The LatIndia and *Mestizajes*: Of Cultures, Conquests, and LatCrit Feminism

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The Latinas and *Mestizajes*: Of Cultures, Conquests, and LatCrit Feminism

_Berta Esperanza Hernández-Truyol**_

"Who is your mother?" is an important question. . . . Failure to know your mother, that is, your position and its attendant traditions, history, and place in the scheme of things, is failure to remember your significance, your reality, your right relationship to earth and society. It is the same as being lost . . . .

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* See Margaret E. Montoya, _Mascaras, Trenzas, y Greñas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse_, 17 HARV. WOMEN’S L.J. 185, 220 (1994) (translating mestizaje as transculturation, a process that has as desired by-products “[t]he disruption of hegemonic tranquility, the ambiguity of discursive variability, the cacophony of polyglot voices, the chaos of radical pluralism,” and noting that because it emphasizes “our histories, our ancestries and our past experiences [it] can give us renewed appreciation for who we are as well as a clearer sense of who we can become”); _see generally_ GLORIA ANZALDÚA, _BORDERLANDS/LA FRONTERA: THE NEW MESTIZA_ (1987). Professor Montoya has explained the origins of mestizaje:

Colonization in the Americas proceeded not only from New England westward but also from Mexico into the Southwest. The racialization practices of European colonists differed in their nature of the interactions with the indigenous peoples. For example, the Spanish, unlike the English, arrived in the Americas without women and took indigenous women as sexual partners, resulting in a mestizo(al) population.

Margaret E. Montoya, _Of “Subtle Prejudices,” White Supremacy, and Affirmative Action: A Reply to Paul Butler_, 68 U. COLO. L. REV. 891, 901 n.34 (1997) (citation omitted) [hereinafter Montoya, _A Reply to Butler_].

** Visiting Professor of Law, University of Florida, Levin College of Law. Professor of Law, St. John’s University, School of Law. Many thanks to all the organizers of this program for their indefatigable work. The students have done a tremendous job and deserve our warm and well-deserved gratitude. Of course, appreciation is also due the advisors—Adrien Wing, Pat Cain, Jean Love, Enrique Carrasco, Marcella David—whose behind the scenes work is plain to those of us who know them by the footprints they have left all over the program. Thanks to the Dean and administration without whose fiscal and other less obvious support this type of exciting and transformative event would not occur. I want to say _mil gracias_ to my valued colleagues Elvia Arriola, Karen Knopp, Guadalupe Luna, and Francisco Valdes for their invaluable comments on earlier drafts. I must thank Miranda Dominguez and Amy Kyle Parker (SJU Law ’99) who are much more than research assistants, although they do that stupendously, and without whose energy, hard work, and friendship this work would not have become a reality. Finally, _gracias a_ Jennifer Joynt Sánchez (UFL ‘01) for her helpful assistance with the final drafts. Of course, any errors are solely my own.

1. _Paula Gunn Allen, The Sacred Hoop_ 209 (1986). I am comfortable using Paula Gunn Allen’s mother metaphor as she centers her interrogation on her native history and perspective. This use of the mother metaphor should not be misinterpreted as an attempt to locate us as families in order to mask histories of power and violence. Moreover, this metaphoric use of mother should not be misinterpreted to attach to its symbolic use by the State—this symbolic use normalizes hegemonic European gender roles. See generally GEORGE MOSSE, _NATIONALISM AND SEXUALITY: RESPECTABILITY AND ABNORMAL SEXUALITY IN MODERN EUROPE_ (1985). I thank Karen Knopp for bringing these invaluables points to my attention.
La historia del pueblo cubano, a pesar de que la presencia del hombre es muy antigua en Cuba, comienza con el descubrimiento y ocupación de la Isla por los españoles.²

Indians think it is important to remember, while Americans believe it is important to forget.³

I. INTRODUCTION

In this journey, I want to engage in critical race feminism praxis by searching for the answer to Paula Gunn Allen’s important question: “Who is your mother?” The requisite interrogation, however, is not the facially evident one—I know and adore my mami. Rather, the journey on which I want to embark is the one mapped by Professor Gunn Allen, one that requires the plaiting of a broader, deeper, more complicated routing than “that woman whose womb formed and released you,”⁴ although that, too, is a path fundamental to our being. Professor Gunn Allen is talking about a different, larger layer of creation: the cultural, social, political, communitarian, historical passages that constitute a peoples. She is contemplating the sources of production of knowledges that will provide context, history, culture, spirituality, meaning, and direction to our multidimensional lives.

This enterprise of locating our madres is, to be sure, a daunting task. The space from which to deploy and in which to center such an endeavor is a necessarily complex landscape that can accommodate and sustain the architecture of our multiple and complex histories, our multilingualism, our diverse cultures and experiences, our mestizajes,⁵ our hybridity.⁶ Critical Race

². Ramiro Guerra, Manual de Historia de Cuba ix (1975) (“The history of the Cuban people, notwithstanding that man’s [sic] presence in Cuba dates to ancient times, starts with the island’s discovery and occupation by the Spaniards.”) (author’s translation). Interestingly, the first chapter of the book, dealing with pre-colonization times in Cuba is entitled Cuba prehistórica—“Prehistoric Cuba.” Id. at 3.

³. Gunn Allen, supra note 1, at 210.

⁴. Id. at 209 (stating “the term refers in every individual case to an entire generation of women whose psychic, and consequently physical ‘shape’ made the psychic existence of the following generation possible”).

⁵. See Montoya, A Reply to Butler, supra note * (citing Professor Margaret Montoya’s explanation of the origins of the term mestizaje).

⁶. See Homi K. Bhabha, The Location of Culture (1994) (discussing the hybridity of persons and their varied identity locations); see also Pnina Werbner, Introduction: The Dialectics of Cultural Hybridity, in Debating Cultural Hybridity 1, 1-26 (Pnina Werbner & Tariq Modood eds., 1997) (describing hybridity as “a theoretical meta-construction of social order”); Margaret Chon, Acting Upon Immigrant Acts: On Asian American Cultural Politics by Lisa Lowe, 76 Or. L. Rev. 765, 769 (1997) (defining hybridity as “the formation of cultural objects and practices that are produced by the histories of uneven and unsynthetic power relations . . . as mark[ing] the history of survival within
Feminism (CRF) is a movement committed to exploring the reality of the lives of women of color in order to end their subordination and to ensure their full citizenship in all geographies.\(^7\) LatCrit is a closely related theoretical movement premised on an anti-subordination agenda and committed to building community among all peoples and to interrogating the politics of identity through the necessarily pan-ethnic lens of Latinas/os.\(^8\)

Combined, a LatCritical Race Feminist (LCRF) project that embraces our hybridity facilitates an interrogation of the present order, its history and varied power locations, and their impact on socio-economic and psycho-social consequences. LCRF is grounded on the richness endemic to the multiplicity, similarities, and disparateness of our histories. It knows our daily existence within our own, unfamiliar, and foreign communities. Thus, LCRF is a safe, though not quiet, anchor from which to deploy the interrogation of the multiple meanings of feminism, human rights, personhood, and identity. Such a project allows a reconstruction of society that is committed to a principle of social justice, developed from and embracing of all aspects of our identities.

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7. See Adrien Katherine Wing, Introduction to CRITICAL RACE FEMINISM: A READER 4, 4-6 (Adrien Katherine Wing ed., 1997).

8. LatCrit is a theoretical movement that was initiated as a distinct discourse within critical legal theory. Its origins are traceable to the first colloquium organized with the purpose of having Latina/o law professors and their friends critically explore the position of Latinas/os within the academy and society. It started the road towards an inquiry concerning what the politics of identity mean through a Latina/o lens, which, by necessity, is a pan-ethnic prism. This first colloquium took place during the 1995 Annual Meeting of the Hispanic National Bar Association. That gathering started the momentum for the regular planning of reuniones that promote the interrogation of what it means to be Latina/o in this diverse world of ours which necessarily promotes the relating of the Latina/o condition to other groups' locations, interests, and issues. Indeed, a central goal and foundational premise of LatCrit is to be diverse and inclusive. See Elizabeth M. Iglesias & Francisco Valdes, Religion, Gender, Sexuality, Race and Class in Coalitional Theory: A Critical and Self-Critical Analysis of LatCrit Social Justice Agendas, 19 CHICANO[LATINO] L. REV. 503, 507-15 (1998); see generally Symposium, Comparative Latinas/os: Identity, Law and Policy in LatCrit Theory, 53 U. MIAMI L. REV. (forthcoming date unknown); see generally Symposium, Difference, Solidarity and the Law: Building Latina/o Communities Through LatCrit Theory, 19 CHICANO[LATINO] L. REV. 1 (1998); see generally Symposium, LatCrit Theory: Naming and Launching a New Discourse of Critical Legal Scholarship, 2 HARV. LATINO[LATINO] L. REV. 1 (1997). Thus, the original gathering and those that have taken place since are multi-ethnic, multi-racial experiences where community transcends and embraces racial, ethnic, national, linguistic, sexual, gender, class, and religious differences and commonalities. Significantly, particularly in the context of the importance of literature in the academy, this young movement has produced an expansive and impressive series of published colloquia. See generally Colloquy, International Law, Human Rights, and LatCrit Theory, 28 U. MIAMI INTER-AM. L. REV. 177 (1997); see generally Symposium, LatCrit Theory: Latinas/os and the Law, 85 CAL. L. REV. 1087 (1997); see generally Francisco Valdes, Forward: Representing Latina/o Communities: Critical Race Theory and Practice, 9 LA RAZA L.J. 1 (1996).
Women of color are world travelers who routinely trespass border crossings across fronteras of race, sex, class, ethnicity, nationality, color, sexuality, and language. To locate or identify our forebears we must travel this intricate, elaborate, and tangled expanse. In the process, we need nuevas teorías that recognize our hybridity/multidimensionality. As an ideology, LCRF offers an appropriate location from which to launch our search for our mothers.

One of LCRF’s tools integral to this exploration is its deconstructive function. It provides a methodology to debunk the majority’s “liberal” social, political, economic, historic, and legal construction of universal truth, singular reality, and history. The subjective (and narrow) majoritarian fabrications have become embedded as objective truths in the discursive dominance of the “master narrative.” This master narrative predefines and preordains—effectively constitutes—normativity, which becomes the assumed proper content and context of all of our world travelling.


10. See infra note 18.


12. One author describes this phenomenon as:

[T]he success of the White Man’s control of the world is debatable; but his success in making other people act just like him is not. No culture that has come in contact with Western industrial culture has been unchanged by it, and most have been assimilated or annihilated, surviving only as vestigial variations in dress, cooking or ethics.


13. See Hernández-Truyol, Borders (En)gendered, supra note 9, at 891 (noting that because knowledge is socially constructed, the normative paradigm’s dominance creates the definition of normal, including identity characteristics and knowledge base); Richard Delgado, Legal Storytelling for Oppositionists and Others: A Plea for Narrative, in Critical Race Theory: The Cutting Edge, supra note 11, at 64 (describing the “stories . . . told by the ingroup . . . [that] provide it with a form of shared reality in which its own superior position is seen as natural”); Jerome McCristal Culp, Jr., Autobiography and Legal Scholarship and Teaching: Finding the Me in the Legal Academy, 77 Va. L. Rev. 539, 540-45 (1991) (arguing the failure of outsiders to present personal experiences reinforces the majoritarian perspective); Derrick A. Bell, Jr., White Superiority in America: Its Legal Legacy, Its Economic Costs, 33 Vill. L. Rev. 767, 768-79 (1988) (arguing that courts reflect white supremacy and discussing the economic costs of racism); Regina Austin, Sapphire Bound!, 1989 Wis. L. Rev. 539, 539-45 (explaining the need for Black women’s voices in academia so issues cease to be viewed exclusively from a white middle-class perspective); Derrick A. Bell, Jr., and We Are Not Saved: The Elusive
However, the textbook versions of history and politics, conquest and colonization, discovery and decimation, war and peace, seduction and surrender, male and female, sexuality and gender, spirituality and religion, domination and inequality, civilization and savagery are not all of our truths. The reality of women of color, because of their multidimensionality—their multiple and varied deviations from the norm—is worlds apart—worlds of sex, race, ethnicity, class, language, sexuality—from the designated normative reality. In order to become full citizens and engage in LatCrit
critical race feminist practice, we must discover, reveal, define, and own our contexts, our stories. We must give birth to, re/member, and preserve our histories, experiences, passions, fears, and lived realities.

