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Re-Imagining the Latino/a Race

Angel R. Oquendo*

En medio de esta brumada
me eché a soñar, a soñar
viejos sueños de mi raza,
mitos de la tierra mía.¹

I. INTRODUCTION

Y bien, a fin de cuentas, ¿qué es la Hispanidad? Ah, si yo la supiera . . . . Aunque no, mejor es que no la sepa, sino que la anhelo, y la añore, y la busque, y la presienta, porque es el modo de hacerla en mí.²

This Article condemns “racial” subcategories, such as “Black Hispanics” and “White Hispanics,” which have been increasingly gaining currency, and ultimately suggests that such categories should be vehemently rejected. First, they project onto the Latino/a community a divisive racial dualism that, much as it may pervade U.S. society, is alien to that community. Second, they are falsely premised on the existence of an independent objective concept of race capable of meaningfully classifying individuals as “Black” or “White.”

Categorizing on the basis of physical features, of course, is an accepted practice in the United States. In fact, this society has primarily used physiognomy to create the “Hispanic” category. Yet what really unites Latino/ as is their unique history of oppression. Unlike other immigrant groups, the largest Latino/a groups—i.e., Mexicans and Puerto Ricans—did not come into the United States via Ellis Island; they entered the U.S. reality through the brutal process of U.S. imperial expansion. They were militarily attacked, invaded, colonized, and annexed. This common expe-

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¹. [“In the midst of this fog/I started dreaming, dreaming/old dreams of my race/myths of my land.”] Juan Antonio Corretjer, La Tempestad y el Ensueño, in YERBA BRUTA 27 (1992). This is my own literal translation. I will literally translate each Spanish epigraph in a footnote.

². [“Well, after all, what is Hispanity? Oh, if I only knew . . . . Although better not. It is better not to know what it is and instead to crave after it, to long for it, to search for it, and to surmise it. For it is thus that I make it my own.”] Miguel de Unamuno y Jugo, Hispanidad, in LA RAZA VASCA Y EL VASCUENCÉ; EN TORNO A LA LENGUA ESPAÑOLA 264, 268 (1974).
experience has caused them to form a unified community, which now includes other people of Latin American ancestry.

Another factor that bonds the Latino/a community is their common language. Not all Latino/as in the United States speak Spanish, but they all have some connection with the language. If they do not speak Spanish themselves, then it is the language of their ancestors. Because they share a language, Latino/as constitute a race in the sense proposed by Spanish philosopher Miguel de Unamuno. In fact, in categorizing Latino/as, the “Anglo” majority has emphasized this common linguistic heritage more than physical appearance. For instance, the derogatory term that cuts across the different Latino/a groups is “spik”—which emphasizes how Latino/as “speak” rather than how they look. More significantly, the anti-Latino/a movement has coalesced politically in the “English only” movement, which attacks their linguistic identity.

Latino/as should strive to find strength both in their history and in their language. They must recognize in their history of subjugation, an uplifting tale of resistance, survival, solidarity, and love. Latino/as of all ages and socio-economic backgrounds must increase their knowledge and awareness of the Spanish language. In the tradition of Unamuno, they should learn to perceive the Spanish language as a source of unity and common destiny.

II. A NEW CATEGORIZATION

Soy Mexicana
soy Mexican-American
soy American of Spanish Surname (A.S.S.)
soy Latina
soy Puerto Riqueña
soy Cocoanut
soy Chicana

In 1978, during my last high school year in Puerto Rico, I took the SAT. A test of any nature can be intimidating, but one that measures aptitude can make you feel insecure and challenged at the same time. These feelings were accentuated in my case because the exam was in English, and more important, because it was administered by an organization from the United States.

I was nervous, in part, because I was being tested by the people who kept us afloat with their massive economic support, who from afar made important decisions for us, and who generally were successful where we had failed. When they came to our land, they were well-off and they ran many of the large companies. In contrast, when we went to their land, we were poor, we did the most menial jobs, and we scored the lowest on intelligence tests. Therefore, the test had a greater meaning for me. It symbolized America’s continuing dominion and control over Puerto Rico. I was determined to wage a battle that I could ultimately win.

3. [“I am Mexican/I am Mexican-American/I am American of Spanish Surname (A.S.S.)/I am Latina/I am Puerto Rican/I am Cocoanut/I am Chicana.”]. La Chrix, La Loca de la Raza Cósmica, in INFINITE DIVISIONS: AN ANTHOLOGY OF CHICANA LITERATURE 84, 88 (Tey Diana Rebolledo & Eliana S. Rivero eds., 1993).
I chose to concentrate on the challenge that the test represented, instead of succumbing to any insecurities I had about my ability to perform. I preferred to perceive the test as an opportunity to prove myself and vindicate my people. Possessed by an almost insane obsession, I wanted to show the United States that we were not less capable, that we could compete against them, and that we could surpass their success in their own game.

Yet I was caught off guard even before the examination began. While I was filling out the personal information part, I was asked to identify myself racially. This struck me as odd for two reasons. First, I had never been asked such a question before. If I had been as cultivated, experienced, and connected as the Joseph Roth character, I too "would have felt rather bewildered, baffled even, and probably bored and somewhat indignant" in the face of such a query. From my perspective, it was simply unusual to be confronted with the issue for the first time on such a solemn occasion. Second, I had never thought of myself in terms of race, even though I was aware of the concept of racial differences. I knew about the history and reality of racism, yet I did not see myself as a member of a particular race.

Fortunately, the SAT authorities were wise or benevolent enough to include "Puerto Rican" among the multiple choices and thus spared me a potentially profound existential dilemma. There was no need to check the color of my skin, to feel the texture of my hair, to visualize my facial features, or to call to mind the physiognomy of my family and relatives. With a sense of relief, I hastened to check the box labeled "Puerto Rican" and moved on.

At the time, I was only a kid facing an unexpected situation. Today, I am a different person and have a different general perspective. Having now lived in the United States for over fifteen years, I have come to regard this kind of questioning as normal. In fact, until recently, I considered myself beyond astonishment with respect to issues of racial categorization. I thought that I would always find a box simply labeled "Puerto Rican," "Hispanic," "Latino," "Spanish Surnamed," or even "Other" with which I could feel comfortable.

However, racial categories have changed in the last few years. There has been a development in personal-categorization methods in the United States that has proven that the capacity of bureaucrats to produce wonders and amazement knows no boundaries. I am referring to the relatively recent tendency to subcategorize the category for Hispanics. Ever more often, surveys add to that category the following clarification "(Black and White)—sometimes "(regardless of race)—and qualify the White as well as the Black category with the parenthetical "(non-Hispanic)." So the list usually reads as follows: "White (non-Hispanic)," "Black (non-Hispanic),"


The Austrian novelist Joseph Roth says of one of his characters (in a 1924 novel) that if he were asked to which nationality or "race" he belonged he "would have felt rather bewildered, baffled even, and probably bored and somewhat indignant"—since he spoke almost all of the European languages, was at home everywhere in Europe, had his family scattered from Sarajevo to Beijing.
"Hispanic (Including White and Black Hispanics)," "Asian-American," "American Indian," and "Other."

A true bureaucrat's paradise! Yet the average person will inevitably ask herself what the point of all this hairsplitting could be. There must be more to this exercise in taxonomic excess than the whims of a lonely bureaucrat. Granted, the Hispanic category is still being made available to me. But it is more difficult for me to embrace that category with all the added attachments and qualifications.

I wonder if I am being told that there is something problematic about my category? Is the message that it, unlike other categories, needs further explanation? Is it implied that after all I do belong objectively to a race but that I am being given a break as a Latino/as for some undisclosed reason? The next step will probably be to create separate classifications for Black Hispanics and White Hispanics and to force Latino/as to choose. The quandary that I narrowly escaped as a child will thus be returning with a vengeance.

A. The Term "Latino/a"

El desgarramiento arrasador . . . se le reconoce a los latinos, los hispanos, como recurrente señal de identidad. Desgarramiento arrasador lo nominan unos, temperament producido por una terrenalidad esencial lo nominan otros, cultivo de un primitivismo bello y tajante suelen nombrar algunos cierta explosión de vitalidad colmada de fervor e instinto que trajina por el dolor y la risa de los latinos, los hispanos.5

I would like to say a few words about the term "Hispanic" before posing arguments and counterarguments for the new subcategorization. "Hispanic" has been rejected by some because of its association with "the Spanish colonial power of centuries ago."6 Those who object to this term prefer the term "Latino" because it lacks any such connotation and "is more inclusive and descriptive."7 The United States Supreme Court recently referred to the petitioner in a suit as "Latino" instead of "Hispanic," though it did so only "in deference to the terminology preferred by the parties before the Court."8 "Latino" has its limitations, but I prefer this term also.

5. [A demolishing laceration . . . is recognized as a recurrent sign of identity among Latinos, among Hispanics. It is called a demolishing laceration by some; others denominate it a temperament produced by an essential earthiness. A few give the name 'the cultivation of a beautiful and peremptory primitivism' to a certain explosion of a vitality overflowing with fervor and instinct, which hustles along through the pain and the laughter of Latinos or Hispanics.]


7. Ramírez, supra note 6, at 761 n.2.

"Latino" is short for "latinoamericano," which of course means Latin American in Spanish. Like its English counterpart, the term "latinoamericano" strictly refers to the people who come from the territory in the Americas colonized by Latin nations, such as Portugal, Spain, and France, whose languages are derived from Latin. People from Brazil, Mexico, and even Haiti are thus all "latinoamericanos." Individuals who are descendants of the former British or Dutch colonies are excluded.

"Iberoamericanos," in contrast, are individuals who come from American lands once occupied by Portugal and Spain, the two countries on the Iberian peninsula. Brazilians and Mexicans are Iberoamericanos, but not Haitians or any of the denizens of countries once claimed by France, Britain, or the Netherlands. Finally, "hispanoamericanos" are persons from the former colonies of Spain in the "New World." The expression "Hispanic" probably derives from "hispanoamericanos."

An informal interpretation of the term "Latino" would take it to be equivalent to "hispanoamericano" or "iberoamericano." In other words, it may be used in a narrower sense to denominate only those who come from the former colonies of Spain, or only those who come from the former colonies of Spain and Portugal. In the United States, it appears to be employed in the narrowest sense, i.e., to identify the children of the former Spanish possessions in the Americas.

The strict interpretation of "Latino" is more inclusive than the term "Hispanic." "Latino" encompasses those people who are descended from the onetime possessions of not only Spain, but also Portugal and France. However, "Latino" enthusiasts would probably exclude these people from the category because they use the category in the informal interpretation, which covers only people from what was once the Spanish empire in America. Therefore, in practical application, the term "Latino" is no more inclusive and descriptive than "Hispanic."

The assertion that the term "Latino" should be favored over "Hispanic" because the latter is linked to the brutal Spanish colonization of America is puzzling. "Latino," in the informal sense, is just as bound up with the Spanish colonial enterprise. The formal interpretation of Latino is associated with the similarly objectionable Portuguese and French colonial projects, and both terms exclude the rich African and Native American influence on the Latino/a community.

