverse peoples who today, because of that heritage, are situated in so many intermediate, hybrid, uncertain, and richly variegated categories that a foundational and perpetual question in LatCrit and similar “Latina/o” venues has been, “Who are we¹⁰ . . . what should we call ourselves?” Hispanics? Latinas/os? Simply, Latinos? Or something else entirely?¹¹ History, culture and politics have shown that Latinas/os

Conflation of “Sex,” “Gender” and “Sexual Orientation” in Euro-American Law and Society, 83 CAL. L. REV. 1, 344-75 (1995); Francisco Valdés, *Afterword – Beyond Sexual Orientation in Queer Legal Theory: Majoritarianism, Multidimensionality and Responsibility in Social Justice Scholarship, or Legal Scholars as Cultural Warriors*, 75 DENVER U. L. REV. 1409 (1998); Francisco Valdés, *Queer Margins, Queer Ethics: A Call to Account for Race and Ethnicity in the Law, Theory and Politics of “Sexual Orientation,”* 48 HASTINGS L.J. 1293 (1997).

7. Enrique R. Carrasco, *Who Are We?*, 19 UCLA CHICANO-LATINO L. REV. 331 (1998); see generally Hernandez-Truyol, *supra* note 2; Sandrino-Glasser, *supra* note 2; see also Juan F. Perea, *Los Olvidados*, 70 N.Y.U. L. REV. 965 (1995); see also generally Gerald P. Lopez, *Learning About Latinos*, 19 UCLA CHICANO-LATINO L. REV. 363 (1998) (critiquing contemporary demographic portraits of “Latinas/os” in the United States).

8. This topic, of course, also is well known to LatCrit. See, e.g., Luz Guerra, *LatCrit y La Des-Colonización Nuestra: Taking Colon Out*, 19 UCLA CHICANO-LATINO L. REV. 351 (1998); see also Siegfried Wiessner, *¡Esa India! LatCrit Theory and the Place of Indigenous Peoples Within Latina/o Communities*, 53 U. MIAMI L. REV. 831 (1999); *Indigenous Issues and the Ethics of Dialogue in LatCrit*, 54 RUTGERS L. REV. 1021 (2002); see generally *infra* note 35 and sources cited therein.

9. Elizabeth M. Iglesias, *Foreword — Identity, Democracy, Communicative Power, Inter/National Labor Rights and the Evolution of LatCrit Theory and Community*, 53 U. MIAMI L. REV. 575, 609 (1999).

10. See, e.g., Carrasco, *supra* note 7.

11. For a discussion of these issues in the particular context of LatCrit theory, see Elizabeth M. Iglesias & Francisco Valdés, *Religion, Gender, Sexuality, Race and Class in Coalitional Theory: A Critical and Self-Critical Analysis of LatCrit Social Justice Agendas*, 19 UCLA CHICANO-LATINO L. REV. 503, 568-70 (1998).

certainly are not Spaniards, though we have much in common with Spaniards and others shaped in part by the continuing effects of Spanish imperialism — a cultural, political, and economic post/neo/colonial phenomenon that has been described, perhaps hyperbolically, as “Hispanismo” and “Hispanidad.”¹² We certainly are not Anglos, despite the fact that we also have endured for generations this additional strain of Eurocentric imperialism and assimilationism.¹³ Latinas/os, then, are the “mixed” and diasporic results of the centuries-old clashes between European whiteness and native colors in the context of colonizer and colonized throughout this hemisphere, a phase of history beginning with the fateful year of 1492, when Columbus and his motley crew stumbled upon this “new” world under the auspices of the Spanish crown.¹⁴ For good historical and contemporary reasons, Latinas/os both identify with and fear the powers that brought us into, and continue to dominate our, existence.

Precisely for those reasons, many Latinas/os may — and do — claim “Hispanic” links or roots, but many do not or cannot. Latinas/os certainly are bound by cultural and other ties both to Hispanic and to Anglo identifications, yet we are not — and never have been allowed by dominant social forces to become, even when we wanted to — one with either of these white-identified Eurocentric social groups.¹⁵ This interstitial positioning produces concrete shocks in today’s world, and LatCrit scholars therefore have delineated some basic premises, practices and

12. “Hispanismo” or “Hispanidad” generally signify Spanish-Latina/o commonalities — the “ties that bind” — such as language, religion and other sociocultural indicia left over from Spain’s centuries of colonialism in the American hemisphere. See Frederick B. Pike, *Latin America, in SPAIN IN THE TWENTIETH CENTURY* 183 (James W. Cortada ed., 1980). Hispanismo/Hispanidad also refers to Spain’s “aggressive strategy . . . to resurrect and spread Hispanic culture, pride, and also hegemony throughout its former colonies.” HOWARD J. WIARDA, *THE TRANSITION TO DEMOCRACY IN SPAIN AND PORTUGAL* 297 (1989); see also Jean Grugel, *Spain and Latin America, in DEMOCRATIC SPAIN* 141, 142-47 (Richard Gillespie et al. eds., 1995). In this Essay, the term signifies these meanings; see also Francisco Valdés, *Race, Ethnicity and Hispanismo in Triangular Perspective: The Essential Latina/o and LatCrit Theory*, 48 UCLA L. REV. 305 (2000).

13. For one example — California — see Guadalupe T. Luna, *Gold, Souls and Wandering Clerics: California Missions, Native Californians and LatCrit Theory*, 33 U.C. DAVIS L. REV. 921 (2000); see also RODOLFO ACUNA, *OCCUPIED AMERICA* (3d ed. 1988); see generally Symposium, *Understanding the Treaty of Guadalupe Hidalgo on Its 150th Anniversary*, 5 SW J.L. & TRADE AM. 1 (1998).

14. See generally EDWIN WILLIAMSON, *THE PENGUIN HISTORY OF LATIN AMERICA* (1992); see also *infra* note 35 and sources cited therein.

15. For a personal LatCrit testimonial, see Kevin R. Johnson, “Melting Pot” or “Ring of Fire”? *Assimilation and the Mexican-American Experience*, 85 CAL. L. REV. 1259, 1262-77 (1997).

principles to help us build collectively and mutually a critical coalitional understanding¹⁶ of the past and present toward a future of inter/national social justice through law and public policy.

Given this backdrop, Hispanismo — and especially the uncritical, romanticized variety — represents a highly problematic assertion of affinity and solidarity. Indeed, Hispanismo's sentimental invocation — and/or strategic interposition — as a form of consciousness, a template for discourse or a framework for policymaking, only begs questions of purpose and principle that are crucial to LatCrits; a threshold question, for instance, would ask, solidarity based on what? LatCrit theorists, along with other outsider legal scholars in the United States, have learned well that mere "identity" cannot substitute for commitment to antisubordination principles and purposes.¹⁷ LatCrits thus have eschewed calls to a superficial sense of "commonality" that ignores the sociolegal significance of relevant differences while balking also at any tendency to magnify difference unduly.¹⁸ To the extent that Hispanismo does either, in any sociolegal setting, LatCrit scholars are likely to question the efficacy of this construct, and to establish instead a substantive basis or vision around which to coalesce, and upon which to build, antisubordination and antiessentialist transnational communities.¹⁹

Furthermore, to the extent that Hispanismo may serve actively to reproduce within diverse Latina/o communities a blind preference for white and Euro-identified normativities, it becomes a worldview that not only must be questioned but also rejected — at least from a LatCrit-QueerCrit perspective.²⁰ Ultimately, Hispanismo may be nothing more than a self-serving assertion of essentialized identifications that

16. Coalition building has been a central LatCrit theme from the very beginning of this experiment, and LatCrit efforts at coalitional method have helped to produce the notion of "critical coalitions" as potentially effective antisubordination vehicles. See Francisco Valdés, *Theorizing OutCrit Theories: Coalitional Method and Comparative Jurisprudential Experience — RaceCrits, QueerCrits, LatCrits*, 53 U. MIAMI L. REV. 1256 (1999). In this way, LatCrit theory embraces and extends the importance of coalitional initiative in outsider jurisprudence. See, e.g., Mari J. Matsuda, *Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition*, 43 STAN. L. REV. 1183 (1991).

17. See, e.g., Robert S. Chang, *The End of Innocence, or Politics After the Fall of the Essential Subject*, 45 AM. U. L. REV. 687 (1996); see also Iglesias & Valdés, *supra* note 11, at 562-67.

18. See, e.g., Iglesias & Valdés, *supra* note 11, at 582-88.

19. Indeed, principled community building has been integral to LatCrit theory from inception. See *id.* at 513-15 & 582-88.

20. Thus, LatCrit theorists from the inception of this discourse have opted for "Latina/o" over "Hispanic" in part to signal identification with peoples of color. See Iglesias & Valdés, *supra* note 11, at 568-74; see also George A. Martinez, *African Americans, Latinos and the Construction of Race: Toward an Epistemic Coalition*, 19 UCLA CHICANO-LATINO L. REV. 213 (1998).