We can successfully dismantle the master narrative and offer constructive alterations only if we learn about and embrace all of our locations—our hybridity. All women, and in particular women of color, have to understand, peacefully and productively negotiate the immense differences, and bridge the substantial gulfs, between and among us—our histories, our cultures, our experiences. The task for LatCritical race feminists is to build coalitions in which those differences enrich rather than impoverish our work, unite rather than tear apart our communities. In this difficult anti-subordination, coalition-building project it is useful to remember that many of us have shared, though not identical, experiences. We routinely journey through borderlands of color, race, ethnicity, sexuality, class, language, and nationality. Essentialist


14. See GUNN ALLEN, supra note 1, at 211.

15. The concept of essentialism suggests that there is one legitimate, genuine universal voice that speaks for all members of a group, thus assuming a monolithic experience for all within the particular group—be it women, Blacks, Latinas/os, Asians, etc. Feminists of color have been at the forefront of rejecting essentialist approaches because they effect erasures of the multidimensional nature of identities and, instead, collapses multiple differences into a singular homogenized experience. See
approaches that deny differences will weaken the undertaking, but strategic coalitions centering on commonalities and open arms willing to embrace differences will advance the aspiration of knowing our mothers. There is not one story, not one feminism, that can accurately re/present all of our realities, all of our conditions, all of the time. The LCRF challenge and promise depends on weaving narratives of multiple, non-essentialist feminisms.

To be sure, it is now beyond peradventure that the persistent single axis framework that drives *estado unidense* legal analysis is fatally flawed with respect to women of color. In the context of women of color, this dominant paradigm is simply incoherent. We should strive to create *nuevas teorías* which, rather than vivisect and atomize us, present us as we are in everyday travels, recognize our identities as multidimensional, and acknowledge our multiple classifications as indivisible and interdependent. These *teorías* would understand, penetrate, define, and elucidate the context, content, and meaning of our multidimensional identities and develop, expand and transform constructs—legal, social, historical, familial—so that they reflect, incorporate, reflect, and realize the world views of all women.

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Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, in **CRITICAL RACE FEMINISM: A READER**, supra note 7, at 11, 11-18 (stating that “We the People’ seems in danger of being replaced by ‘We the Women.’ And in feminist legal theory, as in the dominant culture, it is mostly white, straight, and socioeconomically privileged people who claim to speak for all of us”); Celina Romany, *Ain’t I a Feminist*, in **CRITICAL RACE FEMINISM: A READER**, supra note 7, at 19, 19 (noting that “the feminist narrative deployed as a foundation with its monocausal emphasis on gender falls short of the liberation project feminism should be about”).


18. See Hernández-Truyol, *Borders (En)gendered*, supra note 9, at 920 (discussing the need for new theories); Gloria Anzaldúa, *Haciendo Caras, Una Entrada*, in **MAKING FACE, MAKING SOUL—HACIENDO CARAS**, supra note 9, at xxv (“Necesitamos teorías [we need theories] that will rewrite history using race, class, gender and ethnicity as categories of analysis, theories that cross borders, that blur boundaries.”).


20. See Hernández-Truyol, *Borders (En)gendered*, supra note 9, at 885 (proposing that “LatCrit theory adopt a construct based on indivisibility, inviolability, and interdependence of rights and identities”).
In locating and designing appropriate contexts for sharing our narratives, for articulating our nuevas teorías, it is also important that we understand our own complex and multidimensional mappings. All women of color are “others” in some venue. Even within women-of-color gatherings we identify as esto o aquello (this or that) often according to groupings that are fluid and change composition even within the architecture of a single weekend meeting. Within our women-of-color comunidad some of us are linguistic or “foreign-accented” others, non-citizens, differently abled, or sexual minorities—characteristics that may set us apart from the loosely cohered group. Sometimes, this otherness renders us outsiders within our comunidades—outsiders who cause tension and discomfort even as we strain and struggle to be inclusive, to build coalitions, to make communities. It is in the process of deconstruction and interrogation of the validity of the existing classifications, categories, and the established methodologies employed to negotiate such orderings that we may find our solid terrains for community building that include rather than exclude. It is in such ground that the seeds of LCRF as a liberation project will enable our human flourishing.

In writing this essay I will begin what I am certain will be a long, complex process of answering the question of who is my mother. I will develop the work in three parts, corresponding to critical parts of the rediscovery process. In Part II, this essay probes cultural links that are formative and transformative of our personhood, which define and determine how we interact with the various and varied communities through which we take daily voyages. I use narrative to locate myself in the context of knowing and discovering the myriad cultures in which I define my mothers. This part underscores the importance of piercing our self-conceptions and identifications as a means of understanding our own realities. Part III explores ways that certain identities have been erased or colonized and how law and religion have played central roles in creating and justifying cycles of domination and subordination. Here the essay reveals the brutal colonization and fast extermination of the población indocubana by the Spaniards as a location for the decimation of a peoples, their culture, history and society. Following the presentation of the indocubana experience, this section briefly explains how the philosophical/legal developments of the time provided a sorry justification for the genocide of native peoples that occurred not only in Cuba but throughout the Americas and which continues today. Part IV, using the personal (and historical) discoveries presented in Parts II & III, articulates the challenges in building coalitions in a feminist anti-subordination project. It also proposes LCRF as a site for the deployment of such a necessary

21. See Anzaldúa, supra note 18.

22. See Iglesias & Valdes, supra note 8, at 562-65; Elvia R. Arriola, MARCHI!, 19 CHICANO/LATINO L. REV. 1, 10-16 (1998) (discussing conflicting, passionate perspectives concerning the role of religion in critical theory expressed at a LatCrit conference in which some found religious icons and presence oppressive and some found the same liberating).
enterprise and for the re/membering and transforming of identities. This discussion sets the course for the work that lies ahead in the process that will promote all women’s full personhood and human flourishing. I conclude that a critically reformed human rights framework will facilitate the process of unearthing the buried cultural, historic, social, and human erasures of hegemony, colonialism and patriarchy. It will map LCRF theory into a practice that clears the path to every person’s full enjoyment of the dignity of the human spirit.

II. CULTURES

This section examines the myriad cultural links that affect who we are. One link to be explored is the impact of family and community within the cultura Latina on self-knowledge. This interrogation includes questioning the connectivity provided by ethnicity and its tributaries of language and traditions across national borders, specifically Cuba and Puerto Rico, that allows us to talk about a cultura Latina. Another consideration in the context of this family/community link is the internal relationship of Latinas to Latino normativity within the borders of this loosely defined cultura Latina.

The next link considered is the external relationship of Latinas/os to estado unidense cultural hegemony which imposes majoritarian definitions of race, ethnicity, sex, and culture within the United States’ borderlands—definitions and conceptualizations that can be wholly alien to Latinas/os. The final link, which I refer to as mi “desColonización”23 (my de-Colón-ization) interrogates the relationship of claiming a Latina identity to knowing my “place in the scheme of things” particularly as that place pertains to racism, colonization, and claims of privilege embodied in the term. This analysis seeks to reconcile two major tensions. One, within the United States’ borderlands Latinas/os are “conquered”—marginalized, disempowered, othered—people. Two, in its relationship to native history throughout the Americas, the roots of latinidad lie in the conquistadores, the conquerors. These tensions are critically analyzed and developed in Part IV as a means of ascertaining how knowledge gained from the push and pull of the internal conflict can further a LatCritical feminist liberation project.

A. Latinas as Normativas: Familia y Comunidad

This exploration of my culture effectively constitutes a quest to unearth the answer to the “who is your mother” question. I know my mami, the “woman

whose womb formed and released [me]."  

She was born in Santiago de Cuba, in the Oriente Province—the easternmost part of the island—to a Cuban mother, Esperanza Gimeno, and a Spanish father, Nadal Truyol, who had left Mallorca for Cuba in search of a better life. Her papi was a business owner and her mami a midwife.

My mami could drive by the time she was thirteen—no small feat for a girl during that time. After graduating from secundaria (high school), she went to Habana, the capital in the western part of the island, to attend the University of Habana. There she was conferred degrees as Doctor of Laws and Doctor of Diplomacy. She did her foreign service in Haiti during a coup and wears the scars to prove it. Mami y papi met while they attended the university and were married after they finished their studies—now over fifty years ago.

Like mami y papi, I was born in Cuba about three years later after they were married—a long time to wait in that era. Mami y papi tell me that when I was born I arrived bearing bread—"traje pan abajo de mi brazo." My familia—mami, papi, and my younger hermanito who was born three years later and to whom my parents refer as another bendición (blessing)—left on November 10, 1960. It is a date that for some reason I have never forgotten. My young parents left behind their country, other family, language, and careers—mami her diplomatic career, papi his accounting firm—to ensure freedom, democracy, and education for their children.

We landed in Miami where we stayed for eighteen months and where our first task was to learn Inglés. The stay was long enough for me to get through the third and fourth grades and discover how to reconfigure my mouth so as to form non-Spanish-accented English sounds. In 1962, at the end of the school year la familia moved to Puerto Rico where I lived in mi isla del encanto until I graduated from high school.

I never thought about my latinidad growing up. It was never an issue, not even a topic of conversation. As I was born in Cuba and raised in Borinquen, during my formative years my latinidad was normalcy, normativity, not otherness.

This is not to imply that while growing up I did not learn about normativity and border crossings—I certainly did, but just not about latinidad being one of my fronteras. For example, I was the second sex—being a girl mattered, it made a difference, it meant a lesser class citizenship. This was particularly

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24. GUNN ALLEN, supra note 1, at 209 (stating that mami "refers in every individual case to an entire generation of women whose psychic, and consequently physical, 'shape' made the psychic existence of the following generation possible").

underscored in my context: I was raised in a rather traditional extended family with my abuelita (grandmother) who lived with us and my tia (papi's sister), tio (her husband), two primos (cousins), and their paternal grandparents who lived around the corner. I was the only girl-child in this extended clan.

I also knew about crossing nationality borders. I was cubana in a foreign, but not strange, tierra—Borinquen. However, unlike the established and accepted gender hierarchy which cuts across nationality borders, as cubana in Puerto Rico I did not experience ethnicity—my latinidad—as a source of othering, isolation, subordination, or alienation. Rather, my ethnicity offered many locations of commonalities—language, food, and gendered cultural traditions. In effect, we all belonged in Borinquen.

B. Losing Normativity: Latina en los Estados Unidos

In real time, I became Latina in the sense of being a non-normativa, a homogenized "other" in 1970 when I crossed the border north to attend college in upstate New York. In personal consciousness time, however, I was clueless until at least a decade later. When my confident, normativa self (as defined through my experiential lens) enrolled in college I could not have imagined that some might locate me on the outside of normativity because of my latinidad. By then, on the other hand, notwithstanding my parents' constant and unwavering support for my education, it was plain that my sex/gender would be an issue with respect to professional development, much as it had been in my years growing up with respect to social and cultural privileges.

Entering college I also lacked any understanding of the complexity of race relations within the United States. The Latina/o estado unidense constructs of race are dramatically different. Latinas/os do not racialize ethnicity or nationality. On the other hand, the estado unidense model's monocural, monolingual, analytical construct racializes all difference along the normative regime's understanding of otherness.


26. When I was in the process of applying to college, my headmaster suggested I apply to Cornell early admissions. I could not do so. Back then the early admissions programs at Cornell was only for boys.

27. See Hernández-Truyol, Borders (En)gendered, supra note 9, at 897 (discussing differing Latina/o and Anglaiso conceptualizations and constructions of race).

28. See Morrison v. California, 291 U.S. 82, 85-86 (1934). In this case, the Court discusses the construction of normativity in the law, stating:

"white persons" within the meaning of the statute are members of the Caucasian race, as Caucasian is defined in the understanding of the mass of men. The term excludes ... American Indians. ... Nor is the range of exclusion limited to persons of the full blood ... men are not white if the strain of colored blood in them is half or a quarter or not, not improbably, even less, the governing test ... being that of common understanding.
Indeed, Latina/o and “American” constructions of racial normativities are polar opposites. In the United States, the central, essential and axiomatic paradigm the judiciary religiously accepts, believes in, and imposes is the “one drop” rule. This model dictates that regardless of phenotype, one drop of Black blood makes a person Black. There is no amount of “whitening” that can make you the norm.