What I do find attractive about the expression "Latino" is, first, that it calls to mind the Latino/a struggle for empowerment in the United States. The leaders of this campaign support "Latino" because it came

9. The Barnhart Dictionary of Etymology enters the following information for the adjective "Hispanic" from which the noun is derived: "probably shortened from earlier Hispanical of Spain or its people (1584, formed in English from Latin Hispanicus Spanish, from Hispania Spain + English suffix -ical)." The Barnhart Dictionary of Etymology 483 (1988). Its earliest recorded appearance is reported to have been in 1889. Id. "Ana Celia Zentella, a linguistics professor at the Graduate Center of the City University of New York, traced the origins of the word Hispanic to 'Hispania,' a Phoenician word for 'land of rabbits' that was used by the Romans during their conquest of the area that includes modern-day Spain." David González, What's the Problem with 'Hispanic'? Just Ask a 'Latino', N.Y. TIMES, Nov. 15, 1992, § 4, at 6.
from the community. The Latino/a people are thus conceived of as not just acquiescing to their christening by the Anglo majority, but rather as giving themselves a name. The adoption of the term “Latino” could be regarded as part of a broader process of self-definition and self-assertion.

Second, “Latino” is a newer term that invites re-thinking and re-defining of what membership in this community is all about. This attitude of re-birth and of facing a new beginning is needed as the Latino/a community in the United States becomes larger and more diverse and strives to find itself.

The third reason why “Latino” is a better term is because it is a Spanish word. It accentuates the bond between the Latino/a community and the Spanish language. This bond, as I also contend below, is central to Latino/a identity and unity. Furthermore, in insisting upon being called by its Spanish name, the Latino/a community is demanding recognition and respect for its culture. I think the Latina author Sandra Cisneros probably had this in mind when she declared: “To say Latino is to say you come to my culture in a manner of respect.”

However, from this perspective, the term “Hispano” would also do. “Hispano” is the abbreviated form of the Spanish word “Hispanoamericano.” It has the additional advantage of being more accurate than “Latino” in the formal sense. The expression Hispano gained importance in the 1970s—when it even went all the way up to the United States Supreme Court—but it has since waned.

I am still inclined to favor the newer term “Latino.” “Hispano” was never as prominent as “Latino” in the community’s quest for self-definition. Moreover, I prefer the term “Latino” because it sounds better to my ear than “Hispano.” David González reports that many share my preference:

Among those who grew up hearing “Latino” or “Latina” used often in their neighborhoods and homes, especially in the Southwest, it rolls off the tongue with a Spanish tinge (lah-TEEN-oh), its very pronunciation an affirmation of identity. By comparison, the word closest to Hispanic that exists in the Spanish language is hispano (ees-PAN-oh), or Spanish-speaker, its initial consonant silent in current Spanish pronunciation.


12. “Hispano-” in English is a “combined form meaning Spanish, as in Hispano-Ameri-

13. Keyes v. School Dist. No. 1, Denver Colorado, 413 U.S. 189, 195–98 (1973). The Supreme Court explained: “The parties have used the terms ‘Anglo,’ ‘Negro,’ and ‘Hispano’ throughout the record. We shall therefore use those terms. ‘Hispano’ is the term used by the Colorado Department of Education to refer to a person of Spanish, Mexican, or Cuban heritage. Colorado Department of Education, Human Relations in Colorado, A Historical Record 203 (1968). In the Southwest, the ‘Hispanos’ are more commonly referred to as ‘Chicanos’ or ‘Mexican-Americans.’” Id. at 2691 n.6.

People who do not speak Spanish ineluctably tend to pronounce the word Hispano in a way that makes it sound even worse. They usually pronounce the “H” as in English instead of respecting its Castilian silence.

In this piece, I add a slash and a letter “a” to the word “Latino”—viz., “Latino/a”—to underscore the fact that the noun describes women as well as men. The plural then becomes simply “Latino/as.” This designation is only marginally more awkward than the more standard “Latino” but is more inclusive in a crucial sense.

B. Racial Dualism

Ay ay ay, que mi negra raza huye
y con la blanca corre a ser trigueña;
¡A ser el futuro,
fraternidad de América!15

The racial subcategorization of Latino/as appears to be an attempt to project U.S. racial dualism onto the Latino/a community as a whole. It is possible to imagine my mythical bureaucrat nonetheless attempting to defend the move as reasonable on grounds of precision: “The categories are meant to be mutually exclusive. White Hispanics and Black Hispanics, however, are covered by two of the categories. In order to be accurate, they would have to check, in addition to the Hispanic box, either the box labeled ‘White’ or that labeled ‘Black’. We just want to make it clear that for our purposes, they are Hispanic, even if they are additionally White or Black. We want each person to choose only one of the options.”

Such a plea for exactitude sounds spurious. If the concern were Latino/as who might fall within two categories, it would make sense to stipulate that the rubric “Hispanic” includes people who are “racially” Asian or Indian as well as Black and White. The categories for Asian-Americans and Native-Americans could be adjusted accordingly to exclude Latino/as explicitly. In this way, Latino/as of Asian extraction as well as those who descend from the indigenous peoples of Latin America would know, without a doubt, which category corresponds to them.

Indeed, I think that it is no coincidence that “Indian” and “Asian” Latino/as have been left out of the picture. The decision to omit these groups reflects the attitude towards race prevalent in the United States.16 I will refer to this attitude as “racial dualism”. The U.S. racial imagination posits a bifurcated racial universe, in which the black-white divide overwhelms all other differences. This conception of race is not surprising in light of the prominence in U.S. history of the oppression of people of African ancestry by individuals of European extraction. The institutions

15. [“Ah, Ah, Ah, that my black race escapes/and runs with the white race to become brown;/To be the future,/fraternity of America!”] Julia de Burgos, Ay ay ay de la grifa negra, in POEMA EN VEINTE SURCOS 52, 53 (1982).

16. As Cornel West notes, “blackness has no meaning outside of a system of race-conscious people and practices.” CORNEL WEST, RACE MATTERS 25 (1993). West maintains that blackness takes a particular meaning in the context of “centuries of racist degradation, exploitation, and oppression in America.” Id. The particular system of race-consciousness that prevails in the United States is foreign to the Latino community in the United States and so is the conceptual apparatus that corresponds to that system, including the peculiar notions of blackness and whiteness.
of enslavement and discrimination have created and reinforced the perception that the opposition between these two groups is essential and universal. Racial dualism is but the other side of dualist racism.

The subcategorization of Latino/as should be rejected precisely because it projects this foreign racial dualism onto the Latino/a community. Among Mexicans, who constitute by far the majority of all Latino/as, the main physiognomic influences are not even African and European. Mexicans instead tend to descend from the indigenous peoples who populated the southern tip and southwest region of North America and the Spanish who later colonized the territory.

Furthermore, the subcategorization injects a dualism or division of the races that is alien even to those Latino/a groups, e.g., Puerto Ricans, in which the principal ethnic influences are African and European. In the words of Luis Nieves Falcón:

Because in Puerto Rico prejudices take a subtle and personal form, there is no organized body of customs or practices against Blacks. Because social discrimination seems to operate with equal force against all lower class individuals, regardless of color, there is no sufficient basis for the emergence of racial conflicts along racial lines—though, in any case, racial lines are in fact very fluid. Puerto Ricans—white, brown, or black—have little experience with and a very limited understanding of the racial animosities that divide the North American nation and are, naturally, reluctant to take part in a struggle that is repugnant and meaningless to them.¹⁷

According to Nieves Falcón, U.S. society seeks to impose its racial conceptions on Puerto Ricans.

Interpreting the behavior of Puerto Ricans in the United States with respect to racial matters on the basis of their own particular racial experience, North Americans perceive that behavior as incomprehensible, ridiculous, and cowardly. It seems that they would expect White Puerto Ricans to bond on one side and Blacks on the other. Puerto Ricans are pressured to adopt one or the other racial identity, since North Americans cannot really believe that the integration achieved by Puerto Ricans—imperfect as it may be—is possible.¹⁸

Puerto Rican society might have been bifurcated along racial lines up to the end of the nineteenth century, when its sense of nationality was still developing. Then, José Luis González insists, the Puerto Rican “nation was so divided racially, socially, economically, and culturally, that we should instead talk of two nations.”¹⁹ These two nations—or “ethnic groups that were true castes”—had radically different “cultural traditions” and even “Weltanschauungen”.²⁰

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¹⁷. Luis Nieves Falcón, Diagnóstico de Puerto Rico 275 (1972). The translation of this as well as other non-English texts in this Article is my own.
18. Id.
20. Id. at 27, 25–26.
González himself notes, however, that the U.S. invasion and colonization of Puerto Rico in the twentieth century changed the society's structure in a radical way:

The progressive dismantling of the Puerto Rican elite's culture under the impact of the transformations that the North American colonial regime brought upon the national society has had as a consequence not the "North Americanization" of that society but, rather, an internal alteration of the cultural values. The vacuum created by the dismantling of the culture of Puerto Ricans "from the top" has been filled certainly not by the intrusion of the North American culture but rather by the ever more palpable ascent of the culture of Puerto Ricans "from the bottom."21

Modern Puerto Rican society, González explains, is dominated by a popular culture in which the African roots are "more important" than the European or Taíno roots and that has "an essentially Afro-Antillean character."22 González's view was anticipated by the poet Luis Palés Matos in an interview:

The black essence lives with us physically and spiritually. Its characteristics—which have been filtered into the mulatto essence—influence in an evident way all the manifestations of our popular life . . . . I therefore know no collective feature of our people that does not show the trace of that delicious mixture from which the Antillean character derives its true tone.23

The African heritage is even more pervasive in the Puerto Rican community in the United States. For the Diaspora consists primarily of the impoverished sector of the Puerto Rican society, which includes even more individuals of mostly African extraction than other sectors.

Physiognomically, there are infinite gradations of color, but culturally, there is a single Afro-Antillean ethos. Thus, if there ever were a well-defined Black/White polarity among Puerto Ricans, there is none today. Even the U.S. Census Bureau realized that the realities and the perceptions of race in Puerto Rico differ from those in the United States. Lawrence Wright reports that: "By 1960 the United States census, which counts the population of Puerto Rico, gave up asking the race question on the island because race did not carry the same distinction there that it did on the mainland."24

More generally, the Latino/a community is not divided along racial lines, in part due to the extent of "mestizaje" or racial interfusion in Latin America. In the words of Eugenio Fernández Méndez:

In contrast to what was usual among the Dutch and the English, the Spaniards did not have excessive racial scruples. This is why in their Spanish colonies, the process of mestizaje unfolded with considerable intensity. Only the peninsular aristocracy kept its

21. Id. at 30; see also id. at 34, 36.
22. Id. at 19; see also id. at 22.
distance from this process, thus forming a privileged state against Creoles, mestizos, and mulattos.25

This historical background, naturally, had a decisive impact on the racial constitution and the racial attitude of the Latino/a community. Unlike the broader U.S. society, the Latino/a community is not segregated into two “racial” groups, with different cultures, identities, and even dialects. Within this community there is racial consciousness and even racism, but of a different kind. Lawrence Wright correctly observes that:

[t]he fluid Latin-American concept of race differs from the rigid United States idea of biologically determined and highly distinct human divisions. In most Latin cultures, skin color is an individual variable—not a group marker—so that within the same family one sibling might be considered white and another black.26

There simply are no discrete, isolated groups, such as White Latino/ as or Black Latino/ as. Rather, there are numerous different and overlapping shades, reflecting the individuals’ heritage and to some extent correlating with their socio-economic class.

The subcategorization might, of course, find support among a minuscule minority of “mostly European” individuals among Latino/ as, worried that their categorization as Hispanic might be taken to imply a renunciation of their claim to be White. The Latino/a encounter with U.S. racial dualism, leads to the development “a greater conscience of color among those who have lighter skin.”27 In U.S. society, possessing valid title to Whiteness requires being free from any encumbrances of Blackness. In other words, the most effective way to assert that one is white is by categorically denying any connection or kinship to blacks: As long as one has “one drop of black blood,” one is taken to be black.28 These Latino/ as are probably motivated by the desire to distance themselves unequivocally from Black Latino/ as. In their zeal to adopt racial dualism these Latino/ as forget about the mestizaje that is dominant in their community. They begin to think only in terms of Black or White and neglect the fact that the majority of Latino/ as are Mexicans, whose European blood is strongly diluted not by African but by Aztec blood.29 Thus, their disassociation has caused them to miscategorize individuals in the tradition of racial dualism.