Eurocentric biases,²¹ including white supremacy, within Latina/o communities throughout the Americas, and which are made possible only as a direct result of colonialism's continuing resonance on both sides of the Atlantic; in this sense, Hispanismo may be nothing more than an updated reproduction of colonial scripts that formally have been repudiated by Spain and other states pursuant to various international covenants.²² If so, Hispanismo may be but a sentimentalized bundle of post/neo/colonial artifacts that, in effect, postpone or evade an inter/national reckoning with past imperial abuses and their continuing everyday repercussions — a deflection of national responsibility that strikes an odd note when juxtaposed against Spain's conspicuous espousal of social justice values and human rights in other inter/national moments, as well as its insistence on bringing Pinochet to justice.

But the problematics of uncritical or romanticized Hispanismo are magnified and concretized when the sentiment is activated to push not only for symbolic, cultural, and political self-advancement but also for the material self-enrichment of the former colonial master through contemporary structures and arrangements that effectively reflect and project the skews and wrongs of imperial power relations. The very possibility and viability of Hispanismo as a form of collective, transnational consciousness binding Latinas/os economically to Spain suggests that colonialism and its legacies have not yet yielded all the

21. See Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990); Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 WOMEN'S RTS. L. REP. 7 (1989); see also Elvia R. Arriola, *Gendered Inequality: Lesbians, Gay Men, and Feminist Legal Theory*, 9 BERKELEY WOMEN'S L.J. 103 (1994) (questioning feminist categories around sex, gender, and sexuality); Patricia A. Cain, *Feminist Jurisprudence: Grounding the Theories*, 4 BERKELEY WOMEN'S L.J. 191 (1989-90) (critiquing the invisibility of minority sexual orientations in feminist analyses of law); Darren Lenard Hutchinson, *Ignoring the Sexualization of Race: Heteronormativity, Critical Race Theory and Antiracist Politics*, 47 BUFF. L. REV. 1 (1999) (challenging heterocentrism in antiracist discourse and politics). Additional tools of analysis have arisen along with, or after, these "antiessentialist" critiques and "intersectional" insights. See Hernandez-Truyol, *supra* note 2; (on multidimensionality); Darren Lenard Hutchinson, *Out Yet Unseen: A Racial Critique of Gay and Lesbian Legal Theory and Political Discourse*, 29 U. CONN. L. REV. 561 (1997) (on multidimensionality); E. Christi Cunningham, *The Rise of Identity Politics I: The Myth of the Protected Class in Title VII Disparate Treatment Cases*, 30 U. CONN. L. REV. 441 (1998) (on wholism); Peter Kwan, *Jeffrey Dahmer and the Cosynthesis of Categories*, 48 HASTINGS L.J. 1257 (1997) (on cosynthesis); Francisco Valdés, *Sex and Race in Queer Legal Culture: Ruminations on Identities and Inter-Connectivities*, 5 S. CAL. REV. L. & WOMEN'S STUD. 25 (1995) (on interconnectivity).

22. See, e.g., UNIV. DEC. HUMAN RTS. (1948); see generally INTERNATIONAL HUMAN RIGHTS: LAW, POLITICS, MORALS (Henry J. Steiner & Philip Alston eds., 1996).

pecuniary gains that they can — and do — offer to present-day Spain and Spaniards: Hispanismo can be — and is — deployed as a lens through which to view the present-day world not only in cultural or social terms but also in material and fiscal terms. It proffers and promotes a “feel good” worldview in which Latinas/os are beckoned not only to supply cultural and political allegiance to Spain but also to engage in a host of financial activities and arrangements that effectively replay in varying degrees the dynamics of post/neo/colonial and Euroheteropatriarchal²³ exploitation — exploitation that grows from, combines and perpetuates androcentric and heterocentric biases in law and society. As discussed briefly below, Hispanismo can be — and is — used to create the mindsets and discourses that enable present opportunities for even more unjust enrichment built directly or indirectly on “past” colonial wrongs.²⁴

These problematics are intensely palpable from a QueerCrit perspective because the enduring legacies of those past wrongs oftentimes fall fiercely on sexual minorities in quite particularized, though not entirely unique, ways: the dogmatic devotion to an absolutist sense of Roman Catholicism during much of Spain’s imperial era, and Spain’s decision to use conquest to proselytize,²⁵ has entrenched that religion’s homophobic misjudgment of sexual minorities as a salient feature of the Latina/o societies shaped in great measure by Spain’s colonial policies. That misjudgment actively embraces and preaches patriarchy and homophobia,²⁶ thereby decreeing women, lesbians, gays, bisexuals, the trans/bigendered and countless others to ecclesiastical oppression, legal subjugation, social opprobrium, and economic harrassment; that misjudgment has been activated throughout history and into the present to justify specifically the proactive and structuralized mistreatment of sexual minorities and other nonconforming sex/gender/sexual orientation persons and groups.²⁷ That misjudgment, and others like it, have been deployed moralistically by

23. By “Euroheteropatriarchy” I mean the Eurocentric fusion of androsexism and heterosexism to produce the patriarchal form of homophobia — heteropatriarchy — that is characteristic of, and still prevails in, Euroamerican societies, including the United States, today. See generally, Francisco Valdés *Unpacking Hetero-Patriarchy: Tracing the Conflation on Sex, Gender and Sexual Orientation to Its Origins*, 8 YALE J.L. & HUM. 161 (1996). Though other forms of heteropatriarchy may exist on other continents or in other cultures, the particular type that prevails over all of this hemisphere is the Eurocentric type; hence, Euroheteropatriarchy.

24. See *infra* text accompanying notes 42-93.

25. See, e.g., Iglesias & Valdés, *supra* note 11, at 517-27.

26. See *id.* at 517 nn.28 & 30 and sources cited therein.

27. “It bears emphasis that the status quo begun long ago continues to fuel today’s enforcement of material and political stratification via the combined interests and forces of Eurocentric, heteropatriarchal sectarian and secular elites.” *Id.* at 526.

secular and sectarian elites around the globe to justify the historic repression and attempted devastation of today's emergent Queer communities. To the extent that machismo and homophobia are endemic to Latina/o societies and cultures today because of Spain's methodical destruction of indigenous sex/gender traditions and forced assimilation of native peoples during its colonial hegemony, Queer Latinas/os are likely to view Hispanismo — and its inevitable evocation of this history and legacy — with a jaundiced eye.²⁸

These introductory observations underscore a foundational point: that multiple diverse Latinas/os, despite our similarities as a transnational social group, are differently positioned vis-à-vis Hispanismo and its politics. Hispanismo's machista component is a source of subordination for Latinas of all sexual orientations, for bisexual and gay men, and for trans/bigendered persons because machismo's sex/gender imperatives valorize the male, the masculine and the heterosexual above the female, the feminine and the homo/bi/trans/sexual. Hispanismo's heteropatriarchal ideology, and its influence over culture and law, makes Hispanismo and its promotion specifically dangerous to the well-being of all women and sexual minorities. Similarly but differently, Hispanismo's Eurocentric and white-identified components (patently) are sources of subordination specifically for all indigenous and other nonwhite Latinas/os of all sexual orientations. As such, Hispanismo must be a source of concern for anyone committed to antisubordination principles.

But Hispanismo's historical relationship to the policies and legacies of Iberian-European imperialism, including the effort to exterminate indigenous sex/gender traditions that were relatively egalitarian, also links the position specifically of women and sexual minorities to Hispanismo's Eurocentricity as part of a multidimensional antisubordination analysis.²⁹ Hispanismo, then, is inimical to the wellbeing of many Latinas/os because it promotes prejudices and biases based on race, ethnicity, nationality, color, class, religion, sex/gender and sexual orientation. The remaining few benefit on these same bases.

In this way, Hispanismo falsely "essentializes" Latinas/os into a Euroheteropatriarchal mold because it ignores and affirmatively marginalizes multiple Latina/o diversities based on race, ethnicity, sex/gender, sexual orientation, and similar axes of identity, and it also reifies a hierarchy of identities that systematically elevates white, straight men to the apex of all human projects. Hispanismo confirms that Latinas/os are (best) Hispanic and white, rather than indigenous or

28. See *infra* text accompanying notes 42-93.

29. See, e.g., *supra* note 21 and sources cited therein on multidimensionality.

mestiza/o and brown, black, yellow, red, or as most likely, mixed. Hispanismo suggests not only that Latinas/os are culturally assimilated into the precepts of Hispanic culture and its socioreligious imperatives but also that we should be. Hispanismo's romantic and uncritical invocation of a particular account of history not only helps to legitimate resilient vestiges of injustice but also to reproduce this unjust social ideology as the template of the present and for the future. In so doing, Hispanismo crudely and wrongfully stratifies Latinas/os as individuals and communities.

Therefore, from both a LatCrit and QueerCrit perspective, Hispanismo is a troubling ideology that can be transcended only through a critical and self-critical engagement of its ramifications for the still-pending project of liberating all Latinas/os — Hispanic and not, Queer and not — as well as for the larger, and also still-pending, project of constructing an international civil society based on antisubordination principles and social justice goals, in part through the collaborative development of strong human rights norms. Whether practiced through cultural, political or economic instruments, Hispanismo, its homophobic machista content, and its various contemporary manifestations, constitute an essentialist and essentializing phenomenon that LatCrit, QueerCrit, and allied theorists cannot help but interrogate from an antisubordination, antiessentialist perspective.³⁰ Only through honest exchange and mutual substantive commitment to postsubordination vision³¹ can Spain and multiply diverse Latinas/os make common cause on behalf of progressive inter/national human rights norms, and ideally rescue us from repeating the mistakes of our "shared" past. I offer the thoughts below in this spirit.