Gunnar Myrdal has artfully described the subjective point of view—the dominant Non-Latina/o White (NLW) paradigm and its socially constructed presumptions that seek to pass as objective truth—underlying the “one drop” principle.

The “Negro race” is defined in America by the white people. It is defined in terms of parentage. Everybody having a known trace of Negro blood in his veins—no matter how far back it was acquired—is classified as a Negro. No amount of white ancestry, except one hundred percent, will permit entrance to the white race.

In contrast to this Supreme Court-sanctioned view of race, caribeñas/os subscribe to the notion of blanqueamiento (whitening)—ironically also a “one drop” rule of sorts. However, under the caribena/o perspective, one drop of white blood starts you on the route to acceptability. Only this caribena/o approach to race can explain statistical reports that approximately 95% of persons identifying themselves as Latina/o also identify themselves as white. Considering that “[a]s a matter of fact most Latinas/os are racially mixed, including combinations of European White, African Black, and American Indian,” a NLW outlook would yield sensationally contrasting results. Indeed,

Id. (emphasis added). Latina/o scholars have critiqued the Black/white paradigm in the context of which the racialization of differences has occurred. See, e.g., Rachel F. Moran, Neither Black Nor White, 2 HARV. LATINO L. REV. 61, 74 (1997) (describing that the white paradigm locates Latinas/os as neither Black nor white); Juan F. Perea, Five Axioms in Search of Equality, 2 HARV. LATINO L. REV. 231, 234-39 (1997) (critiquing the Black/white paradigm).

29. See IAN F. HANEY-LOPEZ, WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE 27 (1996) (describing court constructed definition of “white” through process of negation, systematically identifying who was “non-white”).

30. GUNNAR MYRDAL, AN AMERICAN DILEMMA 113 (2d ed. 1962).


32. See GORDON K. LEWIS, PUERTO RICO: FREEDOM AND POWER IN THE CARIBBEAN 282, 283 (1968) (“Whereas in the United States one drop of ‘colored blood’ designates one as a Negro, in Latin American and the Caribbean one drop of ‘white’ blood can launch an individual to social acceptance as white.”).


34. GERARDO MARÍN & BARBARA VAN OSS MARÍN, RESEARCH WITH HISPANIC POPULATIONS 2 (1991) (noting that in the 1980 census only three percent of Latinas/os identified as Black).
by NLW standards, it is an impossibility that 95-97% of Latinas/os are “white,” although this is Latinas’/os’ own reality.

It is, of course, noteworthy that with both the notions of blanqueamiento and the estado unidense “one-drop” rule the goal is still “whiteness.” Thus, the fact that the Latina/o self identification is ethnic/cultural rather than racial does not signify that there are no racial barriers within Latina/o communities. Regrettably, racism is alive and well in culturas Latinas and we should include confronting and eliminating it as part of the anti-subordination project. In fact, Cuba and Puerto Rico were among the last countries to abolish slavery— Puerto Rico debated emancipation in 1873 and Cuba prohibited slavery in 1880—both after the United States had ratified the Thirteenth Amendment in 1865.

However, notwithstanding the existence of racism, in América Latina and the Caribbean, the reality of racial admixtures developed the concept of “race” as a fluid continuum, rather than the absolutist black/white paradigm. In this fluid model the construction of race is imbued with values based upon class, education, economics, and culture. Unlike the estado unidense paradigm, the racial model in the cultura Latina lacks rigid borders (such as the estado unidense version of the “one-drop rule”) and seems to allow traveling in and out of racial categories. For example, in countries of Latina/o heritage, racial classifications, aside from ostensibly being closely tied to economic class—wealth having a whitening effect—are more dependent on one’s looks than

35. For example, just like in English, kinky hair is pelo malo (bad hair). In fact, as a colleague described at a recent conference, we even have a “test” to see if hair “passes”: the ceiling-fan test. Only in a tropical climate does this make sense. If you sit under a ceiling fan, and your hair “moves”—blows with the created wind—your hair is good. See Gloria Anzaldúa, En rapport, In Opposition: Cobrando Cuentas a las Nuestras, in MAKING FACE, MAKING SOUL—HACIENDO CARAS, supra note 9, at 142, 143. She states:

And it is exactly our internalized whiteness that desperately wants boundary lines (this part of me is Mexican, this Indian) marked out and woe to any sister or any part of us that steps out of our assigned places, woe to anyone who doesn’t measure up to our standards of ethnicity.

Id. The development of the notions of racism within the Latina/o community, however, is beyond the scope of this essay.

36. See Tanya Katerí Hernández, The Future of the Concept of “Race”: How the Cuban “Race-less” Experience Can Inform the Future of U.S. Racial Discourse 1-2 (Mar. 31, 1999) (unpublished manuscript, on file with author) (noting that the Latina/o model is “often idealized because of the widely promoted misperception of Latin America as respectful of the fluidity of race and racial identity, and second because of the misperception of Latin America as more tolerant of racial differences due to its relative lack of public focus on race”).

37. See LEWIS, supra note 32, at 281.

38. See CARLOS MÁRQUEZ STERLING & MANUEL M. MÁRQUEZ STERLING, HISTORIA DE LA ISLA DE CUBA 119 (1975).

one's "blood" or actual ancestry.\textsuperscript{40} To be sure, some scholars have questioned the reality of the claimed fluidity of the Latina/o racial paradigm.\textsuperscript{41} Regardless of the true nature of the Latina/o racial paradigm, outside our communities, however, with the application of the dominant norm, a Latina/o is othered because of her/his latinidad.

At a personal level, although I was familiar with Latina/o racisms, I was ignorant and unaware of the \textit{estado unidense} versions and of the consequences of their foundational paradigmatic differences. To be sure I have learned more than I could wish about these differences. However, it was not until after I had completed law school that I got my first inkling that the majority's perception of me was that I was outside "normal."

I remember the defining moment. I had just started practicing law at the Antitrust Division of the United States Department of Justice and had been immediately placed on the recruitment committee. I arrived at a committee meeting and joined in on the informal coffee chatter that usually precedes the formal part of these gatherings. The topic was the erosion of standards at the Division which was being blamed on a new arrival to whom those present were referring as the "twofer." I, frankly, was clueless about such themes and thought this was someone's name.

No one knew me or my name, yet they continued their \textit{charla} uninterrupted and undaunted. These professionals on the hiring committee, with me as part of the circle, periodically looked over their shoulders for the "twofer" who would be joining us any time. The meeting was called to order. I (and they) soon learned—when we went around the room introducing ourselves—that the subject of intrigue, the topic of conversation, the "twofer" was me. That moment triggered the process of getting in touch with my \textit{latinidad} and its "outsiderness" status.

Since that day, my journey through my \textit{identidad Latina} has been a rich resource that has fueled my passion to break cycles of inequality and my aspirations for full citizenship for all persons. My devotion to the indivisibility and interdependence conceptualization of human rights\textsuperscript{42} provides a foundation for the interrogation notions of justice, equality, personhood, fairness, and human dignity. I am committed to equality and human liberation in all spheres of life.

The commitment to an anti-subordination agenda has guided both my personal and intellectual life. It has propelled my interrogations of

\begin{itemize}
\item \textsuperscript{40} See Marvin Harris, Patterns of Race in the Americas 57 (1964).
\item \textsuperscript{41} Hernández, \textit{supra} note 36, at 3.
\end{itemize}
multidimensionality and of hybridity.\textsuperscript{43} It has made me aware of and sensitive to cultures and language and the life plots that they form.

Having spent years developing a multidimensionality analysis and shaping an intricate and delicate sense of justice and inclusion, it becomes awkward at best, deplorable at worst, to have to confess that I initially did not consider the possible racialized nature of the term \textit{Latina/o}. The next section engages this inquiry so that I can more accurately and honestly define where I come from—so my knowledges can be based on re/membering my histories.

C. Mi DesColonización

It was not until I planned a new journey that I discovered a missing dimension, a gap, a void, in my interrogation of \textit{latinidad}. Indeed, to call it a discovery is an understatement. It was a rude awakening, a realization that occurred when, during LatCrit II,\textsuperscript{44} Luz Guerra, an activist and scholar, plainly and passionately informed a group of self-proclaimed progressive scholars, tied together by their commitment to the anti-subordination process, that “to address the histories of the indigenous peoples of this hemisphere within a ‘Latino[a]’ context . . . without having critically examined the term ‘Latino[a]’ and its relationship to Native history is impossible.”\textsuperscript{45}

Why I had never thought of that rather obvious proposition was startling to me. On a daily basis I insist upon being sensitive to the importance and significance of language and naming, the knowledges located in diverse cultures and cultural traditions. I engage in extensive conversations about multidimensionality, interconnectivities, and intersectionalities with all those around me—family and friends, colleagues and students.

Yet, having engaged in extensive scholarly inquiry into the conditions, cultures, epistemologies, and origins of Latinas/os, I failed to recognize or ascertain the possibly oppressive roots of my chosen label, even as I engaged in serious and extensive inquiry into the terminology. It was only after much deliberation that I settled on Latina/o, rather than the externally imposed Hispanic\textsuperscript{46} as the proper appellation for this pan-ethnic\textsuperscript{47} group. Notwithstanding my coming to terms with the naming, the debate on the

\begin{enumerate}
\item See Hernández-Truyol, Borders (En)gendered, supra note 9, at 883-84, 926-27.
\item See Guerra, supra note 23, at 353.
\item \textit{Id.} at 351-52.
\item See Hernández-Truyol, Building Bridges I, supra note 19, at 371 n.2; see also MARÍN & MARÍN, supra note 34, at 20 (noting that “Hispanic” as an ethnic label is the product of a decision by the Office of Management and Budget (OMB) to define ‘person[s] of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race”).
\item See Hernández-Truyol, Borders (En)gendered, supra note 9, at 923 & n.117; Hernández-Truyol, Building Bridges I, supra note 19, at 386-87.
\end{enumerate}
Hispanic versus Latina/o nomenclature is ongoing.\footnote{48} Now I must confront the critique of my embraced term—a poignant critique that deconstructs the term and reveals it as fraught with colonialist Spanish underpinnings.\footnote{49}

To be sure, I am aware of colonialism and its discontents. As I discussed in the prior section, I have written about the irony of the Latina/o and the \textit{estado unidense} racial paradigms both being rules privileging “whiteness.” From the Latina/o historical position, however, this desirability of “whiteness” represents the internalization by the colonized of the colonizers’ predilections.\footnote{50} In \textit{comunidades Latinas}, race-based distinctions, imposing a hierarchy where “whiteness” is the coveted hue, is traceable to early Spanish colonizers’ views on race which were in line with the prevailing \textit{estado unidense} perspective.

For example, in New Spain (Mexico) where the Spanish were a white minority, Spanish attitudes toward the Native population paralleled the Spanish xenophobic expulsion of Jews and Arabs from Spain. Following this historical pattern, in the new land Spaniards sought to identify those with “purity of blood”\footnote{51} so as to create a social hierarchy that privileged “whiteness.” To establish a racially-driven socioeconomic structure during the colonization period, the Spaniards in Mexico (as well as in other places) established a complex system of racial categorization that included the prohibition of public office holders from having a “taint” of Indian, Arabic, or Jewish blood.\footnote{52} Those with “tainted” blood were denied entry to schools and universities, and \textit{mestizos/as} were specially targeted for discrimination.\footnote{53}

The Spaniards had a detailed structure of racial and class-based hierarchy to go along with the system of social, economic, and educational stratification and segregation just described. In fact, the ordering and its limitation is plainly marked in the following rather graphic chart which reflects the social order in Cuba.\footnote{54}

\footnote{48} See Hernández-Truyol, \textit{Building Bridges I}, \textit{supra} note 19, at 371 n.2; Arriola, \textit{supra} note 22, at 3 n.5 (noting the terminology of Hispanic versus Latina/o is a subject of debate and also of regional sensibilities).

\footnote{49} See Guerra, \textit{supra} note 23, at 355.

\footnote{50} \textit{Id. See also} Montoya, \textit{A Reply to Butler, supra note} * and accompanying text.