25. EUGENIO FERNÁNDEZ MÉNDEZ, HISTORIA CULTURAL DE PUERTO RICO 135 (1980).
26. Wright, supra note 24, at 52.
27. LUIS NIEVES FALCÓN, DIAGNÓSTICO DE PUERTO RICO 276 (1972). Nieves Falcón is referring to the Puerto Rican experience, but the same phenomenon appears in other Latino/ a groups.
28. G. Reginald Daniel explains that the “one-drop” rule “was historically implemented to create as many slaves as possible.” Wright, supra note 24, at 48.
29. The self-professed “Euro-Latinos” have undoubtedly brought over some racism from their lands of origin. But this original racism is reinforced and transformed in the United States. It thus comes closer and closer to U.S. dualistic racism, discussed below. By manifesting racist inclinations, these individuals acquire a sense of belonging in U.S. society. In this way, they resemble many European immigrants. See West, supra note 16.
C. The Poverty of the Concept of Race

Now, what if the racial dualism bias of the subcategorization were remedied? In other words, what if the re-categorization involved specifying that the category Hispanic includes all races and perhaps clarifying that the categories "White," "Black," "Asian American," "Native American," and "Other" do not include "Hispanics"? My proverbial bureaucrat could now refine the defense of the reclassification along the following lines: "This is generally a racial classification. For policy reasons Hispanics must be treated separately, even though they do not constitute a distinct race. What we are doing is pulling Hispanics from their corresponding racial categories and artificially creating a separate category for them. The questionnaire simply reflects this reality."

The Office of Management and Budget, in its Statistical Directive 15—which regulates racial and ethnic categorization on federal forms and statistics—endorses this approach. Latino/as, like all other U.S. citizens, are taken to fall within one of the four racial groups: American Indian or Alaskan Native; Asian or Pacific Islander; Black; and White. As a separate matter, Directive 15 then divides ethnicity into "Hispanic Origin" and "Not of Hispanic Origin."

This whole approach is problematically premised on the existence of an independently meaningful concept of race that applies to all people, including Latino/as. The creation of a separate category for Latino/as is taken to be independent of their status as members of a particular race. They supposedly continue to be Black, or White, or whatever their racial classification may be.

Of course, there is no such concept of race. Race is, at best, a very vague category that generally classifies people in terms of the way they look. It is, by no means, a precise concept that already classifies Latino/as and that therefore must be deferred to by a questionnaire.

30. ["the race/that life with the Pythagorean numbers creates."] Rubén Darío, (quoted in OCTAVIO PAZ, CUADRIVIO 11 (1995)).

31. It does not make much sense to refer to Latinos of African ancestry as African Americans. The term African American suggests a more direct connection to Africa. It implies that the individual's ancestry can be traced from the United States to Africa. In the case of Latinos, the ancestry is usually traced from the United States to Latin America (e.g., Puerto Rico) to Africa. Latinos are thus African-Americans in the sense that all U.S. Americans are African Americans, i.e., in the sense that their origins (like the origins of all human beings) can ultimately be traced back to Africa. The application of the term Asian American to Latinos is similarly problematic. In contrast, I would have no objection to applying the denomination "Native American" to Latinos who descend from the indigenous peoples of Latin America. The "American" part of "Native American", however, would have to be taken in the non-imperialist sense. It would, in other words, have to be interpreted as referring broadly to the peoples of the Americas (North, Central, and South).

32. Lawrence Wright explains that Directive 15 adopted this approach to the classification of Latinos in 1977 from the Federal Interagency Committee on Education, which in 1973 had acted on a request by Caspar Weinberger—then Secretary of Health, Education and Welfare—to develop some standards for classifying race and ethnicity: Wright, supra note 24, at 50–52. Wright tells us that the "Hispanic" classification "was the most problematic of all." Id.
Spanish philosopher Miguel de Unamuno y Jugo reports that the word "race," as used in almost every European language, comes from the Spanish or Castilean word "raza," which means "ray" or "line." "In Castilla," Unamuno points out, "one speaks of a 'raza' of sun and each thread in a cloth is called a 'raza'." The modern term "race" apparently came to refer to a mark shared by people who are related by heritage. Not surprisingly, people with resembling physical traits, presumably due to a common genealogy, came to be seen as belonging to the same race.

"It is easy to see," W.E.B. Du Bois writes, "that scientific definition of race is impossible." A race simply denominates, in a hopelessly unspecified way, a group of people with resembling physical features. It is hardly persuasive to maintain that such a soft concept of race inevitably classifies individual Latino/as in a definite way, which must be respected by a questionnaire. As Du Bois explains, the physical characteristics on which the concept of race rides are "too indefinite and elusive to serve as a basis for any rigid classification or division of human groups."

Beyond superficially perceived physical traits, there are no additional anthropological or biological criteria to give the concept of race a concrete meaning. In a case on racial discrimination, the United States Supreme Court reported the following:

Many modern biologists and anthropologists . . . criticize racial classifications as arbitrary and of little use in understanding the variability of human beings. It is said that genetically homogeneous populations do not exist and traits are not discontinuous between populations; therefore, a population can only be described in terms of relative frequencies of various traits. Clear-cut categories do not exist. The particular traits which have generally been chosen to characterize races have been criticized as having little biological significance. It has been found that differences between

33. M. de Unamuno y Jugo, Hispanidad, La Raza Vasca y el Vascuencia; En Torno a la Lengua Española 264, 266 (1974). See also M. de Unamuno y Jugo, Comunidad de la lengua hispánica, La Raza Vasca y el Vascuencia; En Torno a la Lengua Española 165, 169 (1974). The Barnhart Dictionary of Etymology, in contrast, traces the term "race" to the Italian "razza," meaning "race, breed, lineage" and of "uncertain origin." The Barnhart Dictionary of Etymology 879 (1988) (entry for "race"). See also The Oxford Dictionary of English Etymology 735 (1966) (entry for "race"). But Joan Corominas and José A. Pascual point out that the term appears earlier in Catalan and even earlier in langue d'Oc than in Italian. They argue, generally, that "race" is "probably a semi-learned form of the Latin ratiōn-, -onis, 'calculus or counting', in the already classic sense of 'kind, modality, species.'" They maintain that "race in the biological sense or in the sense of 'species'" is a "foreignism [that] penetrated the Castilean language." They insist that the already-existing Castilean term "raza"—which, as noted in the text, Unamuno emphasizes—simply "contaminated" the foreignism "with a pejorative shade." They explain that a "raza" of sun, in the sense of "the sunlight that enters through a crack," led to the sense of "clarity or sparseness in a weave." Finally, the sense of "sparseness," they claim, gave rise to the sense of a "defect" in a cloth or in other things, including humans beings. Joan Corominas & José A. Pascual, Diccionario Crítico Etimológico Castellano e Hispánico (Vol. IV) 800-02 (1981) (entry for "raza").


35. Id.
individuals of the same race are often greater than the differences between the "average" individuals of different races. These observations and others have led some, but not all, scientists to conclude that racial classifications are for the most part sociopolitical, rather than biological, in nature.36

Masatoshi Nei and Arun K. Roychoudhury are among those scientists not willing to give up the possibility of a biological concept of race.37 Anthony Appiah, however, persuasively disputes their claim "that their work shows there is a biological basis for the classification of human races." "[W]hat it shows," Appiah submits, "is that human populations differ in their distributions of genes. That is a biological fact. The objection to using this fact as a basis of a system of classification is that far too many people don’t fit into just one category that can be so defined."38

To the extent that Latino/as physiognomically resemble each other and differ from other groups, they could be taken to constitute a “race.” The physiognomic differences among Latino/as are probably not much greater than those among the members of other “racial” groups, such as "Whites" or "African Americans." In light of the inexorable vagueness of the concept of race, the idea that there is racial cohesion among Latino/as is just as plausible as the notion that Latino/as can be internally segregated by race. The concept of race is incapable of providing a meaningful basis for making significant distinctions between those who fall within and those who fall without a particular race. It is difficult to take issue with Appiah when he asserts: "The truth is that there are no races: there is nothing in the world that can do all we ask race to do for us."39

D. The Evils of the Concept of Race

are neither hispana india negra española
ni gabacha eres mestiza, mulata, half-breed
caught in the crossfire between camps
while carrying all five races on your back
not knowing which side to turn to, run from40

39. Appiah, supra note 38, at 45.
40. Gloria Anzaldúa, By Your True Faces We Will Know You, in Infinite Divisions: An Anthology of Chicana Literature, supra note 3, at 81.
Many have repudiated the concept of race not only because of its inaccuracy but also because of the sinister purposes it has historically served. Unamuno’s rejection of “racial materialism” provides a case in point. Racial materialism focuses on material or physical characteristics in defining the concept of race. Unamuno denounces “the materialist cast that is usually given to the anthropological concept of race.”

In a 1933 article (published on the Day of the Race, “El día de la raza”—as Columbus Day is referred to in Spanish-speaking countries) he asserts that it is the racists who use this material concept of race and adds: “Today I feel an obligation to insist on this point, in light of the exasperated barbarity, actually savagery, attained by such racism, especially in Germany.” He assails “the barbaric sense” given to the materialist concept of race by “the racists, those supposed Aryans of the gammadion and anti-Christian cross.”

Two years later, in a 1935 radio conference, Unamuno protests that “the race of corporal or material blood invokes a swastika—a false gammadion or hooked cross, an angular and squared wheel—in order to destroy the people, beginning with their reduction to a kind of epileptic de-mentality—a pedantic barbarity... a sociological, almost metaphysical, barbarity that pretends to found a Kulture with a capital K.”

41. M. de Unamuno y Jugo, De nuevo la raza, in LA RAZA VASCA Y EL VASCUENCÉ; EN TORNO A LA LENGUA ESPAÑOLA 162, 164 (1974). Interpreted not as general attitude or prejudice but as a theory of human taxonomy, “racial materialism” probably boils down to what Kwame Anthony Appiah denominates “racialism”: i.e., “the view... that there are heritable characteristics, possessed by members of our species, which allow us to divide them into a small set of races, in such a way that all the members of these races share certain traits and tendencies with each other that they do not share with members of any other race.” Appiah, supra note 38, at 13. Appiah perceives a direct link between racialism and the horrors of racism: “Racialism is... a presupposition of other doctrines that have been called ‘racism,’ and these other doctrines have been, in the last few centuries, the basis of a great deal of human suffering and the source of a great deal of moral error.” Id.

42. Unamuno opposes a spiritual to the material concept of race. See discussion infra at text accompanying notes 94–99.

43. Unamuno, supra note 41, at 162; see also M. de Unamuno y Jugo, La fiesta de la raza, in LA RAZA VASCA Y EL VASCUENCÉ; EN TORNO A LA LENGUA ESPAÑOLA 159 (1974). Unamuno sees a connection between the racial classification of human beings along these lines and the classification of animals: “The word ‘race’, like the word ‘caste’, has in its vulgar and ordinary sense a certain animal, irrational, corporal, gross connotation. For people speak of races or castes of bulls, horses, sheep, dogs, pigs, etc. The word is similarly applied to man, e.g., when people speak of the white, black, or yellow race.” Id.