II. FROM COLONIAL CONQUEST TO ENLIGHTENED STATE?: SHARED HISTORIES AND PENDING RECKONINGS

Both before and since Generalissimo Francisco Franco's death in 1975 and the subsequent shift to a parliamentary monarchy under King Juan Carlos,³² Spain's governments have sought mightily to pursue a strategic re/positioning of Spain in world affairs using conditions or rationales that also are directly relevant to any LatCrit-QueerCrit consideration of Spain

30. Iglesias & Valdés, *supra* note 11, at 513-15; *see also supra* note 5 and sources cited therein.

31. *See generally* Francisco Valdés, *Outsider Scholars, Legal Theory and OutCrit Perspectivity: Postsubordination Vision as Jurisprudential Method*, 49 DEPAUL L. REV. 831 (1999).

32. *See generally* SHEELAGH ELLWOOD, *FRANCO* (1994); *see also infra* note 94 and sources cited therein on Spain's transition to democracy.

and human rights in international law and relations. Generally, these efforts have focused on two contemporary, continuing endeavors: first, the effort to cast Spain as the traditional and unique holder of special “access” and links to Latin American countries and economies based on “shared” histories and cultures; and, second, the effort to cast postFranco Spain as the paragon of modern state transitions from dictatorial regimes and bankrupted economies to progressive “democracies” and “free” markets. These dual efforts form a crucial part of the backdrop for Spain’s prosecution of Pinochet because they implicate the fundamental values or ideals underlying the human rights that Spain seeks to vindicate through that action.³³ The first of these efforts, as explained below, is in tension with the second, as well with the effort to make Pinochet accountable for past crimes; as a pair, these discordant efforts bring into question whether Spanish policy is in fact grounded in, or principled by, the global justice values that Spain expounds.

Of course, any discussion of Spain’s contemporary relationship to Latinas/os inevitably takes place against the omnipresent legacies of its colonial past in the Americas. Perhaps most conspicuously, those legacies include the destruction of native civilizations and a record of wholesale genocide.³⁴ In any event, these legacies are encased today in highly stratified and polarized nation-states afflicted by widespread poverty, white male domination, political instability and social misery.³⁵ When

33. At the same time, I begin with a caveat: this Essay is not concerned with the procedural or substantive questions that concerned the judges and prosecutors seeking to bring Pinochet to justice; instead, I focus in this Essay on questions of principle, policy, and trajectory that might be seen as flowing proximately from the values that spur Spain’s prosecution of Pinochet. For a doctrinal or technical discussion of *Pinochet*, see Wilson, *supra* note 1.

34. Spain’s colonial record throughout the Americas has been well documented, especially in more recent years. See generally RICHARD DRINNON, *FACING WEST: THE METAPHYSIC OF INDIAN-HATING AND EMPIRE-BUILDING* (1990); FRANCIS JENNINGS, *THE INVASION OF THE AMERICA: INDIANS, COLONIALISM AND THE CANT OF CONQUEST* (1975); GEOFFREY PARKER, PHILLIP II (1995); DAVID J. WEBER, *THE SPANISH FRONTIER IN NORTH AMERICA* (1992); WILLIAMSON, *supra* note 14, at 3-167; CHRIS WILSON, *THE MYTH OF SANTA FE: CREATING A MODERN REGIONAL TRADITION* (1997); see also J.H. ELLIOTT, *IMPERIAL SPAIN 1469-1716* (1963).

35. Ironically, even progressive Spaniards overlook this linkage: “The Socialist Miguel Angela Martinez, then President of the Foreign Affairs Committee in the Congress of Deputies, argued that it was the ‘absence of freedom and democracy and national dignity’ which led to ‘underdevelopment, illiteracy, unemployment and chronic illness’ in [Latin America],” as if those “absences” in turn had no roots in Spanish colonial legacies. Grugel, *supra* note 12, at 152. These socioeconomic problems affect both the countries of Latin America as well as Latina/o communities in the United States. See generally WILLIAMSON, *supra* note 14, at 247-84; Kevin R. Johnson, *Public Benefits and Immigration: The Intersection of Immigration Status, Ethnicity, Gender and Class*, 42 UCLA L. REV. 1509 (1995); Dierdre Martinez & Sonia M. Perez, *Toward*

Latinas/os contemplate Spain today, the burdens of these legacies necessarily enter the analysis because they pervade current socioeconomic realities; even as Latinas/os oftentimes tend to think of Spain fondly, and warmly to identify with her in many ways,³⁶ harsh social and political realities just as often tend to intrude on such reveries, creating a heavily conflicted relationship based on historical and contemporary factors that romantic and strategic versions of Hispanismo simply cannot long occlude.³⁷

For Queer Latinas/os, in particular, Hispanismo is suspect specifically because of that ideology's machista and homophobic contents and mandates, and their permeation specifically of Latinas/os' Hispanicized cultures and societies.³⁸ These mandates have been marshaled throughout Euro-American history to justify the oppression, and attempted extermination, of sexual minorities as deviates who offend and threaten the "natural" order of civilization under Christendom. But critical objection to Hispanismo as identity ideology is not "merely" theoretical, for that ideology manages still to shape in material and social terms the lives and destinies of Latinas/os, both Queers and not, as enforced by Latina/o cultures and states shaped in great measure by Spanish imperialism and its continuing aftershocks.³⁹

A. Hispanismo, Machismo, and Latinas/os: Essential Solidarity Or Critical Coalitions?

Through its first and continuing effort — its engineering of Hispanismo/Hispanidad — Spain during and after Franco has striven to construct the reality and appearance of a "natural" or historically ordained bloc with her at the center and her former colonies reliably all around

a Latino Anti-Poverty Agenda, 1 GEO. J. ON FIGHTING POVERTY 55 (1993); see also *supra* note 34 and sources cited therein.

36. This sense of identification is manifested in myriad ways, including Latina/o affinity for Spain's religious, linguistic and culinary legacies in this hemisphere — all of which are bundled into "Hispanismo" and thereby give it its potency. See generally *supra* note 12 and sources cited therein on Hispanismo.

37. See *infra* notes 94-105 and accompanying text. For a succinct (though somewhat dated) discussion of these issues, see Kathryn E. Jones, *Spain and Latin America: Historical Perspectives and Current Realities* (1991) (unpublished thesis, copy on file with author); see also generally THE LATINO/A CONDITION: A CRITICAL READER (Richard Delgado & Jean Stephancic eds., 1998).

38. See *supra* text accompanying notes 25-28; see also Francisco Valdés, *Notes on the Conflation of Sex, Gender, and Sexual Orientation: A LatCrit and QueerCrit Perspective*, in THE LATINO/A CONDITION: A CRITICAL READER, *supra* note 37, at 543.

39. See generally *supra* note 34 and sources cited therein.

her.⁴⁰ Not surprisingly, "Latin America occupies a unique place on the agenda of Spanish foreign policy in that there are a significant number of agencies and areas within the public arena in Spanish society that are interested in demonstrating solidarity with the region."⁴¹ In this vein, democratic Spain has argued in recent times to the masters of contemporary Europe and their allies that she can serve a valuable role in world governance, and ought to be granted entree to international inner councils, in part because she possesses a special and unique relationship to the Hispanicized portions of today's world.⁴² In effect, Spain has cast and used arguments about this "special relationship" built on Hispanismo as an asset uniquely hers, an asset of political and economic value that she proffers to Europe as her special and unique contribution to European/Western power, and which served to help justify her admittance into the West's inner sancti: NATO and the European Union.⁴³ Hispanismo, in other words, serves as a form of accumulated national capital through which Spain leverages her "postcolonial" — or neocolonial — power and influence in today's world.

To magnify and further embed the reality of this special relationship, Spain has launched a series of annual summit meetings for the heads of state of her former colonies, a form of convocation that affirms and entrenches Spain's post/neo/colonial assets both in symbolic and material terms.⁴⁴ These annual Ibero-American summit meetings not only provide

40. For instance, in 1940 Franco opened the Consejo de la Hispanidad (Council for Hispanidad), an office that has been followed by many others like it; their basic function has been to serve "as a vehicle for cultural penetration in Latin America." Grugel, *supra* note 12, at 143-46.

41. *Id.* at 145.

42. See, e.g., Eric N. Baklanoff, *Spain's Economic Strategy Toward the "Nations of Its Historical Community: The "Reconquest" of Latin America?*, 38 J. INTER-AM. STUD. & WORLD AFF. 105 (1996); see also Fernando Rodrigo, *Western Alignment: Spain's Security Policy*, in DEMOCRATIC SPAIN, *supra* note 12, at 50; see generally WIARDA, *supra* note 12, at 289-320. Spain's aggressive commercial policies are directed both toward Latinas/os in the United States as well as toward Latin societies throughout the Americas, sometimes causing conflicted relations. See Frank Alvarado, *Cuba Policy Kills County Deal with Spanish Agency*, MIAMI TODAY, Oct. 7, 1999, at 1. These policies and similar actions, as noted below, combine the pragmatic and self-interested with idealistic or romantic notions of Ibero-American kinship. See *infra* text accompanying notes 50 & 87.