\footnote{52} See \textit{id. at} 354; \textit{cf.} RODRÍGUEZ, \textit{supra} note 39, at 49-51 (emphasizing that the biracial order pervading U.S. culture contrasts with the continuum of racial integration as a parameter for racial identification).

\footnote{53} See Hayes-Bautista, \textit{supra} note 51, at 354.

\footnote{54} LEVI MARRERO, 1 \textit{CUBA: ECONOMÍA Y SOCIEDAD: ANTECEDENTES SIGLO XVe: LA PRESENCIA EUROPEA} 3 (1976) [hereinafter \textit{MARRERO}].
A similar structure was put in place in Puerto Rico. As this ordering depicts, there is great social and economic value to colonizer status—to "whiteness."

Even with the knowledge of the racist aspects of colonization, and aware of the charts setting up intricate racial hierarchization in colonial times, I failed to interrogate my own identity beyond the obvious Spanish (colonizer) roots. In all my scholarly inquiries and projects I simply did not deconstruct the very meaning of *latinidad*.

Because of this grave oversight, an erasure I effected on my own identity and scholarship, I take Guerra's challenge to my underinclusive conceptualization of *latinidad* very seriously. My consideration is partly reinforced by a recent personal experience that, along with Guerra's incentive, both heightened my awareness of, and revolutionized and politicized my position with respect to the imperative of critically examining the relationship of *latinidad* to indigenous history. It has moved me to confront the violation and erasure of our native history and culture by our conquering forebearers.

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55. See Pedro Malavet Vega, *Historia de la Canción Popular en Puerto Rico 1498-1898*, at 479-87 (1992) (noting that Spain transported to Puerto Rico its classist social ordering; relating that persons from Puerto Rico who wanted to study in Santo Domingo had to establish "*limpieza de sangre*" (cleanliness/pureness of blood); discussing laws that regulated where the different classes and races could live, including limiting certain lands to "*primeras familias*" (first families) and excluding personas *inferiores en calidad* (persons of lesser quality); explaining that registries for vecinos (neighbors) were maintained so as to limit access; describing investigations relating the presence of Indian or Black ancestry to the *cuarto abuelo* (fourth grandfather); noting that in Puerto Rico the military units were segregated into "*blanco*" (white) and "*de color*" (colored)).

56. See Guerra, supra note 2 and accompanying text (quoting writing of Cuban historian who states that Cuban history starts with Spanish discovery, thereby effectively negating the existence of Native history, going so far as to label the first chapter of the book discussing Native people "Pre-
Colonization privileged the Spanish over the Native, the conqueror over the conquered, the "civilized" over the "savage."\(^{57}\) Such hierarchy effectively constitutes a disavowal of our mothers as it obliterates a whole culture and peoples, foreswears their history, denies even their existence. This is my first attempt at the rediscovery, liberation, and celebration of my native spirit from its conquest.

The travels that moved me to unearth and reclaim the *India* in my heritage began in the spring of 1998. I was scheduled to return to Cuba for the first time to attend a human rights conference with a delegation from a non-governmental organization (NGO). This association was necessary because Castro does not recognize my naturalized United States citizenship. To Castro, I continue to be a Cuban citizen—his subject and subject to his laws. The United States, on the other hand, has very strict controls with respect to travel to Cuba. Consequently, the NGO association was also necessary to legitimate my trip in the eyes of the United States. Because of the enduring cold war between these two states, I needed to ensure that my travel was fully legitimate from the perspectives of both my birth and adopted countries. I confess I wanted the assurance that if anything happened, I would have the full weight of my United States passport behind me.

As direct travel to Cuba from the United States is strictly *prohibido,*\(^{58}\) all the NGO representatives were being routed through either Nassau or Mexico. All of the flights that I could take to connect with these charters went through Miami. *Mami y papi* live in Miami and they were enthusiastically sharing my excitement and planning for this trip to our birth country. Therefore, I decided to plan a four-day stop-over in Miami to spend time with them and prepare for more personal aspects of the visit. I wanted to see old pictures of aunts and uncles who I would visit and of the house in which I lived until the family left the island.

I asked my folks to prepare a genealogical tree so that I could locate the relatives I was about to meet essentially for the first time in my life's framework. *Mami* and recently-retired *papi* took this tree-building task to heart. They taped pieces of paper onto pieces of paper; called aunts, uncles, cousins; and came up with a rather impressive product. When I arrived at my parents' home one of the first things I did was to lay out this masterpiece on the floor of the family room. I wanted to study it carefully—for some reason I felt that the

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\(^{57}\) See *id.* at 3-17 (referring to Indians as savages, uncivilized, and as inferior to the colonists); see also *Johnson v. M'Intosh,* 21 U.S. (8 Wheat.) 543, 590 (1823) (referring to Indians as savages).

family geography would provide me with some grounding. And that it did. What I did not anticipate was the unearthing of long unspoken histories.

There was one piece of the tree that was very puzzling—the branch that located the mother of Doña Néstora. Doña Néstora was my mami's grandmother, my maternal great-grandmother. I kept re/turning to Doña Néstora’s mother’s spartan branch. This magnetic pull to my great-great grandmother’s, mami’s bisabuela, location was unconscious at first. Slowly consciousness took over. I was simultaneously agitated and perplexed. Her stead on the family tree was labeled as "la India." I wondered whether mami had simply forgotten her name, so I asked. And what I learned is that nobody knows it, not mom, not her older brother, not one of the relatives laid out in this wonderful genealogical family complex. She is just a nameless chasm on this otherwise wonderful, plush, full tree. La India. This void becomes an obstacle to knowing my “position and its . . . traditions, [my] history, [my] place in the scheme of things . . .”\^ 59

So I asked, “Mami: la India?” And she responded, “Yes, la India,” squinting at me as only mothers can, questioning my questioning. She proceeded, “Just where do you think you got your hair?” Her reaction to my question informed me she knew her mother—she was pride, love, family. My question, which also was about pride, love, and family, sought to locate me: I wanted to know more about that part of me, about mi tatarabuela. And I discovered a little more, but nowhere near enough.

For example, I learned that my great-great-grandmother had a known last name. All indigenous persons were given the last name of the conquering Spaniard who was granted an encomienda\(^ 60\)(parcel) that included the right to the Indians who were on that land.\(^ 61\) Her last name, like that of many others, was Villalón, the name of a Spaniard with large landholdings in Oriente,

\(^{59}\) GUNN ALLEN, supra note 1, at 209.

\(^{60}\) See S. JAMES ANAYA, INDIGENOUS PEOPLES IN INTERNATIONAL LAW 10 (1996) (noting that the encomienda system “granted the Spanish conquerors and colonists parcels of land and the right to the labor of the Indians living on them”); LOUIS A. PÉREZ, JR., CUBA—BETWEEN REFORM AND REVOLUTION 23, 28 (1988); GUERRA, supra note 2, at 37.

\(^{61}\) Encomienda labor was not viewed as slavery, but a form of serfdom; slavery of Indians also existed. However, effectively, not much difference existed in the practices. See RONALD SANDERS, LOST TRIBES AND PROMISED LANDS 128-32 (1978); 4 LA ENCICLOPEDIA DE CUBA HISTORIA 34 (1975) (noting that ill treatment and enslavement of indigenous population at the hands of the Spaniards resulted in their extinction); see id. at 42 (describing capture and sale of Indians); id. at 44 (describing punishment of Indians who refused to work as slaves); id. at 50 (explaining that serfdom was for gentle Indians and slavery for rebellious ones in the early Spanish colonies in the Americas); id. at 51 (noting that encomendados were serfs of the encomenderos and stating that the justification for the enslavement of Indians was their ‘attack upon Spaniards’); id. at 52 (noting that slavery of Indians predated slavery of Africans); 1 MARRERO, supra note 54, at 130.
Eastern Cuba, the area where my mother was born and the area of Cuba where the natives were most populous when the Spaniards first arrived.\textsuperscript{62}

It was at that very moment that my goals for the anticipated trip to my birth country took a different dimension and meaning. Right then and there I decided that once I arrived in Cuba I would search the records so that I could name \textit{la India} that was my great-great-grandmother and start to get to know her. I had planned to go to Oriente so that I could see where my mami was raised before departing for University, and where my \textit{mami y papi} had been married. Now the trip had become even more significant—it encompassed a greater journey into history and culture.

Regrettably, the trip never materialized. My visa could not be timely issued because someone, somehow, forgot to tell the Cuban government that I was native-born. Given the chilly relationship between the United States and Cuba, it is not surprising that different papers and procedures are necessary for persons born on the island than for a visit by a non-Cuban born United States citizen.

So I could not go to my birth land and was merely left with many questions. Who was this woman with no name? \textit{La India}, my great-great-grandmother, is part of my position, my traditions, my history. She was part of my family's survival, my being here today. What did she do, eat, believe?

With all these questions, I set out to find what history I could about the now real parts of \textit{mi ser} (my self), \textit{mis tradiciones, mis historias} that have been for so long \textit{enterradas} (buried) but no longer will be \textit{olvidadas} (forgotten) or \textit{ignoradas} (ignored). While I have not learned anywhere near enough, I have started on the road to re/discoveries.

To assist with this process, the next section briefly explores the history of conquest and colonization and its legal, moral, and religious justifications. It details what little history is known about the native peoples of Cuba as well as locating that history in the larger context of the location of indigenous peoples in international law.

\textsuperscript{62} Levi Marrero, \textit{13 Cuba: Economia y Sociedad} ix (1986) [hereinafter 13 Marrero].
III. DISCOVERING THE LATINDA—A BRIEF HISTORY OF CONQUESTS

A. La Población Indocubana

The indocubanas/os were peaceful, gentle people. Their ancestors came from South America and shared their agricultural lifestyle and dietary habits. They were culturally rich and made sophisticated tools to aid them in fishing and growing food. They had a community-oriented way of life, shared their resources and stories, and respected the earth and their elders.

Once colonized, things changed quickly and dramatically for the Native peoples of Cuba. The población indocubana was virtually annihilated or assimilated within three decades of Spanish “discovery,” although documentation exists confirming the existence of some survivors in the second half of the sixteenth century. Estimates reveal that the native population, which numbered approximately 112,000 at the time of conquest, was reduced to 19,000 by 1519. By 1556 there were less than 3,000 Indians remaining on the island. At the end of the eighteenth century only three identifiable communities of indocubanas/os remained in the province of Oriente. These gentle peoples could not tolerate the physical abuse, the attempts to change their ways, the insistence of the conquistadores that they change their cultural and religious beliefs—to clothe them and make them work in foreign ambients and worship a strange god.

Through the sixteenth century the Spaniards adopted a system of repartimiento (distribution) through which they parceled out Indians throughout the encomiendas to provide labor for the Spaniards. To facilitate the repartimientos, Indians were relocated into new settlements through a process

63. See 4 LA ENCICLOPEDIA DE CUBA HISTORIA, supra note 61, at 19 (referring to Colón’s diary notes that describe indocubanas/os as gentle, timid peoples who wear no clothes and had no weapons or law).

64. See GUERRA, supra note 2, at 7; 4 LA ENCICLOPEDIA DE CUBA HISTORIA, supra note 61, at ch. 2.

65. See 4 LA ENCICLOPEDIA DE CUBA HISTORIA, supra note 61, at ch. 2; PÉREZ, JR., supra note 60, at 14-20; GUERRA, supra note 2, at 3-15. The ciboneyes were less complex than the tainos. The former are anthropologically classified as Paleolithic and the latter as Neolithic. Id. at 4, 7.

66. See GUERRA, supra note 2, at 9-11; 1 MARRERO, supra note 54, at 51, 57.

67. See LEVI MARRERO, 2 CUBA: ECONOMIA Y SOCIEDAD 352-53 (1974) [hereinafter 2 MARRERO] (noting total disappearance of indocubanos/as after the first decades of Spanish occupation and some documentation of a small presence in the latter half of the sixteenth century); PÉREZ, JR., supra note 60, at 30 (“The number of Indians dwindled from an estimated 112,000 on the eve of the conquest to 19,000 in 1519 to 7,000 in 1531. By the mid-1550s, the Indian population had shrunk to fewer than 3,000.”).

68. See 13 MARRERO, supra note 62, at ix.
of reducciones (diminutions/reductions). These relocations were not only useful to concentrate the conqueror's source of labor, it also enabled the Spanish to christianize and indoctrinate the Indians into Western ways under the claim of education. In effect, repartimiento was the payment the Spaniards exacted from the Indians to compensate for their involuntary evangelization.