44. M. de Unamuno y Jugo, supra note 41, at 162. It was Unamuno’s honesty rather than his prescience that enabled him to perceive the evils of both Nazism and the materialist concept of race shortly after Hitler took power, long before the war exploded. Appiah has noted that “with the reality of Nazi racism open to plain view—a reality that still exhausts the resources of our language—it was easy in the immediate postwar era for anyone to see the potentialities for evil of race as an organizing principle of political solidarity.” Appiah, supra note 38, at 6.

45. M. de Unamuno y Jugo, supra note 41, at 163.

James Baldwin refers to this concept of race as a "delusion" responsible for the grave injustices inflicted upon African Americans in the United States. Albert Memmi defines racism as:

[the generalized and final assigning of values to real or imaginary differences, to the accuser's benefit and at his victim's expense, in order to justify the former's own privileges or aggression.]

The U.S. Supreme Court has also recognized the direct link between racial categorization and social injustice. It has accordingly held that classifications of citizens solely on the basis of skin color "are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality." If racial categories, in addition to having no intelligible substance, serve mainly as an instrument of oppression, why should they not just be eliminated altogether? Why not go beyond deleting subcategories, such as "Black Hispanic" and "White Hispanic"? Why not eradicate all the general categories too: e.g., "White," "Black," "Hispanic," etc.? In reply to these questions, I would argue that these general categories should not be simply quashed. All of the categories should be transformed. They should be anchored not on the physiognomy, but on the cultural or spiritual life of peoples. By reconceptualizing themselves, excluded people will be better able to recapture their identities and to struggle for social justice.

Humanity as a whole would undoubtedly be much better off without the material concept of race. The urge totally to abolish all racial categories is often inspired by the dream of a society purged of the dreadful reality underlying the material concept of race. Typically, the need to

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47. James Baldwin writes: "For the sake of one's children, in order to minimize the bill they must pay, one must be careful not to take refuge in any delusion—and the value placed on the color of the skin is always and forever a delusion." JAMES BALDWIN, THE FIRE NEXT TIME 118 (1963). Lucy White uses the term "race", similarly, "not to denote physical traits of individuals, but rather to refer to schema of shared meaning that construct and support social hierarchy by reifying and ranking human differences." White, Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G., 38 BUFFALO L. REV. 1, 4 n.8 (1990).


49. Hirabayashi v. United States, 320 U.S. 81, 100 (1943).

50. In the context of the United States, James Baldwin contended that ending "the racial nightmare" was required in order to "achieve our country, and change the history of the world." BALDWIN, supra note 47, at 119.

51. U.S. Supreme Court Justice Harlan notoriously embraced the position that "racial" categories should be officially banned. Justice Harlan argued that "Our constitution is color-blind, and neither knows nor tolerates classes among citizens." Plessy v. Ferguson, 163 U.S. 537, 559 (1896) (Harlan, J., dissenting). See also id. at 554 ("In respect of civil rights, common to all citizens, the constitution of the United States does not, I think, permit any public authority to know the race of those entitled to be protected in the enjoyment of such rights."). But he believed that only governmental entities should be required to shun racial classifications. Moreover, he did not expect "racial" consciousness ever to disappear from U.S. society. "Every true man," he noted, "has pride of race, and under appropriate circumstances, when the rights of others, his equals before the law, are not to be affected, it is his privilege to express such pride and to take such action based upon it as to him seems proper." Id. at 554.

In Harlan's mind, the U.S. Constitution prohibits public but not private "racism".
demarcate some human beings from others on the basis of external appearance is fueled by hatred. This underlying reality is, unfortunately, well in place. The dream of a racially neutral world remains unrealized.

In many societies people perceive each other mainly in terms of the way they look. In the United States, in particular, it is a legitimate question whether there is any hope at all of ever changing this reality. Many prominent writers have broached the topic of the inescapability of racism in their writings. Upon calling for an end to the practice of putting values on skin color, James Baldwin confesses: “I know that what I am asking is impossible.” He nonetheless insists that “in our time, as in every time, the impossible is the least that one can demand—and one is, after all, emboldened by the spectacle of human history in general, and American Negro history in particular, for it testifies to nothing less than the perpetual achievement of the impossible.” This answer encompasses hope in the possibility that an ever elusive goal will be achieved.

Derrick Bell, however, has expressed a more pessimistic view. He has taken the position that racism in the United States “is not a curable aberration, . . . [but] a key component in this country’s stability.” In a tone completely devoid of Baldwin’s hopefulness, Bell also calls for a relentless struggle against racism despite the impossibility of eliminating racism: “Black people will never gain full equality in this country. Even those herculean efforts we hail as successful will produce no more than temporary ‘peaks of progress,’ short-lived victories that slide into irrelevance as racial patterns adapt in ways that maintain white dominance.

Harlan even concedes (and appears to endorse) the inevitability and permanence of white supremacy in the United States: “The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth, and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage, and holds fast to the principles of constitutional liberty.”

52. JAMES BALDWIN, supra note 47, at 118.

Jennifer Hochschild has expressed some concern about the permanence of racism: “Some have argued that racism is not simply an excrescence on a fundamentally healthy liberal democratic body, but is part of what shapes and energizes the body.” JENNIFER L. HOC-SCHILD, THE NEW AMERICAN DILEMMA 5 (1984). Malcolm X also often expressed the same pessimism about race relations in the United States. In fact, Cornel West postulates that “[o]ne impulse behind [Malcolm X’s] internationalization of the black freedom struggle in the United States was a deep pessimism about America’s will to racial justice, no matter how democratic America was or is.” WEST, supra note 16, at 103. This pessimism can even be found in the writing of Alexis de Tocqueville: “I do not imagine that the white and black races will ever live in any country upon an equal footing. But I believe the difficulty to be still greater in the United States than elsewhere. An isolated individual may surmount the prejudices of religion, of his country, or of his race, and if this individual is a king he may effect surprising changes in society; but a whole people cannot rise, as it were, above itself. A despot who should subject the Americans and their former slaves to the same yoke, might perhaps succeed in commingling their races; but as long as the American democracy remains at the head of affairs, no one will undertake so difficult a task.” ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA (1835).

53. DERRICK BELL, FACES AT THE BOTTOM OF THE WELL x (1992). See also id. at xii (“racism is an integral, permanent, and indestructible component of this society.”); id. at 13 (“The goal of racial equality is, while comforting to many whites, more illusory than real for blacks.”).
This is a hard-to-accept fact that all history verifies. We must acknowledge it, not as a sign of submission, but as an act of ultimate defiance.\textsuperscript{54}

Even if all racial classifications were officially banned, this might eliminate overt racism but certainly not the more subtle forms of racism. Overt or crude racism, which is characterized by openly treating African Americans as inherently inferior, has been termed “old-fashioned” racism.\textsuperscript{55} The transition to the more subtle and covert forms of racism that prevail in modern society takes place as old fashioned racism becomes less acceptable. Samuel L. Gaertner and John F. Dovidio suggest “the possibility that reduction in overt forms of bigotry may not necessarily signal the beginning of a more egalitarian era. Instead overt bigotry may be in the process of becoming a more subtle, insidious form.”\textsuperscript{56} Therefore, when its ultimate motivating force is taken into account, modern racism has very much in common with old-fashioned racism. The rise of this modern racism does not mean that the old fashioned racism has completely disappeared. In fact, there has recently been a resurgence of old fashioned racism. Modern racism seems to have made old fashioned racism fashionable again.

It is tempting to introduce, at this point, the argument that despite the inevitability of racial materialism in the short run, and perhaps even in the long run, the government should do everything possible to combat this awareness. Unfortunately, by simply distancing itself from racial consciousness, the state would be abdicating its duty to combat racial oppres-

\textsuperscript{54} Id. at 12 (emphasis omitted).

\textsuperscript{55} McConahay & Hough, Symbolic Racism, 32 J. Soc. Issues 23 (1976). In contrast, McConahay and Hough define modern racism as “the expression in terms of abstract ideological symbols and symbolic behaviors of the feeling that blacks are violating cherished values and making illegitimate demands for changes in the racial status quo.” Id. at 38. Modern racism, Valerie A. Batts writes, “is based on the assumption, the underlying belief, that blacks are inferior to whites. The negative effect that accompanies this belief does not change just because of changes in law and practice. Rather the effect has to be submerged, given the changes in what is viewed as legal and acceptable.” Valerie A. Batts, Modern Racism: New Melody for the Same Old Tunes 3 (1984) (unpublished manuscript).

Derrick Bell proposes that modern racism is more pernicious, inasmuch as it is indirect and, therefore, difficult to combat:

contemporary color barriers are certainly less visible as a result of our successful effort to strip the law’s endorsement from the hated Jim Crow signs . . . . Indeed, the very absence of visible signs of discrimination creates an atmosphere of racial neutrality and encourages whites to believe that racism is a thing of the past. On the other hand, the general use of so-called neutral standards to continue exclusionary practices reduces the effectiveness of traditional civil rights laws, while rendering discriminatory actions more oppressive than ever.


Batts proposes that this racist revival might be “the backlash from a decade or so of denial in our country that racial problems do continue to exist.” Batts, supra, at 3.

\textsuperscript{56} Samuel L. Gaertner & John F. Dovidio, Racism among the Well-Intentioned, in Pluralism, Racism, and Public Policy: The Search for Equality 208, 220 (Edwin G. Clausen & Jack Bermingham eds., 1981). They also raise “the possibility that liberal, well-intentioned whites, believing themselves to be unprejudiced, may under specifiable circumstance behave no differently toward minorities than those who acknowledge their racial antagonism.” Id.
sion. It would also be upholding a system in which there is no vindication for the victims of past and present racism.

Some have, accordingly, argued in favor of upholding the existing material concept of race in order to redress past discrimination as well as the ineluctable continuation of racism into the future. This strategy would make sense only if the harm of racism were separable from the racial categorization. Suppose, for example, that the majority categorized people racially just to take away some of their income. In this kind of situation, the harm would be separable from the categorization. Under these circumstances, it might be reasonable to use the same racial categories simply to identify and then to indemnify those whose income had been unjustly diminished.

The injury caused by racism cannot be segregated from the racial classification in place as suggested by the above example. In fact, racism is unjust because it only allows a person to be identified by empty racial categories. Hence, racism not only deprives people of their income; it robs people of their soul.

III. TRANSCENDING THE CONCEPT OF RACE

The Latinoist movement (Chicanos, Puerto Ricans, Cubans and other Spanish-speaking people working together to combat racial discrimination in the marketplace) is good, but it is not enough. Other than a common culture we will have nothing to hold us together. We need to meet on a broader communal ground.

The struggle for racial justice must go beyond calling for the conservation of existing racial categories. Complete rectification demands a recognition that the identity of racially oppressed groups transcends their physical appearance. It must be acknowledged that a more profound bond between them has been preserved or perhaps created throughout their history of being racially subjugated and categorized. New categories based on such a bond could be used to make amends for past, present, and future racial discrimination.

In his early writings, W.E.B. Du Bois calls for transcending the material concept of race. He proposes shifting the focus from the “grosser physical differences of color, hair and bone” to the sociological and historical differences between human beings. He explains that:

[w]hile race differences have followed along mainly physical race lines, . . . no mere physical distinctions would really define or explain the deeper differences—the cohesiveness and continuity of these groups. The deeper differences are spiritual, psychical, differences—undoubtedly based on the physical, but infinitely transcending them.