43. See, e.g., Wolf Grabendorff, *European Community Relations with Latin America: Policy Without Illusions*, 4 J. INTER-AM. STUD. & WORLD AFF. 69 (1987-88); see also Alfred Tovias, *Spain in the European Community*, in DEMOCRATIC SPAIN, *supra* note 12, at 88; see generally WIARDA, *supra* note 12, at 375-92.

44. The most recent of these meetings took place in Havana, Cuba in 1999, effectively spotlighting the irony between Spain's high profile in human rights and Cuba's repression of political pluralism. See Juan O. Tamayo, *Cuba Toughens Crackdown, "Biggest Wave of Repression*

a highly-publicized series of spectacles in which Spain basks in its sociopolitical superiority, but also generates commercial and political deals that materially confirm and maintain this post/neo/colonial hierarchy. In short, before and since Franco's demise, Spain has striven mightily to command more respect, inclusion and influence in deciding the future of the world, arguing and believing that her own political and economic development, as well as her postcolonial network, have been undervalued by the current masters of world affairs.⁴⁵ She has sought, through the promotion of Hispanismo, to attain both presence and prestige for herself and her elites internationally.⁴⁶

It bears emphasis that this determined undertaking has transcended changes of official power, having now been pursued both by socialist as well as conservative postFranco Spanish governments. This campaign therefore has, from time to time, emphasized to varying degrees both idealistic notions and aspirations as well as pragmatic calculations of world politics and Spain's ambitions and mis/fortunes within them.⁴⁷ Spain's sustained, orchestrated campaign to assemble a Hispanic "community of nations" with her at the center and lead clearly has been both a sincere and a strategic project — both lyrical and practical.⁴⁸ But,

so Far this Year," MIAMI HERALD, Nov. 11, 1999, at 1A. In one of the most bizarre pre-summit actions, the day after the crackdown, Cuban dictator Fidel Castro "summoned" foreign journalists in Havana to "a seven-hour news conference that ended at 3 a.m.," during which he proclaimed that his policies of repression would continue unabated despite world attention. Juan O. Tamayo, *Dissidents Get a Castro Warning*, MIAMI HERALD, Nov. 12, 1999, at 3A. Despite Castro's performance, Spain's King Juan Carlos and other government leaders present at the summit, along with 45 prominent former dissidents from Eastern Europe, either met with Cuba's current dissidents or issued statements condemning Castro's continued tyranny. See Elaine de Valle, *Havel, Walesa Lend Their Support*, MIAMI HERALD, Nov. 15, 1999, at 8A. Cuban dissidents in exile also used the summit to "fight" the dictatorship. See Elaine de Valle, *Exiles Use Summit to Fight Castro*, MIAMI HERALD, Nov. 14, 1999, at 1B. After the Havana Ibero-American summit, the Spanish government established a permanent office in Madrid to further implement Hispanismo as an economic enterprise via these annual gatherings and related projects, an office that joins a long list of similar efforts. See Grugel, *supra* note 12, at 142-47; see also *supra* text accompanying note 40.

45. Thus, in pursuing Hispanismo as a self-promoting policy, Spain has had to tow a fine line: she has sought to position herself as a progressive and enlightened fully European society that selectively shares some cultural features with her former colonies but that, as a developed European power, does not share or approve of the sociopolitical ills that she effectively created and left behind — but only after military defeat — in her colonial wake. See generally HOWARD J. WIARDA, *IBERIA AND LATIN AMERICA: NEW DEMOCRACIES, NEW POLICIES, NEW MODELS* (1996).

46. Richard Gillespie, *Perspectives on the Reshaping of External Relations*, in *DEMOCRATIC SPAIN*, *supra* note 12, at 196, 201.

47. *Id.* at 65-72, 107-12; see also Baklanoff, *supra* note 42, at 107-117 and WIARDA, *supra* note 12, at 310-20;

48. Baklanoff, *supra* note 42, at 107.

while Spain's efforts dramatically have helped to better the political, economic and diplomatic situation of Spaniards,⁴⁹ it remains less clear whether they have helped in any substantial way to better the lives of impoverished and oppressed Latinas/os, most particularly the indigenous and mestiza/o communities who most have borne the brunt of Spanish imperialism and its Euroheteropatriarchal legacies.⁵⁰

This linkage to indigenous communities is especially important both to LatCrit and QueerCrit analyses of these issues and the legacies of abused power that they project onto the construction of the present and future. Latinas/os, generally and to varying degrees, have substantial roots in indigenous communities — a legacy of Spanish imperialism embodied in widespread *mestizaje*.⁵¹ Queers can look to indigenous sex/gender/sexual orientation traditions for concrete contrast to Euroheteropatriarchy:⁵² more particularly, indigenous conceptions of sex, gender and sexual orientation allow(ed) comparatively egalitarian relations among and between women and men, as well as among and between sexual minorities and majorities.⁵³ While indigenous traditions are no panacea, and may present their own causes for objection,⁵⁴ they can aid both a LatCrit reconstruction of Latina/o identities and a Queer reconstruction of Euroheteropatriarchy. A crucial and threshold question thereby arises for all Latinas/os, whether or not Queer: whether Spain's unrelenting promotion of Hispanismo — in both symbolic and material ways, in both

49. See WIARDA, *supra* note 12, at 95-106.

50. Spain at times has operated as an "advocate of Latin America" in international or European councils. See Baklanoff, *supra* note 42, at 115-17. The effects of this advocacy have been limited generally, and probably even more so when it comes to the lives of the poor, rather than the elites, of Latin America. Poor people, at best, might have seen some benefits "trickle down" to them by classic neoliberal design. See generally *supra* text accompanying note 35. The elites, moreover, tend to be more the heirs (and allies) than the victims of Spanish colonial rule(rs). The point here, however, is not to criticize Spain's well-intentioned advocacy of Latin American trade interests; at bottom, the point of this Essay is that obvious avenues of direct action to disgorge unjust enrichment have been sidestepped while direct actions to exploit past wrongs have been pursued with vigor. One exemplar of this basic point is Spain's construction of a tourist industry based on colonial plunder and its failure to remit the profits as a form of moral and material restitution. See *infra* notes 65-84 and accompanying text.

51. Latina/o *mestizaje* describes racial intermixture and related diversities. See, e.g., *supra* notes 2 & 7 and sources cited therein on Latina/o heterogeneity; see also generally Margaret E. Montoya, *Academic Mestizaje: Re/Producing Clinical Teaching and Re/Framing Wills as Latina Praxis*, 2 HARV. LATINO L. REV. 349 (1997).

52. See Valdés, *Queers, Sissies, Dykes and Tomboys*, *supra* note 6, at 209-44 & 280-90.

53. *Id.*

54. See, e.g., Mary Anne Case, *Unpacking Package Deals: Separate Spheres are Not the Answer*, 75 DENVER U. L. REV. 1305 (1998).

political and economic terms — is but another form of self-aggrandizement; a modern-day extension, modified and updated, of imperial prerogatives and pretensions.⁵⁵ The relevance of this key question is illustrated aptly in material terms by Spain's "direct investments" policy throughout the Caribbean and Latin America — a determined decades-long drive for power and prosperity, as well as for presence and prestige, that has raised for some observers the spectre of today's Spaniards as the New Conquistadores.⁵⁶

Over the past several decades, Spanish direct investments throughout Latin America have given the Spanish direct or indirect ownership of some of the hemisphere's most significant industries, including banking and finance, telecommunications, mining, and agriculture.⁵⁷ Similarly, Spain has "emerged as a creditor-lender vis-à-vis its former colonies and Brazil."⁵⁸ Moreover, as in colonial times, "Spain's economic thrust into Latin America often [has] involved coordination among the Spanish government and other sectors of Spanish society," including Big Business.⁵⁹ Epitomizing this public-private enterprise and its mind-set, the chairman of Telefonica de Espana, Candido Velazquez-Gaztelu, proclaimed recently that, "For any Spaniard, Latin America is the prolongation of our land. Our people have the same language, the same culture. There are great opportunities for us to do business together."⁶⁰ As its direct investment strategy illustrates, Spain's public-private self-positioning reflects this basic stance — "For any Spaniard, Latin America is the prolongation of our land." It literally was so for much of the past millennium and, as the chairman asserts, it remains figuratively but tangibly so in the Spanish mind. Thus, LatCrits, QueerCrits and allied antisubordinationists are left with the query: opportunities — and benefits — for whom, or what?

As this brief discussion illustrates, Spain's self-positioning as geopolitically unique and valuable due to Hispanismo has been directed in programmatic and powerful ways that span from economics to politics both to her preferred peers in world affairs and to her former colonies in

55. See *supra* note 34 and sources cited therein on Spanish colonialism.

56. See, e.g., Baklanoff, *supra* note 42, at 117. Another prime example is Spain's aggressive pursuit of what may be called neocolonialist tourism. See *infra* notes 65-78 and accompanying text. Spain's "reconquest" also may be seen as an effort to "overtake" the United States in hemispheric influence. See *infra* note 102.