Beyond parceling out Indian lands and labor, the Spaniards also used the repartimiento system to distribute Indian women as "personal servants and permanent concubines." One account relates that "la forma en que los españoles se apoderaban de las mujeres, haciéndolas suyas sin ceremonia ni cuidado de que fueran solteras" was one of the Spaniard's habitual excesses which was particularly repulsive to the Indians.

Such abuse must have been particularly offensive to a culture that did not appear to have the same gender hierarchies or differentiations that were brought to the island by the conquerors. Indeed, men and women of the indigenous cultures were reported to play games side by side, work together, and dance together. Indeed, one source notes that women's participation in work was such that Colón thought they were more industrious than the men.

One historian concisely describes the plight of Cuba's native population:

From the very outset the prospects for the survival of the Indian were bleak, and they never improved. Their defeat in war all but assured their demise in peace. . . . Death came in many forms. They were regularly overworked and routinely abused. They perished as

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69. See Pérez, Jr., supra note 60, at 28.

70. See id.; see also 4 La Enciclopedia de Cuba Historia, supra note 61, at 17 (commenting on how easy it was to christianize Indians); id. at 50 (establishing that Indians were distributed to live in communities created by Spaniards and they paid the price of evangelization by providing personal labor).

71. Pérez, Jr., supra note 60, at 47; see also 4 La Enciclopedia de Cuba Historia, supra note 61, at 50-51. Colón distributed Indians who were obligated to plant a certain number of plants so they could live on the encomenderos lands. Id.

72. 4 La Enciclopedia de Cuba Historia, supra note 61, at 44 (referring to the way in which the Spaniards would appropriate the women, making them theirs without ceremony or even finding out if they were single) (author's translation). The sexist, patriarchal presumptions in that reference will be left for another analytical moment.

73. See Guerra, supra note 2, at 13 (noting that in the family and in the social order women did not occupy a position inferior to men); 4 La Enciclopedia de Cuba Historia, supra note 61, at 30 (noting that women played an important role in society).

74. See 4 La Enciclopedia de Cuba Historia, supra note 61, at 28 (stating that the Native people of the area played a type of kickball in mixed teams); see id. at 30 (discussing that both men and women worked).

75. See Guerra, supra note 2, at 12.

76. See 4 La Enciclopedia de Cuba Historia, supra note 61, at 30 (noting that women were in charge of more complex tasks such as weaving and making bread).
much from malnutrition as from maltreatment. Indians lost at once control of their labor and the cultivation of their land. Spain introduced a new economic purpose into the island. . . . European agriculture displaced Indian farming. . . . [T]he Spanish let loose onto the land vast droves of livestock. . . . Goats, horses, mules, donkeys, sheep, and domestic fowl thrived, and mostly at the expense of the Indian. Untold numbers [of the animals] became wild. They fed indiscriminately on the natural grasslands and the cultivated fields upon which the Indians depended. . . . This was nothing less than the wholesale substitution of an animal population for a human one. The pre-Columbian ecological equilibrium was shattered irrevocably.

The consequences for the Indian were calamitous. Indian agriculture was plunged into disarray and dislocation. Indian communities watched their crops repeatedly destroyed by the vast herds of grazing, trampling beasts, and in the end abandoned their cultivation in despair. Food supplies dwindled, famine followed. Families were shattered. Men were relocated to labor camps, women and children were left to survive as best they could. Most could not. Infant mortality apparently reached staggering proportions, and not all from malnutrition and ill-health. Infanticide became commonplace. Fertility rates declined sharply, as Indians simply ceased reproducing themselves. And in increasing numbers, many lost the will to live altogether. Suicide became one of the most common forms of Indian protest. Individuals and entire families, and on occasion whole villages, would kill themselves, by hanging, ingesting soil, or taking poison. “There were days,” one Spanish officer reported, “in which they were all found hanging, with their women and children, fifty households of the same village.” Indeed, so prevalent was suicide that it must be considered one of the principal causes of the demise of the Indian in post-conquest Cuba.

Overwork, malnutrition, and melancholia set the stage for the next series of calamities to befall Indian communities. Their weakened condition made them easy prey to Old World infections and illnesses. The Spanish arrival released into the Indies microbial infectious diseases previously unknown and against which the indigenous population had little immunity. Epidemics erupted periodically and traveled quickly; they spread without obstruction and killed without obstacle. Smallpox, measles, typhoid, and dysentery ravaged Indian villas, and ultimately contributed to the final destruction of the native population. . . .

Not all Indians acquiesced passively to their exploitation and ultimate extinction. Many refused to submit to the conquistadores, preferring instead to live as fugitives in flight. . . . The conquest was followed by intermittent warfare, short-lived uprisings, and abortive
revolts. Indian resistance was met by Spanish repression, rebellion was met by reprisal. A type of desultory warfare continued for decades, further contributing to the disruption of Indian communities, further hastening the demise of the Native population.\footnote{77}

One of the Indian caciques (chiefs) who refused to submit to the tyranny of Spaniards was Hatuey, a person who some consider to be the first recorded Cuban martyr.\footnote{78} He led a resistance movement in the eastern part of Cuba\footnote{79} where he and his followers populated an area that became like a small state within the island. Aware of the superior weaponry possessed by his enemies, Hatuey and his followers journeyed into the more desolate mountainous inland regions and used a methodology of ambush and surprise to fight the Spaniards.\footnote{80} Initially, the terrain worked in the Indians’ favor.\footnote{81} However, after several months the conquistadores hunted them down, and many of Hatuey’s followers were either apprehended or killed.\footnote{82}

Finally, Hatuey himself was taken prisoner. Diego Velázquez\footnote{83} adjudged him to be a heretic and a rebel and sentenced him to death. His punishment for refusing to be conquered, “civilized,” or christianized was to be burned alive—a barbaric sentence that the “civilized” Spaniards had frequently used in the neighboring island of Española.\footnote{84}

Historical chronicles relate two versions of Hatuey’s final moment during which he had a conversation with a Franciscan friar who sought to convert Hatuey and have him accept baptism to save his soul.\footnote{85} When he was tied to the post with flames licking him, the friar, with the purpose of convincing him to repent and accept Christianity, told Hatuey about hell and paradise.\footnote{86} Hatuey reacted to the preaching by asking: “In the divine place that you tell me about,
are there any Christians?"87 "Yes," the friar responded, "but only the good ones will go there."88 To which Hatuey replied: "The best one is worth nothing, and I do not want to go to a place where I am exposed to find even one."89

Another version tells of the conqueror's increased desire to capture the powerfully independent cacique Hatuey. The captain of one expedition found him when he was at camp by the Yara river and condemned him to death by burning.90 Thereinafter, a Franciscan friar spoke to the cacique as he was tied to the post surrounded by flames: "Repent and swear to Christianity."91 "What for?" responded Hatuey.92 "So that you can go to heaven, where the good persons go," replied the friar.93 So Hatuey inquired, "And do Christians go to heaven?"94 The priest answered, "The good ones do."95 To which the Indian leader responded with passion and rancor, "Then I do not want to go to heaven, so that I will never again have to see a Christian."96 Thereinafter the pyre was lit, and Hatuey was burned to death.97

Hatuey's resistance, like the mass suicides, is the representation of the Native peoples' rejection of a lifestyle and culture that was foreign and ill-suited to their vision and way of life. In contrast to the Caribbean Indians' egalitarian approach to life—communitarian living, commuting with the earth, depending on agriculture and fishing for subsistence, and accepting different ways of life—the conquistadores had a well-defined, value-laden, hierarchical structure.98

One theologian/legal philosopher who is of particular significance in re/viewing the relationship of the Spanish conquistadores with Cuba's native population is Fray Bartolomé de las Casas. De las Casas had been in Española and was called to Cuba by Velázquez after Hatuey's suplico (pleading) in order to have someone deal with the few scared, defeated, and demoralized

87. Id. (author's translation).
88. Id. (author's translation).
89. Id. (author's translation).
90. ROBERTO MATEIZAN, 4 BARACOA 159 (1925).
91. Id. (author's translation).
92. Id. (author's translation).
93. Id. (author's translation).
94. Id. (author's translation).
95. Id. (author's translation).
96. MATEIZAN, supra note 90, at 159.
97. Id.
98. PÉREZ, JR., supra note 60, at 25-32.
Natives who survived. De las Casas is said to have brought "tenderness to the brutality of conquest." 

Ironically, because of his good work with the Indians, de las Casas ended up owning a good number of them. As a reward for the Fray's good work with the Indians, Velázquez gave de las Casas a very generous repartimiento (distribution) of an Indian village called Canarreo. In his repartimento, the cleric dedicated himself to direct the Indians in agricultural and mining labor.

Fortunately for history, and for de las Casas's location in history, the Fray had an epiphany. While lording over the Natives' labor, he continued his religious work. One day, he was reading a biblical text in preparation of a sermon that resulted in his own magnificent transformation. The passage read, in part, "one who offers sacrifices from the goods of the poor is like one who decapitates a son [or daughter], taking away the fruits of labor is like killing one's neighbor." This reading made de las Casas realize that using and benefiting from Indian labor was exploitation. The Fray was moved immediately to resign his encomienda and to embrace the plight of the Indians.

Thereinafter he became the universal protector of the Indians against the Spaniards, and worked tirelessly to protect the Indians' liberty and to protect them from ill treatment of body and soul. He insisted on the illegitimacy of their serfdom and of the taking away of their liberty. He revealed some of the more offensive occurrences of the conquest, the greed and inhumanity that victimized the Indians. Until his death he fought to establish a system of social justice for the indigenous populations. Ironically, in furtherance of his advocacy for the Natives, and in order to alleviate the abuses carried out on this

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99. 4 LA ENCICLOPEDIA DE CUBA HISTORIA, supra note 61, at 55.
100. Id. (author's translation).
101. Id.
102. Id.
103. Id.
104. Id.
105. See 4 LA ENCICLOPEDIA DE CUBA HISTORIA, supra note 61, at 55 (author's translation).
106. See id.
107. See id.
108. See id. at 54, 57. In fact, he became a priest so as to have the authority of the church behind him in defense of the Indians where he noted that "as a lawyer he had no authority." Id. at 55.
109. See id. at 56.
110. See 4 LA ENCICLOPEDIA DE CUBA HISTORIA, supra note 61, at 57.
population, he recommended the introduction of African slaves\textsuperscript{111} which then led to the untold horrors of slavery.

\textbf{B. A Brief History of Indians and Human Rights}

Conquest, colonialism, and brutal violations decimated Native populations and brought African slavery to the New World. The new world order is slowly but graphically revealing the incivility of the \textit{conquistadores} and their insensitivity toward the Native "others" whose cultures, beliefs, and lives they destroyed. As part of the project that seeks to answer "who is your mother" it is appropriate to delve into the historical context of the conqueror's lens as revealed in the international norms surrounding these travels across oceans to "discover" the new world.

At the time of conquest, Western thought was normative.\textsuperscript{112} The evolving jurisprudential and philosophical schools of the time reveal much about the thinking of international actors with respect to indigenous populations. The tension between thinking humanely about indigenous populations and the perception that they were "less than" the "civilized" Western Europeans is patent in international legal writings\textsuperscript{113} as well as in United States case law.\textsuperscript{114}

\textsuperscript{111} See id. (noting that in Las Casas' \textit{HISTORIA DE LAS INDIAS} the Fray noted that he was "the first to suggest that permission be given to bring black slaves to these lands," a statement that led to a long standing perception that he was responsible for the introduction of slavery to the Americas, a perception that has been disproved, although he is deemed to have contributed moral authority to the practice).

\textsuperscript{112} See Louis I. Henkin et al., \textit{INTERNATIONAL LAW CASES AND MATERIAL} xxxix (2d ed. 1987) (discussing the growth of international law between the late eighteenth century and World War I "almost all of which was Western"); see Anaya, \textit{supra} note 60, at 9 (discussing "historical threads of legal thought . . . that relate to the development of international law prior to the middle part of this century").