He puts forth a new concept of race, which he defines as:

57. Gloria Anzaldúa, By Your True Faces We Will Know You, in INFINITE DIVISIONS: AN ANTHOLOGY OF CHICANA LITERATURE, supra note 3, at 81.
59. Id. at 77.
A vast family of human beings, generally of common blood and
language, always of common history, traditions and impulses, who
are both voluntarily and involuntarily striving together for the
accomplishment of certain more or less vividly conceived ideals of
life.\(^6\)

Du Bois believes that though the individuals who compose a race, in
his sense, are usually genetically and linguistically related, they must
share a history and a culture. Unlike the early Du Bois, I would stay clear
of race as a general concept of human taxonomy. I would limit myself to
asserting that certain groups can be conceived of as a unit because their
members share a sociological and historical experience. However, it does
not necessarily follow that all persons can be categorized into a determi-
nate number of groups based on sociological and historical criteria.

In his later work, Du Bois actually rejects the concept of race in favor
of that of civilizations. "So far at least as intellectual and moral aptitudes
are concerned," he notes, "we ought to speak of civilizations where we
now speak of races."\(^6\) He ultimately rejects the concept of race as hope-
lessly unscientific and incapable of meaningfully classifying human be-
ings. In addition, the later Du Bois appears to be less interested in devel-
oping a general system of human taxonomy than explaining what it is
that binds a particular group, i.e., "the children of Africa".\(^6\)

Anthony Appiah argues that Du Bois, disclaimers notwithstanding,
remains wedded to the material conception of race: "In his later writings,
Du Bois . . . was unable to escape the notion of race he explicitly re-
jected."\(^6\) Appiah insists that the experience of oppression of Africans is
radically different from that of African Americans. These two experiences
do not have much more in common with each other than they do with the
experiences of oppression of other peoples. The only thing that con-
nects the two is the shared physiognomy of the peoples involved. Inas-
much as Du Bois wants to conflate the two experiences and see the two
peoples indistinguishably as "the children of Africa," Appiah concludes
that he must be influenced by the physiognomic concept of race.\(^6\)

Appiah's criticism is well taken. It must nonetheless be tempered, as
Appiah himself acknowledges, by the realization that the material concept
of race was enormously powerful and pervasive in Du Bois's time. It was
extremely difficult to rid oneself of that concept's influence, even for
someone set out to eradicate it. To his credit, Du Bois not only realized its
emptiness, but also the need for its elimination. He realized that the
African-American identity should be organized on a common history and
culture, rather than a shared skin color.

Just as some have argued that preserving the existing racial categories
perpetuates race-consciousness,\(^6\) others might protest that any categori-

\(^{60}\) Id. at 75-76.
\(^{61}\) Du Bois, supra note 34 at 14.
\(^{62}\) W.E.B. Du Bois, DUSK OF DAWN: AN ESSAY TOWARD AN AUTOBIOGRAPHY OF A RACE
CONCEPT 137 (1940).
\(^{63}\) Appiah, supra note 38, at 46.
\(^{64}\) See Appiah, supra note 38, at 39-46.
\(^{65}\) In concurring in part in the case United Jewish Organizations of Williamsburgh, Inc. v.
Carey, 430 U.S. 144, 173 (1976), U.S. Supreme Court Justice Brennan acknowledged
zation of human beings, even along cultural lines, tends to increase divisiveness. The response to this contention has been, first, that this may simply be the inescapable price of pursuing racial justice. Attacking racial exploitation and making amends for a long history of racial oppression requires taking the existing categories and turning them against their original purpose. The conceptual structure that singled out people in order to undermine them must now be used to empower them. If this escalates the level of conflict in the United States, so be it.

A more complete rejoinder, however, would start by pointing out that U.S. society is already ethnically divided in a profound way. This situation can only improve if people realize that what sets them apart is their cultural background and not an essence that is supposed to be mysteriously derived from their physiognomy. Difference ceases to be as threatening when it is understood on the basis of culture and history and not on the basis of empty concepts, such as material race.

The question remains whether the cultural or sociological groups should still be known as “races” or whether a new concept is called for, as Du Bois thought. Inasmuch as the term “race” is so deeply associated with its “materialist” acceptance, its complete eradication undoubtedly sounds appealing. A better concept might be that of “ethnicities” or “ethnic groups.” Despite its long “materialist” past in which it was taken to be synonymous with “race,” the concept of ethnicity as used today does appear to focus on cultural rather than on physiognomic difference. The modern usage is reflected in the following statement: “Ethnicity refers to an organization of people with their cultural, racial, and linguistic characteristics, whereas race refers to inherited physical qualities.”

The semantic choice between “race” and “ethnicity” to refer to a particular group was once thought to have substantial consequences. Latino/as remonstrated against the Office of Management and Budget because in its Statistical Directive 15, it classified them as an ethnic group instead of a racial group. They feared that such a classification would imply that they could not participate in federal programs equally with other groups that were considered racial. As it turns out, for all practical purposes, the federal government, despite considering Latino/as an ethnic group, treats them on the same basis as other groups.

At one time, there was also a concern that federal courts would exclude “ethnic” groups from protection under civil rights laws aimed at racial discrimination, such as 42 U.S.C. § 1981. In 1987 the United States...
Supreme Court dispelled this preoccupation. In *Saint Francis College v. Al-Khazraji*, it declared:

Based on the history of § 1981, we have little trouble in concluding that Congress intended to protect from discrimination identifiable classes of persons who are subjected to intentional discrimination solely because of their ancestry or ethnic characteristics. Such discrimination is racial discrimination that Congress intended § 1981 to forbid, whether or not it would be classified as racial in terms of modern scientific theory... It is clear from our holding... that a distinctive physiognomy is not essential to qualify for § 1981 protection.  

The Court thus extended a principle that it had consistently applied in other contexts: There is no distinction between the legal prohibition against "racial" and that against "ethnic" discrimination. The Civil Rights Act of 1866, as well as the Constitution and other anti-discrimination laws, makes no distinction between "racial" and "ethnic" discrimination. There has additionally been some concern that it would be more difficult for Latino/as, as an ethnic community, than for "racial groups" to bring class actions under Rule 23 of the Federal Rules of Civil Procedure in order to challenge discrimination. Rule 23(a) requires those who want to bring a class action to show that:

1. the class is so numerous that joinder of all members is impracticable,
2. there are questions of law or fact common to the class,
3. the claims or defenses of the representative parties are typical of the claims or defenses of the class, and
4. the representative parties will fairly and adequately protect the interests of the class.

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All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

The Supreme Court has explained that: "Although § 1981 does not itself use the word 'race,' the Court has construed the section to forbid all 'racial' discrimination in the making of private as well as public contracts." *Saint Francis College v. Al-Khazraji*, 481 U.S. 604 (1987) (citing *Runyon v. McCrary*, 427 U.S. 160, 168, 174-75 (1976)).


69. In *Hernández v. Texas*, the Supreme Court established that the Fourteenth Amendment prohibited discrimination against Latino/as as well as discrimination against African Americans. The court proclaimed: "The Fourteenth Amendment is not directed solely against discrimination due to a 'two-class theory'—that is, based upon differences between 'white' and Negro." 347 U.S. 475, 478 (1954).


71. FRCP 23(a). Federal Rule of Civil Procedure 23(c)(1) reads: "As soon as practicable after the commencement of an action brought as a class action, the court shall determine by order whether it is to be so maintained." The district court must decide not only whether the requirements of 23(a) have been satisfied, but also those of 23(b).
The issue is whether it should be more difficult for Latino/as as a class than for "racial groups" to comply with these standards, particularly those of commonality (2), typicality (3), and adequate representativeness. The preoccupation became prominent in 1970 after the Supreme Court turned down an appeal from the New Mexico federal district court in *Tijerina v. Henry.* The district court dismissed a class action complaint by a group of Chicanos because their "definition of the class was 'too vague to be meaningful.'" (Douglas, J., dissenting).

The Supreme Court has shown in subsequent cases, however, that it does not believe that "racial" and "ethnic" class actions should be treated differently. In *Falcón,* the Court quoted a prior case to establish "that suits alleging racial or ethnic discrimination are often by their very nature class suits, involving classwide wrongs." The United States Supreme Court has, accordingly, approached the question of whether Latino/as qualify as a class on a case by case basis.

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72. The Supreme Court has explained how these last three requirements are interrelated: "The commonality and typicality requirements of Rule 23(a) tend to merge. Both serve as guideposts for determining whether under the particular circumstances maintenance of a class action is economical and whether the named plaintiff's claim and the class claims are so interrelated that the interests of the class members will be fairly and adequately protected in their absence. Those requirements therefore also tend to merge with the adequacy-of-representation requirement, although the latter requirement also raises concerns about the competency of class counsel and conflicts of interest." General Tel. Co. of the S.W. v. Falcón, 457 U.S. 147, 158 n.13 (1982).


74. See id. Justice Douglas protested that Hernandez v. Texas, 347 U.S. 475, 478 (1954) had "held that 'persons of Mexican descent' constituted a distinct class to which the equal protection guarantee was applicable." Tijerna v. Henry 398 U.S. 922 (1970) (Douglas, J., dissenting). The plaintiffs had "brought this suit as a class action, claiming to represent a class 'designated as Indo-Hispano, also called Mexican, Mexican-American and Spanish-American, [which is] generally characterized by Spanish surnames, mixed Indian and Spanish ancestry and . . . Spanish as a primary or maternal language.'" Id. at 922.

75. 457 U.S. 147, 157 (1982) (quoting East Texas Motor Freight System, Inc. v. Rodriguez, 431 U.S. 395, 405 (1977)). In the same case, however, it emphasized that "actual, not presumed, conformance with Rule 23(a) remains . . . indispensable." 457 U.S. 147, 159 (1982). See also id. at 156 ("'careful attention to the requirements of Fed. Rule Civ. Proc. 23 remains nonetheless indispensable' . . . ") (quoting East Texas Motor Freight System, Inc. v. Rodriguez, 431 U.S. 395, 405-06 (1977)). It left no doubt that to sue as a class, a group—irrespective of whether it is deemed "racial" or "ethnic"—must go beyond general allegations of typicality, commonality, adequate representativeness: "we reiterate today that a Title VII class action, like any other class action, may only be certified if the trial court is satisfied, after a rigorous analysis, that the prerequisites of Rule 23(a) have been satisfied." Id. at 161.

76. In *Falcón* the Court wrote: "As we noted in *Coopers & Lybrand v. Livesay,* 437 U.S. 463, 'the class determination generally involves considerations that are "enmeshed in the factual and legal issues comprising the plaintiff's cause of action."' Id., at 160 (quoting Mercantile Nat. Bank v. Langdeau, 371 U.S. 555, 558). Sometimes the issues are plain enough from the pleadings to determine whether the interests of the absent parties are fairly encompassed within the named plaintiff's claim, and sometimes it may be necessary for the court to probe behind the pleadings before coming to rest on the certification question. Even after a certification order is entered, the judge remains free to modify it in the light of subsequent developments in the litigation. For such an order, particularly during the period before any notice is sent to members of the class, "is inherently tentative." Coopers & Lybrand, 437 U.S., at 469, n.11. This flexibility enhances the usefulness of the class-action device; actual, not presumed,
In sum, the choice between “race” and “ethnicity” does not seem to be in itself terribly important. I have a slight preference for the term “race.” I feel somewhat attracted to Unamuno’s call—which will be examined later on—for the transformation of the material into a “spiritual” concept of race. My preference, however, is not out of deference to the adamant reluctance of ordinary and official usage to give up the term “race.” I did not take into account at all a similar reluctance with respect to renouncing the term “Hispanic.”

I believe it may be wise to use the word “race” for other reasons. With respect to Latino/as as well as other communities in the United States, the ordinary as well as official reflex appears to be, increasingly, to invoke the concept of ethnicity. The only exception, it seems to me, is the African American community. I think that the explanation for this is the obsession with the Black/White dichotomy. Latino/as and other groups should stand up against that obsession. They should resist the notion that what distances African Americans is qualitatively different than what separates them from the white majority. If the majority insists on declaring African Americans a distinct “racial” group, then all other “ethnic” groups should insist on being equally described. Such a stance would perhaps contribute to the de-mystification of the concept of race.