57. Baklanoff, *supra* note 42, at 117-22.

58. *Id.* at 109.

59. *Id.*

60. *Id.* at 117.

the Americas.⁶¹ The strategy has worked, clearly, for Spain's star has risen inter/nationally in recent decades. Yet, direct investments is not an isolated example: the public-private partnership that has conceived and created Spain's present-day tourist industry is another case in point, for Spain and its state-run institutions consistently nurture, manage and promote international tourism as one of Spain's most lucrative industries based, in large part, on showcasing the structural baubles of imperial arrogation.⁶²

During and since Franco, Spain has had a "mixed economy" over which the government exercises substantial control and derives direct benefits.⁶³ In the early 1990s, for example, the national and provincial governments entered into a five-year General Plan of Competitiveness for Spanish Tourism, which called for a concerted collaboration among public and private sectors to build up Spain's tourism infrastructure and intensify promotional campaigns.⁶⁴ Those efforts created an international tourist industry that operates as a primary engine for Spain's entire economy, and which is crucial to Spain's drive for "First World" living standards and international status:⁶⁵ by 1999, estimates called for Spain's tourism industry to lead the European Union in several key indicators — and the European Union is "the largest single regional producer of Travel & Tourism in the world," followed by the United States.⁶⁶ Industry analysts similarly acknowledged the "phenomenal growth" of Spanish tourism, and

61. This self-positioning, it bears repetition, has mixed both idealistic and pragmatic considerations; the observations presented in this Essay, while critical, do not overlook either the sincerity or the utility of Spanish sentiment or action toward Latin America and Latinas/os. See *supra* text accompanying note 48; see also Baklanoff, *supra* note 42, at 112-17; see generally Grabendorff, *supra* note 43.

62. For instance, according to Spain's tourism authorities, over seven million tourists visited Spain between January-August 1999. See Tourism Trends, www.iet.tourspain.es/new; see generally TOURISM AND ECONOMIC DEVELOPMENT: WESTERN EUROPEAN EXPERIENCES 40-50 (Allan M. Williams & Gareth Shaw eds., 2d ed. 1991).

63. See MICHAEL T. NEWTON & PETER J. DONAGHY, INSTITUTIONS OF MODERN SPAIN: A POLITICAL AND ECONOMIC GUIDE xxi, 1-9 (1997).

64. See Dirección General de Turismo, Real Decreto 2346/96, de 8 de Noviembre, <http://www.mcx.es/turismo/dgtur/rdturis.htm>; see also Elena Kandalis, *Tourism: The Golden Goose of the Spanish Economy*, 109 BUS. AM., 16 (1988).

65. "Tourism is a key element in Spain's balance of payments and one of the country's most important sectors for generating employment." *Record Tourism Year in 1994*, BUSINESS SPAIN (May 1995); see also Kandalis, *supra* note 64.

66. For instance, "Travel and tourism jobs are most significant in Spain with 24.3% of total employment generated." The other Iberian state, Portugal, ranked second. Similarly, tourism is estimated to account for 22.7% of Spain's gross domestic product in 1999, followed again by Portugal. The same is true for capital investment — Spain is expected to lead the European Union, with tourism expected to account for 27.5% of all capital investment. See World Travel & Tourism Council, 1999 Estimates — Spain Travel and Tourism Economy.

forecast Spain's continued careful cultivation and expansion of this "golden goose."⁶⁷

The state of course collects substantial tax receipts from tourism generally but, in some instances, the national government exercises direct ownership and control, and reaps even more direct benefits, both culturally and economically; in other instances provincial governments do so.⁶⁸ Perhaps most notably, for decades the state has refurbished fabulously, and still owns directly, the chain of 80-plus colonial palaces, convents, castles, cathedrals and other royal and/or religious buildings known as the "Paradors Nacionales" — state inns that provide relatively pricey but reliably comfortable and elegant "stop" points for travelers.⁶⁹ The state even has constructed, and advertises, "Tourist Routes" that are organized around stays at its Paradors.⁷⁰

More recently, Spain's Secretary of State for Commerce, Tourism and Smaller Businesses, Senor Fernandez Norniella, established new agencies to coordinate tourism, announcing his intention of further "maximizing collaboration and communication between Madrid and tourist sectors at all regional levels" while also declaring that the Paradors, specifically, "are unique to Spain. There's no other country that can offer a hotel chain with such a combination of artistic and cultural heritage. Paradors are a good way of preserving our rich inheritance and they attract a special type of tourism."⁷¹ Apparently spellbound by this bounty, the government cheerfully has announced in recent years that the "Paradors have beaten all records," and that it plans to spend millions of dollars "in opening new Paradors in historic buildings and further restoration of existing gems" to make the chain even more prominent and profitable.⁷²

One might well ask: Exactly what "special type of tourism" do the Paradors "attract," and why is this particular type of tourism "special" and desirable in the eyes of modern-day Spain and Spaniards? Similarly, one might well ask: Exactly what do the Paradors "preserve" in terms of "rich

67. See Cambridge International Forecasts Country Report, *Spain: Tourism*, July 1999; see generally Kandalis, *supra* note 64.

68. For instance, as of 1996 the national and provincial governments of Spain owned 19 "cultural sites" — mainly castles, cathedrals and the like — on the World Heritage Sites List, a list of exceptional natural and cultural sites designated under UNESCO international conventions, a list that also tends strongly to reify such sites as tourist magnets — Spain's golden geese. See <http://www.spaintour.com/heritage.htm>.

69. See Kandalis, *supra* note 64.

70. See Bienvenidos a Paradores Web Site, www.parador.es/english/index.jsp.

71. Edward Owen, *Pounds 44m Parador Boost for New Visitors Boom*, THE TIMES, Dec. 19, 1997, at 37.

72. *Id.*

inheritance” and “cultural heritage” from the perspective of modern-day Spain and Spaniards? From a LatCrit-QueerCrit perspective, the Paradors would seem to epitomize the interrelationship self-enrichment and Hispanismo as current material representations of Spanish colonialism in the Americas; they are “a good way of preserving” — and valorizing — the “rich inheritance” of Spain’s colonial pillage mainly throughout the lands now known as Latin America — lands still regarded among Spain’s elites as the “prolongation” of their own “land.”⁷³ The Paradors, and Spain’s attitude toward them, just may be the exemplar of Spain’s conflicted self-positioning vis-à-vis its history and responsibility, a self-positioning that sometimes is adopted today with little apparent regard for the complexities raised by Spain’s past and present policies and practices.⁷⁴ From a LatCrit-QueerCrit perspective, Spain’s “golden goose” might be viewed more as scandalous neocolonial tourism.⁷⁵

Whether “intentional” or not in its unjust effects, the steady stream of promotions currently mounted by the Spanish government to attract tourism revenues for itself and Spanish business inevitably seek to capitalize on, rather than to disgorge and atone for, unjust enrichment based on colonial prerogatives. These promotions are antithetical at least in spirit to emerging human rights norms and to democratic Spain’s self-image as the upholder and exporter of enlightened aspirations and values.⁷⁶ At bottom, Spain’s tourism strategy urges that I today — that we today —

73. See *supra* text accompanying note 60.

74. Of course, Spain is not the only country to engage in this sort of enterprise, but it surely has become in recent years one of the most consummate. In any event, other countries’ similar practices cannot and do not answer for Spain’s, especially when Spain denounces injustice internationally as a matter of policy. See *generally infra* notes 94-98 and accompanying text.

75. By “neocolonial tourism” I mean: (1) a concerted effort (2) by a former colonial power (3) to generate new profits for itself and its elites (4) by showcasing specifically its colonial plunder for a retail price. Thus, Spain’s showcasing of the Paradors or similar buildings or “prizes” to enrich itself further — rather than to pay even some restitution to its victims — is part of this reprehensible phenomenon. See *generally* Kandalis, *supra* note 64. This type of tourism is reprehensible, even though it may be said to do some good, like helping to “preserve” the world’s heritage, because it is exploitative — it is reminiscent of, though different from, “sex tourism” in that it uses structural socioeconomic advantage to compound self-interest. See *generally* Eric Thomas Berkman, *Responses to the International Child Sex Tourism Trade*, B.C. INT’L & COMP. L. REV. 397 (1996); see also Serge F. Kovaleski, *Child Sex Rises in Central America*, WASH. POST, Jan. 2, 2000, at A17. In addition, this type of exploitation raises at least the appearance of inconsistency, perhaps even hypocrisy, when Spain proclaims the importance of accountability in the rendition of justice and pursues it proactively, as she rightly does so today in the *Pinochet* proceedings. See *generally* Wilson, *supra* note 1.