\textsuperscript{113} See, e.g., Francisco de Vitoria, \textit{On the Indians Lately Discovered (De Indis et de Ivre Belli Relectiones)}, in \textit{THE CLASSICS OF INTERNATIONAL LAW} 115, 161 (J. B. Scott ed. & J. Pawley Bates trans., 1917) (using "Victoria," the Latin version of Vitoria) (noting that Indians have no use of reason and therefore humanity but considered them "unfit to found or administer a lawful State up to the standard required by human and civil claims" and thus justifying a paternalistic and condescending notion that the conquerors could claim Indian lands, not based on either discovery or papal grant, but for the Indians' own good); see also \textit{HUMAN RIGHTS IN WESTERN CIVILIZATION 1600-PRESENT} 33 (John A. Maxwell & James J. Friedberg eds., 2d ed. 1994).

\textsuperscript{114} See Johnson v. M'Intosh, 21 U.S. (8 Wheat.) 543, 572-73 (1823). The Court asserted:

On the discovery of this immense continent, the great nations of Europe were eager to appropriate to themselves so much of it as they could respectively acquire. Its vast extent offered an ample field to the ambition and enterprise of all; and the character and religion of its inhabitants afforded an apology for considering them as a people over whom the superior genius of Europe might claim an ascendence.

\textit{Id. See also id. at 574} (noting that the Indians' "rights to complete sovereignty, as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by the original fundamental principle, that discovery gave exclusive title to
The international view was first informed by the Naturalist philosophy which is founded on the notion that law exists in nature. Rights that are part of the law of nature are "inalienable, or at least prima facie inalienable." The existing natural normative order is independent of, and superior to, positive law.

For some theorists, such as Francisco de Vitoria, for whom natural law was effectively a merger of law and theology, God was a major source of legal authority. His philosophical perspective led Vitoria to recognize the Indians' basic humanity; yet he referred to them as barbarians.

Vitoria’s writings are noteworthy because in his review of existing norms he arrived at a very pro-Indian position. For example, Vitoria denied that the Pope had any “temporal power over the Indian aborigines.” He also believed that the Indian’s refusal “to recognize any lordship of the Pope” would not provide a basis for making war, hunting them down, or “seizing their property.” Having established his position concerning absence of power of those who made it.

115. See Jerome J. Shestack, The Jurisprudence of Human Rights, in 1 HUMAN RIGHTS IN INTERNATIONAL LAW: LEGAL AND POLICY ISSUES 69, 78 (Theodor Meron ed., 1984). Grotius, a secular theorist of natural law, defined natural law as a "'dictate of right reason which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral baseness or moral necessity.'" Id. at 77 (citation omitted).

116. Id. at 77-81, 85-88; see, e.g., LOUIS I. HENKIN ET AL., supra note 112, at xli-xliii.

117. See HUMAN RIGHTS IN WESTERN CIVILIZATION 1600-PRESENT, supra note 113, at 1-2. Vitoria is part of the Spanish School of International Law and one of the most crucial of Vitoria’s tracts from the international law perspective is his essay on the Indians in America, a tract which has a strong human rights flavor. Vitoria advocated restraint in the manner in which the Spanish dealt with the New World ‘Indians’ . . . [f]inding [that] the Indians . . . have certain rights as a nation . . .

Id.

118. See id. at 33; id. at 1 (“Christian natural law theorists, especially Thomas Aquinas, . . . believed that natural law reflected God’s perfection and natural order and that human law was subservient to it and ideally should reflect it.”); Shestack, supra note 115, at 77. Vitoria had much influence over subsequent secular characterizations of natural law such as Hugo Grotius, although the latter separated natural law from religion:

According to Grotius, a natural characteristic of human beings is the social impulse to live peacefully and in harmony with others; whatever conformed to the nature of men and women as rational, social beings was right and just; whatever opposed it by disturbing the social harmony was wrong and unjust.

Id.

119. See HUMAN RIGHTS IN WESTERN CIVILIZATION 1600-PRESENT, supra note 113, at 33.

120. Id.

121. Id. (“[E]ven if the barbarians refuse to accept Christ as their lord, this does not justify making war on them or doing them any hurt.”).
the Pope over the Indians, he followed with the corollary that Indian refusal to accept secular authority was likewise no justification for taking their property.122

Significantly, Vitoria rejected the theory of discovery embraced by the United States Supreme Court in Johnson v. M'Intosh123 as a justification for the taking of Indian lands. He plainly explained the fallacy of the application of the discovery rule:

Accordingly, there is another title which can be set up, namely, by right of discovery; and no other title was originally set up, and it was in virtue of this title alone that Columbus the Genoan first set sail. And this seems to be an adequate title because those regions which are deserted become, by the law of nations and the natural law, the property of the first occupant. Therefore, as the Spaniards were the first to discover and occupy the provinces in question, they are in lawful possession thereof, just as if they had discovered some lonely and thither unoccupied region.

Not much, however, need be said about this . . . title of ours, because, as proved above, the barbarians were true owners, both from the public and from the private standpoint.124

To be sure, this philosophizing and its humanistic reasoning did not prevent Vitoria from finding a justifiable way of appropriating Indians’ land. Using logic that seems to be a precursor of the thinking underlying the later established trusteeships, Vitoria concluded that the taking of Indian’s property and goods was justified, as such taking was for their own benefit. To rationalize this end result, he constructed an analysis based on the “theory of just war [that] justif[ied] Spanish claims to Indian lands in the absence of Indian consent.”125

In the international sphere, the religious stronghold on the development of rights and relationships with various peoples dramatically changed with the end of the Thirty Years War, the Peace of Westphalia (1648) and the rise of the modern nation state and the law of nations.126 These events resulted in the nation state’s emergence as the central actor and “the predominant form of

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122. See id. (noting that it would be absurd “to say that, while the barbarians go scatheless for rejecting Christ, they should be bound to accept His vicar under penalty of war and confiscation of their property . . .”).

123. 21 U.S. (8 Wheat.) 543 (1823).


125. ANAYA, supra note 60, at 12.

126. See HUMAN RIGHTS IN WESTERN CIVILIZATION 1600-PRESENT, supra note 113, at 2; ANAYA, supra note 60, at 13.
political organization in the modern world." In this context, Grotius' book, *The Law of War and Peace* (1625), written in the midst of that horrendous and brutal war, sought to mitigate the harm of future wars by defining the limits the law of nations placed on combat.128

While still a naturalist, Grotius moved away from the religious basis of the theory of law generally, and the law of nations in particular, and instead “found that the Law of Nations and its humanitarian norms were derivable from human reason via natural law.”129 However, with the rise of the nation state, this philosophy was viewed as focusing on the rights of states. Moreover, while pursuant to the Grotian norms,

the recently emerged nations of Europe behaved relatively well in their own back yards, the Grotian peace was marked by colonial expansion during which these same nations plundered the rest of the world, sometimes with a disregard for human well-being that matched the brutality of the Thirty Years War.130

Significantly, the primacy of the nation state meant sovereignty. Sovereign states, according to philosophers of the time, were “free, independent, and equal” with attributes of sovereignty being “a means of maximizing the interests of the corresponding nation, a group of more or less homogeneous individuals joined in a social compact.”131

Such a conceptualization of “state” created a problem with respect to the integrity and sovereignty of Native peoples whose organizational system(s) were not like the European structures upon which the model was constituted.132 The European statist model “is conditioned by a basic prejudice favoring the values behind European political and social organization” which differentiates between civilized (stationary) groupings and nomadic ones.133 The tension created by this narrow definition of nationhood is clearly reflected in the United States’ early decisions as to Indian land rights.134

Dovetailing with the statist model was the development of positivism. This school embraces the belief that “all authority stems from what the state and

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128. See id.

129. Id.

130. Id. at 3.


132. See id.

133. See id. at 21 ("[T]he law of nations does not apply 'to organized wandering tribes.'") (citation omitted).

officials have prescribed." This perspective served to entrench colonialism—the domination by Europeans of non-Europeans as a legitimate force. According to the positivist philosophical movement, "the source of human rights is to be found only in the enactments of a system of law with sanctions attached to it" at least ostensibly rendering human rights dependent upon a state's sovereign will.

Given the underpinnings of positivist philosophy, it is not surprising that it worked against the Indians' liberty. Positivism permitted international law to be used as pretext to justify abhorrent treatment of persons, including Native populations, whose differential treatment in international law was justified on the grounds that they were uncivilized. Positivism also allowed states to pass laws that legitimized their claims over Indian territories and permitted differential treatment of Native peoples without being subject to external scrutiny based on sovereignty principles.

The insistence of the positivist doctrine that states are the only actors worked "to the virtual exclusion of indigenous peoples' territorial or sovereign rights." Some concluded that Indians had never been considered "peoples capable of possessing rights on the international plane." One United States jurist, Charles Hyde, went so far as to posit that "at the time of [the] European explorations in the Western Hemisphere in the fifteenth and sixteenth centuries . . . States were agreed that the native inhabitants possessed no rights of territorial control which the European explorer or his monarch was bound to

135. Shestack, supra note 115, at 79.

136. See HUMAN RIGHTS IN WESTERN CIVILIZATION 1600-PRESENT, supra note 113, at 5 (footnote omitted).

137. Shestack, supra note 115, at 79. Significantly, positivism has been criticized for "philosophically divorcing a legal system from the ethical and moral foundations of society . . . ." Id. at 80.


139. See Shestack, supra note 115, at 80 ("The anti-Semitic edicts of the Nazis, although abhorrent to moral law, were obeyed as positive law. The same is true of the immoral apartheid practices contained in South African law . . . .").

140. See ANAYA, supra note 60, at 20-21 (citations omitted).

141. See id. at 19-20.

142. Id. at 21.

143. Id. at 22.
Consequently, "[t]he American Indians have never been regarded as constituting persons or States of international law." This, of course, contrary to Vitoria's earlier pronouncements, permitted the colonization and conquest of lands: Indians as non-persons could not have a claim to the land, thereby rendering it *terra nullius* (land belonging to no one) and thus subject to colonial taking.

This brief overview of the prevailing international norms and philosophies, popular and accepted at the time of the discovery of the New World, explains, although it does not justify, the Western perspective on the propriety of taking Native lands, culture, and lives. However, that Western colonizer's lens on rights does not tell the only story, although its hegemonic hold and control of existing narratives might distort or deny the existence of different histories.

The history of the European search for and finding and populating of the Americas, scrutinized from a Native viewpoint, might reveal a dramatically different interpretation. History retold from this perspective might see the landing and taking of land in the Americas not as discovery but rather theft, the christianization not as evangelization but as cultural genocide, and the decimation of Native populations not as just war or self defense but as a holocaust.

Interestingly, even international legal principles, which at the outset fully justified conquest, took a sharply anti-colonial turn after World War II. In the wake of the horrors of this war, decolonization became a critical movement that, given the Nazi atrocities and the horrors of Hiroshima and Nagasaki, reinstated the individual as an international actor, entitled to rights and the law's protections. New universal rights norms were designed to bring back to the family of nations those peoples, such as indigenous persons and other ethnic and racial minorities, who had in the past been excluded.

While progress has

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144. *Id.* (quoting 1 *Charles C. Hyde, International Law Chiefly as Interpreted and Applied by the United States* 163-64 (1922)).
145. *Id.* (quoting 1 *Charles C. Hyde, International Law Chiefly as Interpreted and Applied by the United States* 19 (1922)).
146. See *Human Rights in Western Civilization 1600-Present*, supra note 113 and accompanying text.
been made, however, Native peoples are still struggling to be central players and the persisting statist conceptualization of the state remains an impediment for Native groups' nationhoods to be recognized. For example, still today the debates concerning the collective rights of indigenous peoples are ongoing. Denying Native self-determination and sovereignty, international bodies refuse to accept the designation of indigenous groups as peoples.\textsuperscript{149}

Thus, the work of decolonization is not done. The first generation of globalization—the fifteenth century's version in which the West "discovered," colonized, and conquered the New World—ran roughshod over cultures and peoples. The next generation sought to liberate peoples and States by embracing the notion of self-determination but, as just noted, has failed to allow all peoples to reclaim their sovereignty. Today's version of globalization is effecting a re-colonization, a neo-colonialism of the North over the South, rich over the poor, First World states over both internal and external Third Worlds.