Moreover, the word “race”—or rather the Spanish equivalent “raza”—has special significance for Latino/as in the United States, particularly for Chicanos. “Raza” evokes a primeval and mythical union with the indigenous people that populated the North American expanse of Aztlán. The natives of Aztlán spread south and eventually formed the Nahuahtl tribes living in Mexico as the European conquest began, including the Aztecs.\(^7\) The concept of race also has political connotations. “Raza” is the name taken by the organizations that initiated and have continued the struggle for political, social, and economic empowerment of the Chicano community. These groups—including the party “La Raza Unida” founded by José Ángel Gutiérrez—also encouraged Chicanos to take pride in their history and culture.

Someone might nonetheless insist on employing the concept of ethnicity in this context in order to be able to express the difference between the spiritual and the material concepts of race. The protester might, accordingly, propose the labels “ethnicity” for the former and “race” for the latter. My reply would be, first, that the material concept of race is empty and its preservation is not worth too extreme an effort. Second, it could

be simply denominated, following Unamuno, "the material concept of race" whenever it is to be discussed or distinguished from the spiritual concept of race. When "race" is used by itself, unqualified, it could then be taken to mean the spiritual concept of race.

Anthony Appiah would probably not be persuaded. He takes Thomas Sowell to task for giving the term "race" a meaning other than its material one. Appiah believes that almost no one employs "race" in a non-material sense anymore: "The word is used almost exclusively to refer to the purported major biological divisions of humanity." He provides "two of the principal arguments... against using the term 'race' to mean ethnicity":

First, the human differences that matter for social life aren't biological, and that is exactly what calling them "races" has usually implied since the development of race science in the nineteenth century. Second, the groups that are of sociological interest, the groups that have cultures, not only are not biologically homogeneous, they are not even of the right scale to be the races that the race scientists were after.\(^\text{78}\)

Yet these are arguments against the material concept of race, not against the term "race" itself. Appiah's single argument "against using the term 'race' to mean ethnicity" is simply that the word "race" was last used in any such sense "when [his] mother was a girl." Because today race is almost universally taken in its materialist sense, Appiah seems to believe that invoking the term "race," even while purporting to advance an ethnic interpretation, is tantamount to endorsing the material concept of race.

Appiah is undoubtedly right in his description of contemporary English usage. But if such usage is so misguided, why defer to it? Why take such care to allow people to continue thinking in terms of the material concept of race—which Appiah himself regards as irremediably bankrupt? Why not take up arms against the usage, along with the underlying material concept of race? Why not propose a different, more constructive use for the term "race"? People might, in response, start thinking differently and realize the emptiness of their prior conceptions. A spiritual concept of race could, moreover, focus on what Appiah might call the "sociologically correct" human differences, and identify "groups that have cultures" and are therefore "of the right scale."

A. African Americans Struggle Against Otherness

Yo sé de un pesar profundo
Entre las penas sin nombres:
¡La esclavitud de los hombres
es la gran pena del mundo!\(^\text{79}\)


\text{79.} ["I know a profound burden/among the unspeakable sorrows:/Human slavery/is the great sorrow of the world!]. José Martí, \textit{XXXIV}, Versos Sencillos, \textit{Poéticas Completas} 106, 107 (1953).
The traditional racial classification in the United States, of course, involves African Americans. Since slavery, the white majority has perceived the African American people as "the other." The "otherness" of the African American people was already well in place at the foundation of the United States nation. The Constitution quite literally refers to African Americans as "other Persons." And this perception of the African American people as an "other" is very much part of U.S. society's present reality. Derrick Bell makes this point: "The fact is that, despite what we designate as progress wrought through struggle over many generations, we remain what we were in the beginning: a dark and foreign presence, always the designated 'other.'"

The rhetoric of the "other" and of "otherness" derives, I believe, from the philosophy of G.W.F. Hegel. In his *Science of Logic*, Hegel examines the concept of the "other" in order to show that it inevitably emerges in the process of thinking, how it proves to be intrinsically problematic, and how this internal tension is resolved. The other is first posited in order to supply determinacy and constitution to a "something" that has no being.

A something relates *out of itself* to the other because differentiation [Anderssein] is posited in it as its own moment. Its intrinsic being [Insichsein] encompasses negation. Through this negation, the something now generally has its affirmative determinate being [Dasein]. The other is also distinguished qualitatively from this determinate being. The other is excluded from the something. The only quality of the something is the negation of its other, for it becomes something through this supersession of its other.

A something cannot be conceived of without the contrast that the other provides. The process of thinking of something necessarily involves the process thinking and excluding an other. Without the other, the something dissolves into nothing. That is, if it cannot be established what it is that a something is not, absolutely nothing can be said about that something. The something therefore must demarcate itself from its other. It acquires a content by negating, by limiting, and by constraining its other.

Beyond this initial phase, the concept of the other proves problematic. The other is perceived as being opposed to something, threatening its existence. Something cannot be conceived of in a concrete way as expected, if the other appears in the abstract, unspecified, unlimited. What is thought of as the other seems to encompass even what was originally thought of as something. In the final phase of this dialectic, this conflict is resolved. The other is cognized concretely and is known as an intrinsic part of something. The other, thus, gives not death but actually life to that something.

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80. U.S. Const., art. I, § 2, cl. 3, amended by U.S. Const. amend XIV. I am indebted to John Brittain for reminding me of this fact.
In accordance with the first phase of this dialectic, the white majority has no identity except to the extent that it constructs and demarcates itself from its other. Ralph Ellison thus maintains that the white majority has felt pressed to demarcate itself from the African American people in order to compensate for its uncertain sense of identity.

Since the beginning of the nation, White Americans have suffered from a deep inner uncertainty as to who they really are. One of the ways that has been used to simplify the answer has been to seize upon the presence of Black Americans and use them as a marker, a symbol of limits, a metaphor for the "outsider." 83

Further, as "something," the white majority has positive qualities only to the extent that it projects the negative onto its "other." Kimberlé Crenshaw, for instance, argues that the White majority relies on its disempowered other in order to delude itself into believing that it has real power: "By focusing on a distinct, subordinate 'other,' whites include themselves in the dominant circle—an arena in which most hold no real power, but only their privileged racial identity." 84

The White majority has, more generally, reinforced its sense of ownership, of freedom, of intelligence, and even of divinity by perceiving its other as a piece of property, as a slave, as an ignoramus, and as a demon. This transformation of the African American people into an "other" is nothing but the "gradual dehumanization" that Albert Memmi identifies as typical of racism. He describes the process thus:

The racist ascribes to his victim a series of surprising traits, calling him incomprehensible, impenetrable, mysterious, strange, disturbing, etc. Slowly he makes of his victim a sort of animal, a thing or simply a symbol. 85

As its other becomes completely alien and unrecognizable, the white majority comes to see its other as a problem and a threat. 86 It starts calling

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83. RALPH ELLISON, WHAT AMERICANS WOULD BE LIKE WITHOUT BLACKS (1970).
84. Kimberlé Crenshaw, Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law, 101 HARV. L. REV. 1331, 1380-81 (1988). Derrick Bell insists that racial oppression plays a critically important role in U.S. society and therefore proves impossible to suppress: Almost always, the injustices that dramatically diminish the rights of blacks are linked to the serious economic disadvantage suffered by many whites who lack money and power. Whites, rather than acknowledge the similarity of their disadvantage, particularly when compared with that of better-off whites, are easily detoured into protecting their sense of entitlement vis-à-vis blacks for all things of value. Evidently, this racial preference expectation is hypnotic.

BELL, supra note 53, at 7. And further: "Whites are rallied on the basis of racial pride and patriotism to accept their often lowly lot in life, and encouraged to vent their frustration by opposing any serious advancement by blacks. Crucial to this situation is the unstated understanding by the mass of whites that they will accept large disparities in economic opportunity in respect to other whites as long as they have a priority over blacks and other people of color for access to the few opportunities available."

Id. at 9.
85. MEMMI, supra note 48, at 195.
86. In The Souls of Black Folk, W.E.B. Du Bois describes how the white majority perceives the African American people as "a problem": "They approach me in a half-hesitant
for the annihilation of its other. It loses sight of the fact that its own existence depends on the other.

The material concept of race has played a key role in the demarcation of the other. It has thus facilitated the alienation of and the onslaught on the African American people. It has served to corral African Americans and subject them to crude and as well as to subtle forms of racism.

The concept seizes on what most evidently sets the other apart: physiognomy. The underlying premise is that physiognomy will engender meaningful distinctions. Physiognomy is supposed to be the criterion of otherness. In other words, if someone meets the physiognomic requirements, she is taken to have all the attributes of otherness.

As already noted, simply eliminating this spurious concept will not solve much. The reality corresponding to the concept would undoubtedly survive the concept’s eradication. African Americans have suffered (and continue to suffer) untold abuses that must be redressed. But, more importantly, the diverse individuals of African descent in the United States have become one people. Their shared experience of oppression has created a bond of solidarity among them. They have developed a common identity that goes beyond the material concept of race.

Many African Americans have suggested transcending the traditional concept of race in order to articulate that identity. Cornel West, for instance, challenges U.S. society “to replace race reasoning with moral reasoning, to understand the racial phenotype but rather as a matter of ethical principles.”

He has called for the rediscovery of a vibrant culture of resistance and solidarity.

The genius of our Black foremothers and forefathers was to create powerful buffers to ward off the nihilistic threat—to equip Black folk with cultural armor to beat back the demons of hopelessness, meaninglessness, and lovelessness. These buffers consisted of cultural structures of meaning and feeling that created and sustained communities; this armor constituted ways of life and struggle that embodied values of service and sacrifice, love and care, discipline and excellence.

African Americans can vest their collective existence with significance by understanding their shared history along these lines. The material concept of race has nothing to contribute to their quest for self-under-
standing. They must go beyond that concept in order to transcend their otherness.

B. A New Latino/a Self-Understanding

Yet there is a pilgrimage,
a history straining its arms and legs,
an inexorable striving,
shouting in Spanish
at the police of city jails
and border checkpoints,
mexicano, dominicano,
cubano, puertorriqueño,
fishermen wading into the North American gloom
to pull a fierce gasping life
from the polluted current. 89

Latino/as constitute another people that has been categorized out of the U.S. mainstream. They too have entered the dialectic of otherness. It is very revealing that they are often classified along with African, Asian, and Native Americans as “non-White.” Thus, the focus of the category “Hispanic” has often been physiognomy. This category has managed to survive despite its anthropological emptiness and despite the wealth of ethnological difference among individuals that fall under it. The same is true about the corresponding category for African Americans.

The “Hispanic” category has played a role parallel to that of the category that subsumes the African American people. It too has served the white majority to identify a people and to make that people into an underclass. Consequently, in order to battle the insidious discrimination and to alleviate the effects of its long history, a similar approach must be taken in both cases. The categories should be not just eliminated but rather transformed. Their aim has to be transformed from destruction to empowerment.

The African American people, for its part, has not limited itself to transforming its category in order to address the problem of invidious discrimination. They have tried to find in their new self-understanding a source of pride and strength. The African American community has attempted to create for itself a forceful identity on the basis of its African heritage. Latino/a people can find inspiration in this African American struggle. Latino/as too would have much to gain if they could discover in their common legacy a source of unity.