76. Generally speaking, today’s Spain is exploiting for current gain the ill-gotten gains of yesterday’s Spain. See *generally supra* notes 8 & 34 and sources cited therein.

should not only plan our cultural itineraries around seeing the remains of the preserved and glorified monuments to Spain's sordid past but pay a price at the door of palaces, cathedrals, and like buildings mainly to relive vicariously the thrills of naked, even if holy, plunder.⁷⁷ In this way, Spain's management of tourism is a means through which Latinas/os additionally are coaxed into ingesting and internalizing further a Hispanic identification — that is, to forget the bad and exaggerate the good as a means of strengthening Hispanismo in order to strengthen Spain so that it can champion the cause of Latinas/os and Hispanics in the corridors of power from which we, but not Spain, are destined to be excluded even now.⁷⁸ The hope that Latinas/os must harbor under this scheme is that, eventually perhaps, some benefit will trickle “down” to us, who have inherited not the dazzling monuments but the impoverished former colonies of the exploited “new” world.⁷⁹

The orchestrated governmental effort called “Spain's tourist industry” of course is economically worthwhile only if we — its targets — submit to happy promotional depictions that sanitize and normalize the human horrors that built those monuments, and then blithely plunk down our hard currencies or plastic cards to embark on an entirely uncritical “enjoyment” of a history that is as shameful as, and even worse than, today's exploitative self-promotion — at least if viewed from the perspective of a modern and progressive state, much less from a critical antisubordination

77. In a sense, Spain's most venerable buildings provide a tangible record of the Church-State partnership in Spain's colonization of the Americas — a topic that has attracted the attention of LatCrits over the past several years. See, e.g., Luna, *supra* note 13; *Religion and Spirituality in Outsider Theory: Toward a LatCrit Conversation*, 19 UCLA CHICANO-LATINO L. REV. 417 (1998); see also Iglesias & Valdés, *supra* note 11, at 511-55; see generally Francisco Valdés, *Piercing Webs of Power: Identity, Resistance and Hope in LatCrit Theory, Praxis and Community*, 33 U.C. DAVIS L. REV. 897 (1999). For instance, the royal palace in Segovia invites visitors to experience the thrill of being in the same, tiny room where the rulers of Spain counted their imperial booty as it arrived from the colonies of the Americas. At Spain's equivalent of Versailles, *El Escorial*, the visitor similarly is titillated by the overwhelming scale, richness, and detail of the royal compound. See generally ELLIOTT, *supra* note 34, at 253; PARKER, *supra* note 34, at 182-88. The marble-laden, cavernous vault in which most of Spain's royals are interred is especially awesome as obscene self-indulgence. At both sites, as at similar sites around the country, the Spanish government's tourism authorities routinely levy and collect entry fees.

78. See generally Celina Romany, *Interrupting the Dinner Table Conversation: Critical Perspectives, Identity Politics and Deliberative Democracy* (unpublished manuscript on file with author).

79. Of course, Spain left behind palaces, cathedrals, convents, and the like throughout its former colonies; these monuments, like the Paradors, generate tourism and, like the Paradors, glorify the remains of Spanish colonialism. Like the Paradors, these remains generate revenue for the host country while promoting the “cultural heritage” of the colonizer — Hispanismo. See generally *supra* text accompanying notes 68-75.

perspective. We all are complicit, to varying degrees, in the perpetuation of post/neo/colonial injustice, as we are complicit in other structures and systems of oppression that surround and envelop us on a daily basis. But, this complicity does not and cannot minimize the significance of Spain's national choice to further exploit in various ways, rather than to disgorge in proactive ways, its imperial "patrimony." From the perspective of living Latinas/os and LatCrits, this conscious election of policy and politics goes to the very heart and purpose of any inter/national "community" or solidarity that might otherwise be nurtured between and among us.

Despite its dangerous underside, Latinas/os throughout the Americas indeed have embraced Spain's call to Hispanismo. Reflecting the vestigial powers of Spain's historical and cultural legacies in the Americas, LatCrits have encountered Hispanismo's pull in the identity politics of our families and upbringing.⁸⁰ We also have grappled with the issues thus raised as a group.⁸¹ Hispanismo, consequently, is a conflicted phenomenon both for Hispanics worldwide, including Spaniards, as well as for Latinas/os hemispherically. It is a phenomenon that, due to the omnipresence of colonialism's legacies, we must confront — and, hopefully, transcend through a collaborative engagement of critical consciousness and intercambio abierto among Spaniards, Hispanics and Latinas/os, both in the new and in the old worlds. It is a phenomenon for which Spaniards, Hispanics and Latinas/os now must accept personal accountability.

This thumbnail critique is not to suggest that the Paradors, for example, should be leveled and salt poured over their sites. Nor is it to suggest a rejection or boycott of anything Spanish — nor, as specified above, is this critical sketch even an effort to assign blame for Hispanismo's uncritical activation and perpetuation to any one group, person or party. Instead, this brief critique is to suggest that the immediate and ultimate beneficiaries of the present-day profits generated from Spain's colonial loot should be rethought from a principled (albeit "pragmatic") perspective. This brief critique recognizes that these questions of course cover much, and contentious, substantive ground. Indeed, this brief critique itself raises numerous issues with complex social, political, legal and economic ramifications.⁸² But from a LatCrit perspective, and for Latinas/os

80. See, e.g., Johnson, *supra* note 15.

81. See, e.g., *supra* note 8 and sources cited therein.

82. Therefore, outsider scholars already have engaged some fundamental questions, including the issue of remedies like reparations. See, e.g., Mari Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323 (1987); Robert Westley, *Many Billions Gone: Is it Time to Reconsider the Case for Black Reparations?*, 40 B.C. L. REV. 429 (1998); see also ROY L. BROOKS, *WHEN SORRY ISN'T ENOUGH: THE CONTROVERSY OVER*

worldwide, these issues are unavoidable. From a LatCrit perspective, these issues are especially urgent vis a vis Spain – and the United States – because of the specific historical and current relationships that bind Latinas/os to both of these particular countries and their sociolegal regimes.⁸³

Because Spain (like the United States) consistently seeks to position itself as a modern and progressive champion of democracy, accountability and justice⁸⁴ and because I seek to apply LatCrit-QueerCrit perspectivity in this Essay, I ask you now: What should be the ethics and policy of an “enlightened” state under these and similar post/neo/colonial circumstances? How does the romance with Hispanismo urged upon all Latinas/os — Queer and not — by Spain today through various ways and means, ranging from tourism to diplomacy, serve to distract us from these fundamental questions of equity and integrity, delaying indefinitely, perhaps in perpetuity, their substantive resolution? And how do we, as Latinas/os, perpetuate colonial artifacts and our own ongoing subordination by becoming complicit to Hispanismo’s uncritical celebration in social, political and economic contexts?

As already noted, Spain’s self-positioning clearly has been both substantive as well as strategic:⁸⁵ it is in fact the case that Spain has progressed tremendously in political and economic terms since the end of fascism,⁸⁶ including specifically on sexual orientation fronts.⁸⁷ It equally

APOLOGIES AND REPARATIONS FOR HUMAN INJUSTICE (1999); see generally Justin H. Roy, Comment, *Strengthening Human Rights Protection: Why the Holocaust Slave Labor Claims Should be Litigated*, 1 THE SCHOLAR 153 (1999).

83. See *supra* notes 4-19 and accompanying text.

84. See *infra* note 94 and sources cited therein on democratic Spain.

85. See *supra* text accompanying note 48.

86. Not only has postFranco Spain substantially expanded personal liberty for its people, it also has initiated a period of relative economic prosperity. See, e.g., NEWTON & DONAGHY, *supra* note 63, at 164-73. As a formal matter, “Article 9.2 of the postFranco Spanish constitution places an obligation on the public authorities to . . . remove obstacles to the full participation of all citizens in the political, economic, social and cultural life of the country.” *Id.* at 18. Last year, 1998, “Spain experience[d] one of the highest levels of growth among the countries of the euro-zone.” SPAIN: REVIEW 1999, EURO. REV. OF WORLD INFO., Nov. 11, 1999, at 1, available in LEXIS, News Library, News Group File; see generally Keith Salmon, *Spain in the World Economy*, in DEMOCRATIC SPAIN, *supra* note 12, at 67.

87. For instance,

1995 was a good year for gays and lesbians living in Spain. After the law of Urban Arrangements in which de-facto couples were recognized regardless of sexual orientation, a new penal code was approved that penalizes discrimination on the

is the case that Spain has exploited that progress to demand and justify better treatment for herself and her people in world affairs.⁸⁸ No evil inheres in this practice, but it may devolve into a self-serving convenience, for this pattern of state practice seeks to foster, and invites, respect and enrichment for Spain while deflecting, and even exacerbating, pending postcolonial accountings in both material and political terms. Spain's craving for power and prosperity, in addition to presence and prestige, may give rise to, and help to legitimate, policies and practices tantamount in tangible and symbolic terms to another form of post/neo/colonial self-enrichment, a continuation of past wrongs perhaps achieved yet again mostly at the expense of the original victims – the indigenous peoples of the Americas.⁸⁹

In sum, Spain's "special relationship" with Latin America and Latinas/os, and its current value in world affairs, are based entirely on conquest and forced assimilation — the enduring artifacts of Spain's colonial rampage throughout the Americas.⁹⁰ While recognizing Spain's postFranco advances, LatCrit-QueerCrit and allied scholars cannot long ignore recognizing also the incongruities raised by a continuing national self-enrichment that further exploits past imperial wrongs – even if the incongruities are accompanied by strategic or sentimental activations of Hispanic "community" and solidarity, and even if similar disengenuities are practiced by other nation states, and even if Latinas/os or others have

basis of sex. Ethnicity, etc., including also sexual orientation, [gays and lesbians] finish [1995] with another law that recognizes homosexual couples.