Perhaps we can use the knowledges of the stresses of the past, and infuse them with a LatCritical human rights feminist perspective so as to ensure success of all persons. The following section will look critically at the erasures affected by the popular historical versions of truth and seek to make visible in, give voice to, and integrate native epistemologies and knowledges into the LCRF movement so that it can better promote its anti-subordination ideals.

IV. LatCritical Feminism

One leading feminist American Indian scholar has observed that the cultural lens through which popular versions of history are told alter other truths:

If the oral tradition is altered in certain subtle, fundamental ways, if elements alien to it are introduced so that its internal coherence is disturbed, it becomes the major instrument of colonization and oppression . . . . Those who . . . "render" narratives make certain crucial changes, many unconscious. The cultural bias of the translator inevitably shapes his or her perception of the materials being translated . . . . Culture is fundamentally a shaper of perception . . . . To a great extent, changes in materials translated from a tribal to a western language are a result of the vast difference in languages; certain ideas and concepts that are implicit in the structure of an Indian language are not possible in English. Language embodies the unspoken assumptions

and orientations of the culture it belongs to. So while the problem is one of translation, it is not simply one of word equivalence. The differences are perceptual and contextual as much as verbal.\textsuperscript{150}

The unraveling of the multiple intersections of power and subordination is a key task for CRF—one that is shared with LatCrit. The challenge for these movements is to plow the way for accurate translations that transcend languages of race and color, gender and sexuality, class and privilege. In order to build coalitions that aim to pursue anti-subordination projects, these endeavors must overcome the monolingualism of hegemony, imperialism, and essentialism.

Because the personal is political, I will personally take the challenge of scrutinizing my own flawed translations of what it means to be Latina. Why did I fail to recognize the colonial privilege inherent to the claim of the name Latina? Was I so clueless as to my otherness when I went to college because I had claimed colonial privilege in my life, internalized the conqueror, and erased the conquered? Why did I, whose tatarabuela was India, not experience racial subordination during my formative years, when I plainly had experienced subordination based on sex? Why was I so aware of racializations and racial admixtures and yet not self-aware—seeing race on the outside but not on the inside?

So I have, for now, remapped my location as LatIndia—Latina and India. What does this mean? How do I reconcile being the conquered and the conqueror all wrapped up in one ostensibly neat and tidy package? What are the consequences—personal, intellectual, and political—of living within a society that others me as Latina because it, like my Spanish ancestors, has erased the India? How do I use these knowledges to promote an anti-subordination project?

Clear, concrete, and immediate answers to these intricate explorations are implausible. However, certain observations are possible. I cannot change my lived history or experiences, but I can be aware of, be sensitive to, and learn about and from the incompleteness of that history and experience. This process will necessitate much more learning about my erased histories which are rich in concepts of harmony, peace, spirituality and cooperative work. One matter, however, is plain: I want to reclaim and re/member my Native culture, history, location, and specifically to extend coalition work for anti-subordination to Native issues and concerns.

However, the process in general and the aspirations I have just articulated in particular also sound alarms of caution. In embracing all my identities I must not exoticize or falsely claim a life I have not lived, truths I have not yet

\textsuperscript{150} Gunn Allen, supra note 1, at 224-25. The author proceeds to describe three different interpretations of a particular story from different perspectives, as well as the distortion in the same story effected by translations which shows the impact of the translator's point of view. See id. at 225-42.
learned, oppressions and subordinations I have not experienced, history I do not have. Re/membering my Native roots to my identity creates two geographies of possible tension.

First, being in the United States elides the Native in me with the Natives here who are members of many and diverse tribes and traditions. Certainly there are commonalties in our histories as the records reveal. However, there are also differences. One significant difference is my life experience. That journey has taken place at a distance from my Native cultural ancestry because of the virtually total erasure effected by colonization, an erasure to which I unconsciously and subconsciously acceded by failing to interrogate my relationship to and location in Native history. Having now added a dimension to my already multidimensional identity identification, I need to map new routes for non-essentialist, cooperative projects without distorting either the Natives' or my own realities, cultures, locations, or histories. I do not wish to appropriate or exoticize an experience that is not my own. I do want to learn history to pursue anti-subordination coalitions that can be shared projects. One cooperative, non-essentialist project could be finding faithful translations to our shared or varied traditions that have lost coherence because of the alien elements that have been introduced. Another could be finding universal application for particularized Native customs of cooperation, harmony, and respect for the earth, elders, and difference.

The second location of tension is the blurred shared geographies and histories with Indias/os in America Latina. Does understanding of and deference to Native needs, does a desire to show solidarity with the Native struggle for self-determination and sovereignty, and an embracing of Native history whose identity, dignity, and culture are plaited as non-Latina/o require or at least suggest the need for me to be not Latina? It seems to me that this cannot be a consequence as it would simply effect another erasure. However, much discursive exchange needs to occur to clarify and utilize the knowledges bubbling to the surface of these newly discovered borderlands.

These identity stresses provide a landscape on which to map the possibilities of critical movements such as Critical Race Feminism and LatCrit. In this regard, the Native mother imagery is invaluable because of the interconnections between and among us it creates, the ties it forges, the incentives it provides. It locates us all as family, as related somehow. It will locate us to our “traditions, histor[ies], and place[s] in the scheme of things,” permit us to remember our “significance, . . . reality, . . . right relationship to earth and society.” In this journey, the necessary interrogation led me to certain knowledges about my heritage that urge me to expand my knowledges about histories and traditions. These interrogations will enrich the possibilities

151. GUNN ALLEN, supra note 1, at 209.
of coalitional movements against subordination. I am sure there will be many more to come.

The naming Latina is one that I have embraced. It has located me in a geography in which I am an other, an alien within the United States' borderlands. In fact, as I have shared, I consciously chose the label over Hispanic because in the context of that dyad it was a liberating term. It promoted the anti-subordination agenda by eschewing the representation of estado unidense hegemony that purported to give the United States the right to choose my name. The term Latina also is an inclusive term. Five years ago, my embrace of that term was a decision regarding the designation of one of my myriad identity components that worked.

However, to see, feel, and experience the world within the United States' borderlands through a Latina’s lens does not have to mean that I have internalized the supremacist, racist conquistadors’ beliefs about the superiority of “whiteness.” Nor does it signify that I agree with the historic or legal tale of the superiority of “civilized” European culture over that of my Native ancestors. Yet it is inescapable that the Spanish orientation of the term “Latina” may be (mis?)interpreted to embrace or at least accept the exclusions, subordinations, and colonization effected by the conquistadores. Consequently, further interrogations are necessary to help identify and design appropriate and comfortable positions, traditions, histories, and true location in my life-map.

In this regard, it is instructive to consider the publicity surrounding Rigoberta Menchú when she won the Nobel Peace Prize based upon her work with Guatemalan Indian natives.\textsuperscript{152} Within the United States her status as a woman from Guatemala resulted in many referring to her as a Latina.\textsuperscript{153} Critically, she does not identify herself as such and might not take kindly to that identification.\textsuperscript{154} Indeed, she only learned Spanish when she was twenty, an endeavor she undertook with the specific purpose of becoming a more effective voice in the battle for liberation of her peoples. She opted to fight against the

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\textsuperscript{153} See Guerra, supra note 23, at 352 (citation omitted).

\textsuperscript{154} \textit{Id.} ("I have never heard her refer to herself as ‘Latina’—and I question whether Ms. Menchú would appreciate that denomination when much of her life’s work has been to make visible the histories and present-day lives of the Mayan peoples.").
oppressor on the master’s terms. She definitely would not identify herself or her peoples as Latinas/os who, from her perspective, are the oppressors.

Menchú's story unearths the problematic dysfunctionality of monolingualism—a condition that runs through our social, intellectual, and legal systems. It also confirms that the quirky, surrealistic majoritarian mandate to reduce us to a falsely essentialized single thread of our complex fabric, and making some of our myriad essences more equal than others, is unworkable.

So what do we do? What can we do to know our mothers? To borrow from Robert Williams, I can get off my LatCritical race feminist derrière and engage in critical race feminist practice. LatCritical Race Feminism can play a tremendously energizing, exciting, and transformative role by practicing mestizaje in three specific ways.

First, we must recognize that the personal is political. Knowing our personal position and traditions locates us in our various communities. We must understand and embrace our hybridity, all of our interconnected selves, in order to be successful participants in an all-encompassing, anti-subordination project. If we internalize only some of our traditions and histories, and become the conquistadores/as, then we will practice subordination, exclusion and colonization (even of other parts of ourselves) and distort our heritage. Those of us who roam at the margins will continue to marginalize others. If we are Latina/o only because of and in the image of Colón, we will continue the nasty part of his work. We will not question or challenge our relationship as Native peoples with Native peoples. We can be Latinas/os and LatIndias/os and move the world forward with solidarity in our hearts.

Second, we need to ensure that what has been secreted as the private becomes part of our public goals. We must come out as mestizas/os and practice mestizaje. We must own our hybridity and recognize we are both the colonizers and the colonized. To understand our location we must explore the meanings and consequences of these contradictions. In order to do so, we must understand all our histories. We cannot allow atomization of our selves simply because unconsciously or subconsciously we think it privileges us. Today we are complex and diverse, just like before Colón we were complex and diverse. It is only by fully utilizing the knowledges derived from such a composite that we will be able to locate ourselves “in the scheme of things.” As Luz Guerra

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158. See Montoya, Reply to Butler, supra note *.

159. Id.
The Latindia and Mestizajes

has eloquently observed: “Before Colon we were many. We were not Americans. We were not hyphenated. ‘Hispanic’ came with Colon. ‘Latino[aj]’ came with Colon. Since Colon, one common experience has been trying to ‘de-colon’, decolonize, take Colon out.”¹⁶⁰ Perhaps, however, in owning our hybridity, taking Colon out is not appropriate. Rather, we should engage in the understanding that we are partly, but only partly, Colón. We are also Native and myriad other parts.

Guerra further charges that we have done an injustice to history¹⁶¹ because our version, our story, is dependent upon the internalization of the European epistemology.¹⁶² Seriously considering her observation will assist in furthering the liberation project. If we indeed have internalized dominance, then we have become the ethnographers, the majoritarian outsiders through whose lens anthropology textbooks define the Trobriand islanders even to the Natives themselves. We become the foreign observer who purports to define a culture that s/he may well misunderstand and misinterpret.¹⁶³ This self-identification with the history of our captors has distorted our lens and we must reclaim it. In order to rectify this distortion and its resultant incoherence, we must deconstruct the mythical history we live and become the architects of a new political narrative that recognizes the historical distortions and reworks the truth of all of our traditions.

Third, recognizing that the local is global and the global is local, we should search for interconnectivities as well as differences between and among our histories and traditions. Such an exploration will help elucidate the mistranslation of the past and will provide invaluable insights for the reconstructive project. There have been traps everywhere that have encouraged, dispersed, and professed the master narrative as neutral history.¹⁶⁴ Peaceful people become savages; cultured people become uncivilized; deeply spiritual

¹⁶⁰ Guerra, supra note 23, at 355.
¹⁶¹ See generally Guerra, supra note 23.
¹⁶² Id. at 355.
¹⁶³ See Hernández-Truyol, Borders (En)gendered, supra note 9, at 905 n.59; Gunn Allen, supra note 1, at 4 (“Western studies of American Indian tribal systems are erroneous at base because they view tribalism from the cultural bias of patriarchy and thus either discount, degrade, or conceal gynocratic features or recontextualize those features so that they will appear patriarchal.”); id. at 248-50 (noting flaws in Malinowski’s study of the Keres Pueblo Acoma and the Trobriand Islanders based on his own definitions of, inter alia, “households,” which is a concept with different meanings in different cultures and concluding that “[a]nalyses like those of Malinowski can be explained only by the distorting function of cultural bias”); id. at 253 (showing how a Western scholar misinterprets tribal customs as devaluing women in her “attempt[ ] to prove that women have always and everywhere been oppressed by men”); id. at 260 (describing anger and confusion of two white lesbians involved in an ecological movement centering on Indian concerns when they invited a Sioux medicine man to join them and when he saw them he accused them of being lesbians and became very angry, and explaining that he was probably afraid of the lesbians’ power as in Indian culture koskalaka have singular power).
¹⁶⁴ See Ikemoto, supra note 11 and accompanying text.
beings become heathens. By promoting and practicing *mestizaje*\(^6\)—by getting to know our mothers—the LatCritical race feminism project can expose that the claimed truths are partisan myths.