What should be the basis of the new Latino/a self-understanding? What is the bond that unites them and gives meaning to their common existence? First, Latino/as share a unique experience of oppression and survival in the United States. Mexicans and Puerto Ricans, who constitute the largest and oldest Latino/a communities within the official borders of the United States, were attacked, invaded, colonized, annexed, and exploited by the United States.

Unlike European immigrants, Mexicans and Puerto Ricans did not just come to the United States. Rather the United States came to them in a very real sense. Mexicans became part of the U.S. reality as a result of the U.S. expansion into the Mexican territory in the southwest region of North America. In the words of Albert Camarillo:

The history of the Chicano people as an ethnic minority in the United States was forged primarily from a set of nineteenth-century experiences. This country’s war of annexation against Mexico (and the Texas Revolution a decade earlier) led to American acquisition of a vast territory and its Spanish-speaking population. Chicano history is, thus, part of that larger history of westward expansion by the United States and its subsequent domination of societies with different racial, cultural, socioeconomic, and political characteristics.90

Chicanos “reached” the Anglo world in the nineteenth century as their land ceased to belong to Mexico and was taken over by the United States. The Anglos then accelerated their migration into former Mexican territory and gradually became the dominant class.91 The Chicano community was born as the Mexican people were gradually subjugated to minority status. Mexican immigration in the twentieth century has been essentially directed towards those same lands that once belonged to Mexico. Mexican immigration, which parallels Anglo migration in the previous century, has strengthened the bond of the Chicano community with its Mexican roots. The new immigrants, hence, simply joined a centuries-old community, which was once one with their own. These two communities were not previously separated, but a border was established in the aftermath of the Mexican-American War. Those who arrived more recently gradually became part of the Chicano community on the basis of a shared culture and experience of subjugation.

Puerto Ricans, in turn, entered the U.S. reality following the U.S. invasion of their country in 1898. The invasion was part of the Spanish-American war. Upon its military defeat, Spain signed the controversial Treaty of Paris, in which it transferred its colonial powers over Puerto Rico to the United States. Puerto Ricans became citizens of the United States by a unilateral act of Congress in 1917. The degree of political autonomy enjoyed by Puerto Ricans has increased throughout the years, but the United States has never given up its ultimate power over Puerto Rico.

Puerto Rican immigration to the continental United States started shortly after the military occupation but exploded after the Second World War.92 Puerto Ricans arrived as one of the most socially and economically

90. ALBERT CAMARILLO, CHICANOS IN A CHANGING SOCIETY: FROM MEXICAN PUEBLOS TO AMERICAN BARRIOS IN SANTA BARBARA AND SOUTHERN CALIFORNIA, 1848–1930 (1979).
92. MANUEL MALDONADO DENIS refers to the dramatically increased Puerto Rican immigration to the continental United States after the Second World War as a “massive exodus.” MANUEL MALDONADO DENIS, PUERTO RICO Y ESTADOS UNIDOS: EMIGRACIÓN Y COLONIALISMO 82 (1984).
impoverished groups and have retained that status.93 The phenomenon of Puerto Rican immigration is, at any rate, not just a logical consequence but actually part and parcel of the United States policy of absorption of Puerto Rican land into its territory and of the Puerto Rican people into its citizenry. The United States has dominated Puerto Ricans who reside on the island, as well as those who live on the continent.

Both Chicanos and Puerto Ricans, hence, share a history of being militarily and then socially under siege. They were brought into U.S. society by war and conquest. They did not just move into U.S. territory. Instead, the confines of that territory were expanded to engulf them. Once “inside”, they became an underclass, systematically perceived and treated as a conquered people.

Both Chicanos and Puerto Ricans can therefore rejoice over the fact that they have somehow managed not to be completely destroyed as a people. They have been able to survive recurrent attempts to assimilate them and to annihilate their cultural existence. Against all odds, they have been able to cultivate their Latin American roots and develop an identity that allowed them to resist the aggression. And the community that emerged has absorbed subsequent migrations of Latino/as—including Cubans, Guatemalans, Salvadorans, Dominicans—who often share, in addition to the Latin American heritage, an experience of oppression in the United States. Just as African Americans seek to base their self-understanding on their resurrection from slavery, Latino/as should trace their identity back to their resurrection from imperialist conquest.

IV. LANGUAGE AS A SOURCE OF LATINO/A UNITY

Ni azteca ni español: criollo Por tanto el primer hombre de una especie nueva Y halló su identidad en el idioma que vino con la cruz hecha de espadas94

Amor mío en el mar navegamos de vuelta a la raza, a la herencia, al volcán y al recinto, al idioma dormido que se nos salía por la cabellera en tierras ajenas.95

The writings of Unamuno point to a second source of support for the Latino/a identity. In addition to rejecting the materialist concept of race, Unamuno postulates a different, spiritual concept of race. Clearly influenced by Johann Gottfried Herder’s notion of “Sprachgeist,” Unamuno’s spiritual concept of race turns on language.96 In other words, a race encom-

93. Maldonado Denis asserts that “Puerto Ricans occupy the last rung on the social ladder in U.S. society.” Id. at 6.
94. [Neither Aztec nor Spanish: Creole. Therefore/ the first man of a new spices/ and he found his identity in the language/ that came with the cross made of swords.] J.E. de Carvalho Pacheco, Francisco de Terrazas, in Fin de Siglo 62, 62-63 (1984).
95. [My love, while at sea we navigated back to the race, I to the heritage, to the volcano, and to the terrain, to the dormant language/coming out of our hair in foreign lands.] Pablo Neruda, Regreso, in La Barcarola 15 (1977).
96. The German term “Sprachgeist” means literally spirit of speech or language. Herder believed that the spirit of a people was expressed, first and foremost, in its language. Johann Gottfried Herder, Über den Ursprung der Sprache, in SÄMTLICHE WERKE 28–29 (Bernhard L. Suphan ed., 1891).
passes a group of people that share a language. Unamuno is thus able to transform the concept of race in order to rally for the unity of Spanish-speaking peoples.

Unamuno declares: “Language, the instrument of spiritual action, is the blood of the spirit and all those who think and, therefore, feel and act in Spanish are part of our spiritual race.” He suggests that the spiritual aspect should be the focus of the Day of the Race:

The celebration of the Hispanic race—i.e., of the Spanish-language nations—cannot be based on the physiological, somatic or material concept of race. The Spanish-language nations—language is the blood of the spirit—include very different material races, American Indians, blacks, Jews . . . .

97. Unamuno is convinced that language defines the human spirit: “A language (idioma)—‘idioma’ originally means property—is the root rather than the depository of traditions. It embodies a vision and an audition of the world-universe, a conception of life and of human destiny, an art, a philosophy, and even a religion.” M. de Unamuno y Jugo, Comunidad de la lengua hispánica, in LA RAZA VASCA Y EL VASCUENCE; EN TORNO A LA LENGUA ESPAÑOLA 165, 167 (1974).

98. “The scientific (not scientific) jargon of sociologists, jurists, pedagogues, and other international (not universal) pedants was capable at one point to put at risk the radical cultural and spiritual unity of the Spanish-speaking peoples. But today we all feel the need to establish and insure our respective personalities—which are the basis of our national independences—in a common popular personality. We therefore know where to find the tradition upon which to found the progress of our universal destiny.” M. de Unamuno y Jugo, Comunidad de la lengua hispánica, in LA RAZA VASCA Y EL VASCUENCE; EN TORNO A LA LENGUA ESPAÑOLA 165, 170-71 (1974).

99. M. de Unamuno y Jugo, La fiesta de la raza, in LA RAZA VASCA Y EL VASCUENCE; EN TORNO A LA LENGUA ESPAÑOLA 159 (1974). Unamuno also declares: “If [the Latin-Iberian-American is a crucible of races], the flux of its diverse spiritual and dialectical races—including the Castilian—must be our common language, always in a process of transformation and of greater Hispanic integration. Other foreign languages, to be sure, may function as catalysts—to use a chemical metaphor. They may operate as guides to help us discover the living entrails of our common language. For the study and knowledge of other languages advances the study and the improvement of our own. To take possession of our language is to recuperate our land as well as our spiritual independence and liberty.” M. de Unamuno y Jugo, Comunidad de la lengua hispánica, in LA RAZA VASCA Y EL VASCUENCE; EN TORNO A LA LENGUA ESPAÑOLA 165, 172 (1974).

100. M. de Unamuno y Jugo, De nuevo la raza, in LA RAZA VASCA Y EL VASCUENCE; EN TORNO A LA LENGUA ESPAÑOLA 162 (1974). In a different article, Unamuno states: “When people speak of the so-called Celebration of the Race, I think that the celebration should instead be referred to as the Celebration of Language or of the shared language.” M. de Unamuno y Jugo, Comunidad de la lengua hispánica, in LA RAZA VASCA Y EL VASCUENCE; EN TORNO A LA LENGUA ESPAÑOLA 165, 169 (1974).

Unamuno would, of course, not exclude people of Asian origin from the “Hispanic Race” He expressly includes Filipinos, such as the martyred rebel José Rizal. He declares: “José Rizal, that heroic Filipino, also belonged to our spiritual race, to our spiritual blood, to our Spanish language—even though his material blood was Tagalog and Chinese. But he thought, felt, spoke, and wrote in Spanish . . . .” M. de Unamuno y Jugo, La fiesta de la raza, in LA RAZA VASCA Y EL VASCUENCE; EN TORNO A LA LENGUA ESPAÑOLA 159, 159-61 (1974). See also M. de Unamuno y Jugo, Comunidad de la lengua hispánica, in LA RAZA VASCA Y EL VASCUENCE; EN TORNO A LA LENGUA ESPAÑOLA 165, 171-72 (1974).
Unamuno believes that all these people by virtue of their shared language possess a unity that transcends their difference in material race, nationality, religion, and political regime.\(^{101}\)

I am still skeptical about the need for as well as the possibility of a successful general taxonomy of human beings through the concept of race. Unamuno’s spiritual concept of race is nevertheless interesting because it suggests a source of unity for the Latino/a people in the United States. The Spanish language is a central part of the shared heritage of Latino/as even though not all Latino/as speak Spanish. Often, Latino/as only have a historical connection to the language because their parents or grandparents were Spanish speakers, so the language constitutes a potential source of unity.

The association of the Latino/a “race” with the Spanish language, interestingly enough, parallels the identification of the African American “race” with skin color. Just as the white majority has focused on skin color to “denigrate” African Americans, it has used the Spanish language to disparage Latino/as. That is not to say that the majority has overlooked Latino/as skin color, which some have inherited from their Indigenous and African ancestors. But the primary focus for anti-Latino/a sentiment in the United States has been the Spanish language. In constructing a single category for this abundantly diverse group of peoples, U.S. society has obsessively concentrated on their common linguistic heritage. It is no coincidence that the derogatory term applied across-the-board to all Latino/as is “spik,” which underscores not the way Latino/as look but the way in which they speak, or rather “spik.” The Spanish language has become their badge of “otherness.” Even when Latino/as speak English this badge manifests itself in the form of an accent.

The anti-Latino/a fervor has recently taken the form of the English-only movement.\(^{102}\) This political movement portrays Latino/as as dangerous because of their language. It perceives the Spanish language as a threatening foreign influence that must be eradicated to preserve cultural purity. Latino/as are, accordingly, forced to renounce their language and identity in order to embrace the dominant culture.

African Americans have struggled to take pride in their blackness as a first step towards becoming aware of a vibrant culture of resistance and solidarity.\(^{103}\) Similarly, Latino/as must learn to celebrate their language if

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101. The Celebration of the Race, of the Spanish spiritual race, should not and cannot be taken in a racist, materialist sense—the sense of race materialism—nor in an ecclesiastic sense—based on one or another Church—nor, all the less, in a political sense. All imperialism except that of the spiritual race incarnated in language must be banished from the celebration. A language of whites, of indians, of blacks, of mestizos, of mulattos. A language of Catholic Christians and non-Catholic Christians, as well as of non-Christians and atheists. A language of men living under the most diverse political regimes.