Peter Cruells, *Law in Spain Recognizes De-Facto Couples*, 39 INT'L GAY & LESBIAN ASS'N EUROLETTER (Feb. 1996). That progress was followed a decade later by outright legalization of same-sex marriage on terms equal to cross-sex marriage. Renwick McLean, *Spain Legalizes Gay Marriage; Law is Among the Most Liberal*, N.Y. TIMES, July 1, 2005, at A-9; see also HOMOSEXUALITY: A EUROPEAN COMMUNITY ISSUE (Kees Waaldijk & Andrew Clapham eds., 1993). These legal developments have accompanied a similar improvement of the cultural environment and social attitudes relating to sexuality and sexual minorities. See generally Valerie Gladstone, *Spanish Movies Mine a Rich Vein*, NY TIMES, Dec. 5, 1999, at B18.

88. In particular, indigenous societies were the principal targets of Spanish conquest, assimilation, and appropriation. See *supra* notes 8 & 34 and sources cited therein on Spanish colonialism. As such, today's indigenous communities should be the principal beneficiaries of postcolonial disgorgement.

89. See generally *supra* note 34 and sources cited therein on Spanish colonialism. As discussed above, indigenous societies are especially relevant to the LatCrit reconstruction of Latina/o identities and to the Queer reconstruction of Euroheteropatriarchy. See *supra* notes 12-30 and accompanying text.

90. See generally *supra* note 34 and sources cited therein on Spanish colonialism.

been complicitous in these post/neo/colonial encounters.⁹¹ Rather, any consideration of current Spanish policies, practices, and omissions in relation to human rights norms and social justice ideals can and should be measured critically against both Spain's history and legacies as well as its contemporary claims and acts of self-conception, self-construction, and self-promotion.

B. Enlightened Spain, Pinochet, and Imperial Legacies: PostColonial Justice and Responsibility, or Still Running from the Reckoning?

The second and more recent of Spain's problematic efforts — its self-conception and self-promotion as a model modern democracy — is continued and advanced by Spain's championing of international human rights through its dramatic prosecution of Pinochet, but it has a history that may be marked at least from the King's pivotal role in subduing the attempted Francoist coup that arose shortly after the shift to a parliamentary monarchy.⁹² The orderly transitions of power following democratic elections that have occurred regularly since then no doubt have helped to consolidate the acceptance of political pluralism, the rule of law and cultural diversity in the former dictatorship.⁹³ Externally, Spain has showcased democracy and human rights, and their spread, as a foreign policy theme; specifically, following its own postFranco transition, Spain has sought to "export" its embrace of democracy and affinity for human rights to its former colonies in Latin America.⁹⁴ Thus, Spain's foreign and domestic policies oftentimes have been calculated, framed, and implemented with the objective in mind of promoting both the substance of "democracy" and "human rights" as well as Spain's "enlightened" image regarding those constructs. As a result, Spain now is viewed as both exemplar and upholder of democratic values and human rights domestically as well as internationally and, more specifically, hemispherically.⁹⁵ To the extent that these efforts contribute positively to the well-being of the Spanish people and to the development of an

91. See generally *supra* text accompanying notes 29-31.

92. See JOHN HOOPER, *THE SPANIARDS: A PORTRAIT OF THE NEW SPAIN* 35-46 (1986); see also VICTOR ALBA, *TRANSITION IN SPAIN: FROM FRANCO TO DEMOCRACY* (Barbara Lotito trans., 1978); see generally CAROLYN P. BOYD, "HISTORIA PATRIA": POLITICS, HISTORY AND NATIONAL IDENTITY IN SPAIN, 1875-1975 (1997).

93. See generally HOOPER, *supra* note 92, at 38-46; see also Jonathan Story, *Spain's External Relations Redefined: 1975-89*, in *DEMOCRATIC SPAIN*, *supra* note 12, at 30.

94. See, e.g., Grugel, *supra* note 12, at 147-50; see also Story, *supra* note 93.

95. Grugel, *supra* note 12, at 144-45; see also Frank Calzon, *Juan Carlos Can Teach About Democracy*, *MIAMI HERALD*, Nov. 12, 1999, at 9B.

inter/national order capable of social justice transformation, Spain's pro-democracy and pro-human rights efforts — including the *Pinochet* prosecution — should be applauded because they help to make the world a safer place for humans, including Latinas/os of all sexual orientations and other traditionally subordinated, multiply diverse outgroups.⁹⁶

But, as with Spain's first effort, this happy depiction of an enlightened Spain, surrounded and supported by her reliable roost of former colonies, should not legitimate a rose-colored sanitization of a more complex, and ugly reality. Though Spain indeed has progressed politically since Franco's demise, this progress cannot, under any principled analysis, free Spain of the past it seeks to invoke through Hispanismo, leaving Spaniards as a nation unburdened and unaccountable for their country's imperial legacies throughout the Americas. These legacies include a tradition of caudillismo — the tradition of a strong patriarchal master who lords over society with his Iron Hand to ensure Law, Order, and Morality among the godfearing masses.⁹⁷ Someone, like, say, Augusto Pinochet. Not surprisingly, history's tensions are to be found percolating in *Pinochet* as well.

From one perspective, Spain has helped through the *Pinochet* proceedings decisively and profoundly to advance the cause of justice and the prospects of transnational accountability for state-sponsored abuse not only perpetrated against its citizens but against other humans as well.⁹⁸ However, from another — and perhaps more critical — perspective, Spain's formal insistence that Pinochet pay for his abuse of power, can be viewed as, for example: a paternalistic disciplining of an errant former colony by its now-enlightened former colonizer; or, as a selective, maybe even hypocritical, assertion of principle and accountability by a former colonial power that today continues by design to benefit politically and economically from its colonial past rather than to disgorge ill-gotten gains. This duality results from the combination of Spain's self-conception and self-promotion as a model democracy and progressive nation-state and its concurrent claim to a "special" post/neo/colonial relationship with Latin America and Latinas/o in political and economic affairs reduced to

96. Thus, the extrapolations preferred here should not be received as an effort to "bash" Spain or minimize its own progress since Franco's death, but rather as an effort to ground transatlantic LatCrit discourse in antisubordination consciousness and commitments. See *supra* text accompanying notes 48 & 85.

97. See, e.g., Charles Santiago Nino, *Transition to Democracy, Corporation and Constitutional Reform in Latin America*, 44 U. MIAMI L. REV. 129, 155 (1990); THE CIVIL LAW TRADITION: EUROPE, LATIN AMERICA AND EAST ASIA 607 (John Henry Merryman et al. eds., 1994).

98. See generally Wilson *supra* note 1.

Hispanismo or Hispanidad.⁹⁹ Spain's authentic modern-day enlightenment may suggest the more benign of the two above views, while its simultaneously aggressive assertion of Hispanismo in various ways and venues may lend credence to the more skeptical view of Spain's actions in *Pinochet*. Thus, while the prosecution of Pinochet may be characterized as a one-judge vendetta by some,¹⁰⁰ it also is a formal governmental effort that suits very well the larger schematics of Spain's self-positioning in international relations during the past several decades.

As with other postFranco advances, I think it a mistake to overlook the utility, or sincerity, of Spain's interventions in bringing Pinochet to justice.¹⁰¹ This prosecution, coupled with similar activities in other cases and scenarios, have elevated the prospects that future dictators will not receive absolute immunity for murderous policies.¹⁰² This prosecution perhaps will force dictators to act with less than total impunity, knowing in advance that corrupt assertions of sovereignty to cover up misdeeds will not succeed automatically. This prosecution makes life personally more dangerous and difficult for dictators and ex-dictators seeking to live comfortably on their stolen power and loot.¹⁰³ This prosecution may, and

99. These two points, as elaborated above, are exemplified, and further complicated by, Spain's systematic exploitation — for present unjust enrichment — of her "monuments" to colonial wealth, power, and glory. See *supra* notes 68-75 and accompanying text.

100. The original Spanish prosecution, directed primarily by Judge Baltasar Garzon, has been controversial within Spanish society generally and its ruling circles because the prosecution may "damage Spain's ambition to overtake the United States as the main foreign investor in Latin America." See, e.g., Giles Tremlett, *The Slick Young Superjudge Behind Pinochet's Problems*, THE SCOTSMAN, Oct. 25, 1998, at 18. At the same time, public opinion polls indicate that a vast majority — over 70% — of polled Spaniards support the prosecution. *Id.* More broadly, Spanish Prime Minister Jose Maria Aznar "and other government officials have complained that the judge's activities are complicating Spain's relations in Latin America." Marlise Simons, *Spain's Firebrand Judge; Baltasar Garzon Takes Aim at High Places*, INT'L HERALD TRIB., Oct. 20, 1998, at 4; see generally *supra* note 1 and sources cited therein on the *Pinochet* prosecution.