LCRF can draw upon all the rich resources available, including native histories and cultures as well as international human rights norms, to further and promote the feminist liberation project. LCRF can show through its complex web of knowledges that a single axis atomization approach is not only inappropriate but ineffectual for understanding deliciously complex beings. LCRF can insist that all of our *mestizajes*\(^6\) are entitled to dignity, respect, self-determination, culture, and freedom—that supremacist feelings exist and that they are wrong.

This project of knowing our mothers, of incorporating other histories, cultures and knowledges, including Native traditions, into our lives is not going to be easy. Even the lens of feminism is one that we must reconsider; for example, many Native practices are gender-based.\(^7\) It may be difficult for Western and Western-trained feminists to embrace such cultural differences in roles. It forces us to question what is feminism, just like I had to question what it means to be *Latina*. However it may also make us think about gender-differentiation as something different from gender-subordination. We must broaden our horizons and move towards a *feminismo latcritico y sin fronteras*, a LatCritical feminism without borderlands.

Finally, LCRF can reveal the true sources of some of our knowledges, customs, and practices. As one scholar has noted,

America does not seem to remember that it derived its wealth, its values, its food, much of its medicine, and a large part of its “dream” from Native America. It is ignorant of the genesis of its culture in this Native American land, and that ignorance helps to perpetuate the longstanding European and Middle Eastern monotheistic, hierarchical, patriarchal cultures’ oppression of women, gays and lesbians, people of color, working class, unemployed people, and the elderly. . . . During the ages when tribal societies existed in the Americas largely untouched by patriarchal oppression, they developed elaborate systems of thought that included science, philosophy, and government based on a belief in the central importance of female energies, autonomy of

\(^{165}\) See Montoya, Reply to Butler, supra note *.

\(^{166}\) Id.

\(^{167}\) See Gunn Allen, supra note 1, at 196 (noting that division of labor is usually gender based and altered by colonization; also noting that while gendered divisions existed, individuals “fit into these roles on the basis of proclivity, inclination, and temperament,” not sex).
individuals, cooperation, human dignity, human freedom, and
egalitarian distribution of status, goods, and services.\textsuperscript{168}

LCRF can help the Americas learn, embrace, and re/member these rich
ideas and ideals that so well serve the anti-subordination project. Part of this
project entails specifically a call for LCRF to engage the particularities of
marginal identities and issues as part of its race and gender critiques. For
example, it might be appropriate for LCRF to reach out to indigenous groups
both within and outside the United States with the purpose of including Native
voices and perspectives in critical analysis as well as the reconstruction
projects. More universally, it is a call for LCRF to consciously engage itself in
the practice of inclusion of polivocality in all stages of exploration of social,
economic, linquistic, legal, historical, and religious norms. Only through such
exploration will we truly learn who our mothers are.

The proposal of a borderless critical movement such as LCRF is itself
stressful. While it exhorts us to globalize the local and localize the global, we
must try not to impose particularized universalisms or universalize
particularities. The “global” aspect might invoke and evoke the thoughts of
universalism which have been translations of Northern/Western hegemonic
supremacy, imperialism, colonialism and hierarchy.\textsuperscript{169} It is necessary to ask at
the outset whether there can be a one global project that transcends our varied
times, geographies and spaces. We must design an endeavor, an enterprise, an
experiment that takes us towards new feminisms—for example, away from a
culture of an essentialist feminism to non-essentialist feminisms of culture. In
other words, we must embrace as part of feminism’s anti-gender subordination
movements some projects where traditions and perhaps even traditional gender
roles remain untouched, so long as the traditions are not mere pretexts for
subordination.

Therefore, we must not forget to question whether physiological and
psycho-social differences and the division of labor upon which traditional
gender roles are based are themselves instruments of women’s oppression and
consequently, are merely excuses for perpetuating heteropatriarchy. If it is true
that “[i]t has been shown conclusively that complementary sex roles within an
otherwise competitive society means subordination of women,”\textsuperscript{170} are gender
roles intrinsically contradictory to women’s self-determination, autonomy, or

\textsuperscript{168} Id. at 211. See also id. at 211-15 (discussing Indians’ contributions to development of
American society).

\textsuperscript{169} See Berta Esperanza Hernández-Truyol, Women’s Rights as Human Rights—Rules,
Realities, and the Role of Culture: A Formula for Reform, 21 Brook. J. Int’L L. 605, 657 n.201, 658

\textsuperscript{170} Karen Offen, Defining Feminism: A Comparative Historical Approach, 14 Signs 119, 153
Bryn Mawr College (June 1976)).
self governance? If "[f]eminism makes claims for a re/balancing between women and men of the social, economic, and political power within a given society, on behalf of both sexes in the name of their common humanity, but with respect for their differences,"[171] we can easily reconcile traditional/cultural practices that attribute gender roles to individuals based on inclination rather than on biological sex. In this regard, gender role differentiation does not have sex-subordinating meanings or consequences.

Significantly, the foundations of LCRF are the interests in improving feminine geographies as part of a broad anti-subordination project. In dealing with all traditions we must ask if there are social costs attached to a continued acceptance of gender roles and expectations, as it is unlikely that, for example, we would agree to a value of continued acceptance of ethnic or racial roles and expectation. However, we must do so with understanding of the meaning within the tradition. Otherwise, there can be distortions and mistranslations.[122] We also have to be ready in all of our cultures to work against traditions that are sex-subordinating.

Critical theories have brought us far. They have created, enriched, and enlivened the discourse about the conditions of women and racial, ethnic, and religious minorities worldwide. Specifically for women, they have shattered the public/private divides by evaluating work and home, religion and government, culture and tradition, class and race.[173] Western feminism, for example, has exposed and revealed the subordination, oppression, and second-class citizenship of women brought about by the devaluation of women's spheres, historically the personal/domestic sphere. The feminist movement has been transformational and transformed, having gone through various and varied phases, in seeking equality of and for women.

Today, we have myriad forms of feminisms, ranging from difference to dominance, from radical to relational, from pragmatic to maternal, from liberal to lesbian, from Marxist to new wave.[174] Without adequate processes for the

171. Id. at 151.

172. See GUINN ALLEN, supra note 1, at 260.

173. See generally Celina Romany, Women as Aliens: A Feminist Critique of the Public/Private Distinction in International Human Rights Law, 6 HARV. HUM. RTS. J. 87 (1993) (arguing that international law construes civil rights of individuals as a function of public spheres thereby excluding, neglecting, and infringing upon rights exercised within private spheres, the traditional domain of women).

174. See generally IMELDA WHELEHAN, MODERN FEMINIST THOUGHT: FROM THE SECOND WAVE TO "POST-FEMINISM" (1995) (outlining the history of intellectual conflict and exclusion within the Anglo-American feminist movement); BARBARA RYAN, FEMINISM AND THE WOMEN'S MOVEMENT: DYNAMICS OF CHANGE IN SOCIAL MOVEMENT, IDEOLOGY AND ACTIVISM (1992) (discussing the development and change of women's political activism in the U.S.); GETTING THERE: THE MOVEMENT TOWARD GENDER EQUALITY (Diana Wells ed., 1994) (relating a diverse collection of experiences with and definitions of feminism through speeches and essays written by a variety of women); CHICANA FEMINIST THOUGHT: THE BASIC HISTORICAL WRITINGS (Alma M. Garcia ed., 1997) (compiling the
necessary translations we will be left with incoherence. We must attempt to reconcile all these variations into one overarching, coherent, epistemological stance under the inclusive penumbra of LCRF. These evolutions, revolutions, cohabitations, and explosions of thought have been necessary and useful to transform theory and idealism to practice and praxis—mestizaje. These transformations are central to learning who our mother is. The voices today are broad and far ranging, speaking many languages. Some bring to the table ideas and concepts that others are encountering for the first time. It is possible that some ideas at first blush might appear unpronounceable, let alone translatable—conditions we do not want to engrain upon future conversations by insisting on, or being blind to, the perils of monolingualism.

V. CONCLUSION

There is a wealth of information to learn in the process of identifying our mothers. At this stage it is necessary to entertain the growth of critical theories that are guided by a series of principles, goals, and ideals of personhood with the dignity of the human spirit as the driving force. These necessarily include autonomy, self-reliance, self-determination, and self governance. The master narrative that exalts competition over cooperation, the rich over the poor, men over women, and the white over the colored, should be exposed as a fabrication of few that has served to subordinate many.

The benefits of such re/construction promise to be great. In particular, re/membering Native histories and traditions to design the anti-gender subordination project is full of promise. As Professor Paula Gunn Allen has observed,

The traditional Indians’ view can have a significant impact if it is expanded to mean that the sources of social, political, and philosophical thought in the Americas not only should be recognized and honored by Native Americans but should be embraced by American society. If American society judiciously modeled the traditions of the various Native Nations, the place of women in society would become central, the distribution of goods and power would be egalitarian, the elderly would be respected, honored, and protected as a primary social and cultural resource, the ideals of physical beauty would be considerably enlarged . . . . Additionally, the destruction of the biota, the life sphere, and the natural resources of the planet would

175. See Montoya, Reply to Butler, supra note *.
176. See Ikemoto, supra note 11.
be curtailed, and the spiritual nature of human and nonhuman life would become a primary organizing principle of human society. And if the traditional tribal systems that are emulated include pacifist ones, war would cease to be a major method of human problem solving.  

One location of indigenous knowledge from which this anti-subordination movement may greatly benefit is the traditional Native acceptance of multiple genders which likely includes an acceptance of many non-traditional gender and sexual expressions. Imagine the possibilities had Latinas/os (and others) embraced the Native approach rather than the conqueror’s approach. Pursuant to the latter, Latinas are to act in the marianista model—be self-effacing, self-sacrificing, virginal, and pure. Almost the worst thing the Latina can be is a whore. And I say almost because as the popular saying “mejor puta que pata”—better whore than dyke—tells us there is one worse sin: lesbianism. The conqueror’s vision condemns, marginalizes, and subordinates sexual minorities. The Native story lies in stark contrast. As Rigoberta Menchú observed,

entre nosotros indígenas, no hacemos distinción entre el homosexual o el que no es homosexual, porque eso ya surge cuando uno baja a otros lugares. No hay tanto rechazo por un homosexual como hay entre los ladinos que es algo que no pueden mirar. Lo bueno entre nosotros es que todo lo consideramos parte de la naturaleza.

Imagine the possibilities if instead of viewing women as chattel, weak, and inferior they were considered valuable, strong, and equal. If instead of

177. GUNN ALLEN, supra note 1, at 210-211. See also id. at 30 (noting that “status of tribal women has seriously declined over the centuries of white dominance, as they have been all but voiceless in tribal decision-making bodies since reconstitution of the tribes through colonial fiat and U.S. law” whereas in the past “everyone knew that women played a separate and significant role in tribal reality”).

178. See generally TWO-SPIRIT PEOPLE (Sue-Ellen Jacobs et al. eds., 1997) (collection of essays on American Indian gender identity, sexuality, and spirituality).

179. See Hernández-Truyol, Borders (En)gendered, supra note 9, at 915-16.


181. MENCHÚ, supra note 155, at 12. Menchú emphasizes: among us [N]atives we don’t distinguish between the homosexual and the non-homosexual; that happens when we leave our communities. We do not reject the homosexuals as [L]atinos do, which is something they can’t bear to see. The good thing among us [N]atives is that we consider everything part of [N]ature.

Id. (author’s translation).

182. See GUNN ALLEN, supra note 1, at 196 (describing the impact of colonization on gender constructions: “[c]olonization means the loss not only of language and the power of self-government but also of ritual status of all women and those males labeled ‘deviant’ by the white Christian
viewing sexual minorities as sinful, resulting in ostracism from family, friends and society, they were respected, powerful, and productive members of a clan and their families. Now think of LCRF embracing such principles, and imagine the value of knowing our mothers, and the possibilities of practicing mestizaje.\textsuperscript{184}

\textsuperscript{183} See Gunn Allen, \textit{supra} note 1, at 255-61; \textit{id}. at 260 (describing the story of a Sioux medicine man’s reaction to the power of lesbians); \textit{id}. at 197 (noting gays and lesbians as “ritually and socially valued tribal members”).

\textsuperscript{184} See Montoya, \textit{Reply to Butler, supra} note *. 