102. I must express gratitude to John Brittain for making me see the English-Only Movement as a product of the way in which Latinos are viewed and categorized.

103. Cornel West has called for the rediscovery of the vibrant culture I refer to. See West, supra note 16, at 15.
they are to find strength in their common identity. The process of rediscovering the Spanish language might take them back to the first immigrants or even farther back to their ancestors in Latin America. They might find a meaning and a sense of renewal in their history, in their culture, and in their struggle against oppression both in the United States and in Latin America.

It is therefore crucial to resurrect the Spanish language among the Latino/a community. The children should learn Spanish, not only because in many cases this helps their learning in general, but also because they will thus be able to secure a sense of identity and belonging. The Spanish language should also be brought to the adult population: in centers of adult education, in unions, in church organizations, in prisons, in rehabilitation programs. The point is not to create a prerequisite to membership in the Latino/a community, but rather to give Latino/as an opportunity to reconnect with their roots and open up a path towards a common identity. Latino/as will thus be in a position to achieve a sense of unity among themselves similar to that advocated by Unamuno for the entire Spanish-speaking world.

The final objective should by no means be to construct a Tower of Babel on North American soil. The idea is not to discourage Latino/as from learning English because they need to master this language for social, political, and economic survival. Moreover, the English language may be an instrument for Latino/as to feel more at home in the Spanish language. "For the study and knowledge of other languages," as Unamuno points out, "advances the study and the improvement of our own."105

The advocates of mainstreaming would undoubtedly take exception to my proposal. They would not be placated, even in the unlikely event that they conceded that learning Spanish does not necessarily impede the

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104. Similarly Unamuno did not intend to ostracize those who live in Spanish-speaking countries but do not speak Spanish themselves. He recognizes that many of the indigenous peoples of America speak their own languages: "It is worth adding that even though mestizo and mulatto crossbreeding has resulted in many indigenous Americans thinking and feeling in Spanish and even though many pure American Indians think and feel in the Spanish language, there are probably more who still think and feel, love and hate, enjoy and suffer, see and dream in their old pre-Columbian tongues." M. de Unamuno y Jugo, De nuevo la raza, in LA RAZA VASCA Y EL VASCUENCÉ; EN TURNO A LA LENGUA ESPAÑOLA 162 (1974). Unamuno would certainly decry any attempt to force these peoples to give up their languages. Yet he would probably encourage teaching them Spanish in addition to their own languages. By participating in the Spanish linguistic community, these peoples will not only enrich the Spanish language with new perspectives but also be in a better position to appropriate their own language and culture. "For the study and knowledge of other languages advances the study and the improvement of our own." M. de Unamuno y Jugo, Comunidad de la lengua hispánica, in LA RAZA VASCA Y EL VASCUENCÉ; EN TURNO A LA LENGUA ESPAÑOLA 165, 172 (1974). By the same token, Unamuno would advocate supporting the diverse linguistic traditions that coexist in Spain. See, e.g., M. de Unamuno y Jugo, Hispanidad, LA RAZA VASCA Y EL VASCUENCÉ; EN TURNO A LA LENGUA ESPAÑOLA 264, 266 (1974) (Catalan, Aragonese, Leonese, Bable, Castilian, Galician, and Portuguese have become "literary and official languages. And these languages are the races."). See also M. de Unamuno y Jugo, La raza vasca y el vascuence, in LA RAZA VASCA Y EL VASCUENCÉ; EN TURNO A LA LENGUA ESPAÑOLA (1974).

mastery of the English language. They would point to the danger of increased divisiveness and recommend the path of integration and assimilation for Latino/as. That path, however, is not an option. The reason is not simply that Latino/as, even if prepared to become fully conversant in the dominant tongue and ways, will not be willing to give up their cultural distinctness. More important, the majority will probably never be disposed to accept them completely as part of the mainstream. The majority today fences out—discreetly but unequivocally—even those Latino/as prepared to repress their cultural identity.

Even if the path of full integration were possible, it would not be desirable. Latino/as must survive as a distinct group not only to demand restitution for foregoing and ongoing subjugation, but also to recover their robbed sense of identity. They must reinvigorate and repossess their distinct identity in order to overcome fully their marginality. Subjecting them to homogenizing integration would amount to the culmination of their oppression. Indeed, it would be the final declaration that their difference is not worth preserving.

The pluralist alternative, to be sure, does entail some risks. It could lead to increased divisiveness if espoused in an irresponsible manner, so it must be adopted in a constructive spirit. Latino/s must become knowledgeable and enthusiastic about their language and culture, but not by disparaging that of others. If the various other communities similarly embraced the notion of mutual respect, it would be possible to achieve a higher unity that preserves difference.

The best scenario would be if the proposed expansion of the Spanish language spilled over into the non-Latino/a communities. This could be nothing but a boon to the larger U.S. society. As Unamuno would undoubtedly point out, the diffusion of the Spanish language throughout the United States territory will not attenuate, but rather enhance the appreciation of the English language. Furthermore, the wide-spread mastery of a second language, such as Spanish, among U.S. citizens might increase their awareness of the world of diversity outside, as well as, inside their own borders. They might thus be better positioned to meet the challenges presented by foreign and domestic pluralism. All of this might even make the U.S. society—both at home and abroad—less hegemonic and oppressive and more tolerant and noble.

V. CONCLUDING THOUGHTS

Una raza unida,
la que Bolivar soñó.106

The suggestions I have made in this Article regarding racial categorization will not be considered for some time, if at all. I expect to continue to encounter questionnaires that racially subcategorize Latino/as. My mythic bureaucrat will keep insisting that I accept notions such as "Black Hispanics" and "White Hispanics." She will continue to try to convince me that I can be Hispanic "regardless of race." The implication is that I belong to a material race—preferably Black or White—whether I like it or not.

106. ["A united race, which Bolivar dreamt."] Rubén Blades, Siembra, on Siembra (LP Record 1977).
It is, granted, a distortion thus to give the impression that the culprits of this taxonomic nonsense are "the bureaucrats", individually or as a class. This new classification scheme is only a part of the insane logic of racial thinking in the United States. The bureaucracy has simply generated categories relying strictly on that logic. Therefore, the battle against the racial subcategorization of Latino/as must be waged as part of a larger war against the existing racial categorization.

The crusade against the material concept of race is not new, let alone easy. It has been going on for years under the direction of brilliant commanders such as Du Bois and Unamuno. It has been difficult, as the objective of obliterating the attitudes and institutions built on the material concept of race proves ever more elusive. In the United States, in particular, both sides in the debate on race appear to have accepted that concept as inevitable and to argue exclusively over its application in public and private life.

The struggle against the material concept of race in the United States must therefore continue and intensify. Communities that have been organized into the different material races, must reject that concept with vehemence. If they demand that the majority treat them as spiritual races, then they will rid themselves of the incoherence and evils associated with the material concept of race. In the process, they will be well on their way towards an enlightened self-understanding.

United States society must come to realize that the "other" consists of African Americans, Latin Americans, Native Americans, and Asian Americans. Once this realization is attained, a new conceptual scheme might develop—a scheme that will not break down when confronted with the fact that Latino/as may be black, brown, red, and even yellow or white. United States society might finally be in a position to appreciate the unity as well as the diversity of each of its peoples. Maybe then the "other," as anticipated by the Hegelian dialectic, will at last be recognized as "something."

If the material concept of race were to begin to fade even the notion of a "white race" would gradually lose its meaning. If bent on surviving as a distinct group, the individuals that now form part of that "race" would have to look beyond the color of their skins for a bond of unity. Other than their material race, however, they only share a history of oppressing people of color. Their cultures and traditions otherwise vary wildly. It is for this reason that the term "Euro-American" is, for all practical purposes, completely empty. As the notion of "white race" disintegrates, consequently, the group of individuals that is described by this term would lose its cohesion.

It could be argued that what in fact unites these individuals is their historical opposition to non-White groups, and that even after the demise of the material concept of race, this opposition could persist as a source of solidarity. I have two reactions to this argument. First, the material concept of race will not vanish by itself. Its underlying and supporting reality must cease to exist. To imagine its disappearance is to imagine the disappearance of that reality. That reality includes the disempowerment of non-white peoples, which makes it possible and advantageous for whites to define themselves in opposition to them.
My second reaction is that the hateful source of solidarity is effective today, to a great extent, because it does not have to operate in the open. In such a covert environment, the white majority can assert that its community is bound by color, and not exclusively based on hate. If the real source of solidarity were unmasked, it would lose much of its effectiveness. The allegiance of many members of that purported community would falter and the peoples of color would resist more decisively.

The individuals that today form part of the "white race," to be sure, would not have to end up entirely uprooted with the death of racial materialism. Some of them could connect with a narrower community, such as that of Irish Americans, Italian Americans, Polish Americans, Greek Americans, and so on. More important, any of them could connect with the larger U.S. community, which would, naturally, include peoples of color.

Their communal bond, in any case, would probably not have the strength of that of the peoples of color, particularly of African Americans. No bond of solidarity can be more robust than that of a community that has together been subjected to, resisted, and survived brutal oppression. That community has paid a high price for that virtually indestructible bond. As Voltaire put it, "misery confers rights."107

It may seem a waste of time to go on speculating about the end of racial materialism. As conceded earlier, that possibility may be remote or, ultimately, an impossibility. Yet dreaming about the end of racial materialism enables human beings more effectively to cope with and struggle against racial materialism, as long as it exists. They thus are in position to demystify it and to diminish its destructive impact on them.

The Latino/a contribution to the de-reification of racial materialism could be decisive. Their very presence in the United States traumatizes the material concept of race. They are a large and distinct ethnic group in the United States that does not fit adequately into any of the existing racial categories. The system's first reaction is to construct a new material race: viz., Hispanics. This approach, however, loses its appeal with the realization that some Latino/as resemble people belonging to some of the traditional material races.

It is at this point that the subcategories are born. New and complicated subcategories are produced to describe this group that subverts the prevailing racial premises. Instead of resolving the incoherence of the material concept of race, however, the subcategories make it more apparent. They highlight the arbitrariness of the existing racial classification system. There are simply no reliable criteria to determine who falls into which category or subcategory.

By insisting on their unity, Latino/as will not only continue exerting pressure on the material concept of race. They will also recover their sense of belonging and self-worth. As suggested, their common identity must be based on their peculiar history of colonial subjugation and on their bond with their language, which was spoken long before English in what today is United States territory.

In reclaiming their identity, Latino/as must stand up against violent opposition. The majority has attacked them more fiercely than any of the other immigrant groups because they have been perceived as belonging to a different material race, because their real and potential numbers dwarf those of any other group, and because there is already a long history of war against them. The aggression has taken different forms—military operations, assimilation programs, sterilization projects, exploitative labor practices, political disenfranchisement, discriminatory treatment, linguistic homogenization drives, and anti-immigrant measures—but its essence has always been the same.

By resisting, Latino/as will be opening up space for their collective self-realization. Furthermore, in demanding recognition as a distinct and unified community they will be pressuring U.S. society to be more open and tolerant. United States society may not be ready to renounce racial materialism or to empower its racial underclasses. But Latino/as should emphatically refuse to become accomplices in the propagation of racial materialism or to capitulate to their own disempowerment. They should instead strive to present themselves to the rest of U.S. society as a community that is not stratified by the material concept of race and is founded on what unites rather than on what divides its members.