101. See *supra* text accompanying note 48.

102. For instance, the war crimes investigations of recent years also have helped to raise the stakes for those whom would use government as an apparatus of abuse. See, e.g., James C. McKinley, Jr., *U.N. Tribunal, in First Such Trial Verdict, Convicts Rwandan Ex-Mayor of Genocide*, N.Y. TIMES, Sept. 3, 1998, at A14; Philip Shenon, *U.S. Seeks War Crimes Trial of Top Khmer Rouge Leaders*, N.Y. TIMES, Jan. 5, 1999, at A3. Similarly, Austrian police recently arrested a high-ranking Bosnian war criminal while he was on a visit to Vienna and "sent him to a prison in the Netherlands." Charles Trueheart, *Bosnian Serb Leader Held on Charges of Crimes Against Humanity*, MIAMI HERALD, Aug. 26, 1999, at 11A; see also Marlise Simons, *Bosnian Croat Leader Goes on Trial in War Crimes*, N.Y. TIMES, Apr. 12, 1999, at A14.

103. For instance, the *Pinochet* prosecution was cited as a potentially applicable precedent to another notorious case from Latin America — Cuba's Fidel Castro, the only remaining formal dictator in the Americas. "If Chilean dictator Augusto Pinochet can be held in British custody . . .

ideally will, enhance the human rights environment worldwide — and the same observations apply to Spain's larger record of support for democratic values and human rights both at home and abroad during the postFranco era. At the same time, it equally would be a mistake to overlook the tensions that inhere in Spain's relationship to Latin America, Latinas/os and global justice ideals as reflected by the *Pinochet* prosecution, and in light both of the complex legacies that endure from Spain's colonial history *and* Spain's current self-positioning vis-à-vis of that history and its legacies.

In this instance, as in others, Spain's in/actions invite questions about imperial legacies, postcolonial accountability and double standards. As with its first effort, LatCrits and QueerCrits are likely to approach Spain's "exportation" of its enlightenment to its former colonies with care and nuance; even in a relatively specific scenario like the *Pinochet* prosecution, skeptical perspectives are generated by Spain itself, past and present. As with every issue or context, LatCrits and QueerCrits are likely to embrace critical and self-critical analysis and action as one means toward supporting progressive policies locally and globally, and of demanding accountability — if it is wanting. It is an embrace that we hope will be reciprocated.

III. CONCLUSION

It seems clear enough that, in the past, Spain enriched itself through massive expropriations of indigenous resources — both human and natural — while busily and happily building monuments to its imperial supremacy with those stolen riches throughout its provinces and cities. Now, in the present, it seems (at least to some observers) that Spain seeks to enrich itself again by promoting Hispanismo, buying up what remains of Latin America under the influence of imperial Hispanismo, and retrofitting for profitable display its colonial monuments — effectively, monuments to Hispanismo past *and* present. Despite Spain's democratic makeup and

for ordering the murder of Spanish citizens in Chile, then Castro must stand trial in the United States for murdering U.S. citizens," declared one member of Congress. See Juan O. Tamayo, *Seattle Abuzz About Castro*, MIAMI HERALD, Nov. 27, 1999, at 3A. Coincidentally, Castro was holding a press conference in Portugal when he heard about Pinochet's arrest. His reaction: "Is it true?," he asked reporters incredulously. "This interests me very much," Castro added. Brook Larmer, *What's a Tyrant to Do?*, NEWSWEEK, Nov. 2, 1998, at 39. The possibility of personal incarceration while travelling abroad, as in Pinochet's case, can have the salutary effect of threatening even sitting dictators with a direct deprivation of the symbolic privileges and creature comforts to which they have accustomed themselves.

progressive exhortations, from a critical perspective it is not difficult to detect in Spain's promotion of itself and its Eurocentric moneyed interests via Hispanismo a common thread that links Spain's past colonial outrages to its present foreign and domestic policies, including trade and tourism – a linkage perhaps also conjured in some ways by the *Pinochet* proceedings and Spain's leading role in them.

In so doing, Spain not only reifies colonial dynamics in economic, social, and political terms but also further erases the centrality of indigenous peoples in the construction of Latina/o identities, both historically and presently. This erasure, as a form of present-day cultural imperialism, runs directly against the LatCrit effort to excavate and reclaim Latina/o diversities, whether or not "Hispanic" in nature. This erasure impedes not only the LatCrit effort against essentialized identifications that privilege one particular type of "Latina/o" over all others but, in doing so, also subverts the LatCrit commitment to antisubordination both within and beyond "Latina/o" communities. Hispanismo thereby interferes directly and seriously with foundational LatCrit commitments to antisubordination praxis and to antiessentialist analysis. Unless confronted collectively and critically, Hispanismo may come to signify nothing more than a thin and brittle form of "solidarity" that demands Latinas/os' willed ignorance of (or indifference to) the oppressive dimensions of the "shared" past that it calculatedly invokes.

These concerns may be heightened personally for Queer LatCrits, due to the machismo and homophobia that Hispanismo entails. The erasure of indigenous identities and traditions among Latina/o communities and cultures entails also the erasure of sociosexual traditions from which Queer legal theorists can learn much toward a reformation and reconstruction of Euroheteropatriarchy. For these reasons, Queer LatCrits, specifically, have ample cause for alignment and coalition with indigenous peoples in the continuing effort to secure accountability for the continuing effects of Spain's colonial misrule. Indeed, both LatCrits and QueerCrits have much cause to question critically Spain's current activation of Hispanismo in light of its imperial past and its present effects.

In openly asking for an accounting of Hispanismo, its Euroheteropatriarchal baggage, and its mis/uses in varied social, political and economic venues, this Essay effectively suggests that Hispanismo can serve more as an obstruction to the cultivation of a transnational and egalitarian community that includes Spaniards, Hispanics, Latinas/os, and indigenous peoples as coequal partners in the reconstruction of colonial legacies. While cast as the "glue" that brings Spain and Latinas/os together in today's complex world, Hispanismo can fragment rather than unite Spain and multiply diverse Latinas/os throughout all of the Americas.

Hispanismo reproduces and further entrenches the unjust and unjustifiable invisibility of indigenous peoples and cultures in Latina/o communities and throughout the Americas. Hispanismo recreates unjust and unjustifiable colonial hierarchies based on race, color, national origin, religion, language, sex/gender, sexual orientation, and other axes of identity. While centering uncritically one subset of Latina/o commonalities, Hispanismo simultaneously flattens Latinas/os' multiple diversities in language, culture, religion, and other aspects of human society. Hispanismo, moreover, provides a romantic but misleading environment for Spanish-Latina/o economic relations that are, at a minimum, eerily reminiscent of colonial exploitation.

These objections, however, do not deny the possibility of Hispanismo's antisubordination value; these objections should initiate, rather than foreclose, an open discourse animated and framed by mutual and collective commitments to basic ideals of global justice and social responsibility — ideals that Spain professedly seeks to vindicate through its systematic exportation of democracy and human rights to its "less developed" former empire, and through its determined prosecution of Pinochet. As in other instances where LatCrit theorists have encountered oppressive structures rooted in colonial "inheritance" and embedded in current social realities,¹⁰⁴ the challenge here is to reimagine, reconfigure and redeploy an entrenched structure of subordination — in this instance, the ideology of uncritical Hispanismo — in order to transform it into an efficient platform for critical social justice coalitions grounded expressly in antisubordination principles, purposes and projects. The challenge here, as elsewhere, is crafting a forward-looking enterprise that seeks consciously and consistently to build from the remains that we have inherited a better world with and for those "at the bottom" of extant hierarchies.¹⁰⁵

Finally, while it may be true that persons alive today cannot change "ancient" history,¹⁰⁶ thinking human beings certainly can, and necessarily must, choose how to align ourselves vis-à-vis the continuing aftershocks of a known history with present effects as part of the never-ending task of

104. One notable example has been the impact and the future of another colonial artifact — Roman Catholicism as the preferred religion of Latina/o communities — which LatCrit scholars have engaged vigorously in the past. *See, e.g., Iglesias & Valdés, supra* note 11, at 511–45; *see also supra* note 77 and sources cited therein.

105. *See Matsuda, supra* note 82; *see also Iglesias & Valdés, supra* note 11, at 515–27.

106. The denial of social and moral responsibility for unjust enrichment that typically is interposed by current social groups that benefit from the present effects of past injustice is well-known in outsider jurisprudence. *See, e.g., Matsuda, supra* note 82.

building a socially just future. Once a history and its problematics have been reclaimed and critically centered, as is the case with Spain's colonial mistreatment of the Americas, today's generation cannot innocently or ethically evade the present lessons of the past — at least not among those in today's generation that profess to embrace and formally espouse a principled commitment to democracy, human rights, and accountability, as does Spain.¹⁰⁷ Instead, an observed disjunction among known historical problematics, present courses of action, and self-ascribed policy commitments, calls for serious and sustained critical engagement, and if possible, a reconciliation of knowledge, deeds, and words to make them all consonant with antistatist principles. From both a LatCrit and a QueerCrit perspective, this is the place at which Spain is situated today vis-à-vis Latin America and multiple diverse Latinas/os worldwide.

107. See generally *supra* notes 92-96 and accompanying text.