ARTICLES

*MASCARAS, TRENZAS, Y GREÑAS:** UN/MASKING THE SELF WHILE UN/BRAIDING LATINA STORIES AND LEGAL DISCOURSE**

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Using personal narrative, this Article examines the various masks ("máscaras") used to control how people respond to us and the important role such masks play in the subordination of Outsiders.[1] *The first part of the Article tells stories; the second part of the Article unbraids the stories to reveal an imbedded message: that Outsider storytelling is a discursive technique for resisting cultural and linguistic domination through personal and collective redefinition. The Article explores how transculturation*[2] *creates new op-*

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* "Masks, braids and uncombed, messy hair."

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This work is dedicated to my husband, my parents, and to the women in my life, especially my sister and my two daughters.

1. I use Outsiders to include people of color, women, gays and lesbians, and the poor; in other words, members of groups who have been discriminated against historically.

2. I am borrowing the concept of transculturation from the Cuban poet Nancy Morejón, who has written that "[t]ransculturation means the constant interaction, the transmutation between two or more cultural components with the unconscious

tions for expression, personal identity, cultural authenticity and pedagogical innovation.

This Article has as its characteristic motif the braiding together of the personal with the academic voice, legal scholarship with scholarship from other disciplines, narrative with expository prose and poetry, and English with Spanish. Though untidy ("greñas"), these linguistic and conceptual braids ("trenzas") challenge conventional paradigms within the legal academy and subvert the dominant discourse.

I. *MÁSCARAS* : UN/MASKING THE SELF

I put on my masks, my
costumes and posed for each
occasion. I conducted myself
well, I think, but
an emptiness
grew
that no thing
could fill. I think

I hungered for myself.[3]

A. *My Story*

One of the earliest memories from my school years is of my mother braiding my hair, making my *trenzas*.[4] In 1955, I was seven years old. I was in second grade at the Immaculate Conception School in Las Vegas, New Mexico. Our family home with its outdoor toilet was on an unpaved street, one house from the railroad track. I remember falling asleep to the subterranean rumble of the trains.

Nineteen-fifty-five was an extremely important year in my development, in my understanding of myself in relation to Anglo Society.[5] I remember 1955 as the year I began to think about

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goal of creating a third cultural entity." FRANÇOISE LIONNET, AUTOBIOGRAPHICAL VOICES: RACE, GENDER, SELF-PORTRAITURE 15 (1989).

3. Alma Villanueva, *Mother, May I?*, *in* CONTEMPORARY CHICANA POETRY 303, 324 (Marta Ester Sánchez ed., 1985).

4. Other women of color have used hair metaphors in discussing the quotidian experience of subordination. *See, e.g.*, Paulette M. Caldwell, *A Hair Piece: Perspectives on the Intersection of Race and Gender*, 1991 DUKE L.J. 365, 381-83 (1991). Analyzing Renée Rogers v. American Airlines, 527 F. Supp. 229 (S.D.N.Y. 1981) (allowing employer to prohibit braided hairstyles), Professor Caldwell writes: "Hair seems to be such a little thing. Yet it is the little things, the small everyday realities of life, that reveal the deepest meanings and values of a culture, give legal theory its grounding, and test its legitimacy." Caldwell, *supra*, at 370.

5. Anglo and *gringo* are regionalisms used in the Southwest to name and describe the dominant culture and ideology. This Article also uses the designation of Latina/o to identify United States residents of Mexican, South and Central Ameri-

myself in relation to my classmates and their families. I began to feel different and to adjust my behavior accordingly.

We dressed in front of the space heater in the bedroom we shared with my older brother. Catholic school girls wore uniforms. We wore blue jumpers and white blouses. I remember my mother braiding my hair and my sister's. I can still feel the part she would draw with the point of the comb. She would begin at the top of my head pressing down as she drew the comb down to the nape of my neck. "Don't move," she'd say as she held the two hanks of hair, checking to make sure that the part was straight. Only then would she begin, braiding as tightly as our squirming would allow, so the braids could withstand our running, jumping, and hanging from the monkey bars at recess. "I don't want you to look *greñudas*," my mother would say. ["I don't want you to look uncombed."]

Hearing my mother use both English and Spanish gave emphasis to what she was saying. She used Spanish to talk about what was really important: her feelings, her doubts, her worries.[6] She also talked to us in Spanish about *gringos*, Mexicanos, and the relations between them. Her stories were sometimes about being treated outrageously by *gringos*, her anger controlled and her bitterness implicit. She also told stories about Anglos she admired—those who were egalitarian, smart, well-spoken and well-mannered.

Sometimes Spanish was spoken so as not to be understood by Them. Usually, though, Spanish and English were woven together.[7] "*Greñuda*" was one of many words encoded with familial and cultural meaning. My mother used the word to admonish us, but she wasn't warning us about name-calling: "*greñuda*" was not an epithet that our schoolmates were likely to use. Instead, I

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can, Puerto Rican or Cuban descent. Occasionally the word is used to make connections to the subordinated peoples of this continent. In some instances, however, I have used alternate designations, such as Mexican-American, Chicana or Spanish, to remain faithful to the literature being discussed or because the terms have particular meaning.

6. My mother, like most bilingual Latinas or Latinos, moved between English and Spanish in the same sentence. This type of language-mixing has been dismissed as Tex-Mex or Spanglish. Analyses of this code-switching have revealed that it is linguistically competent. *See* Rodolfo Jacobson, *The Social Implications of Intra-Sentential Code-Switching*, *in* NEW DIRECTIONS IN CHICANO SCHOLARSHIP 227, 240-41 (Richard Romo & Raymond Paredes eds., 1978) (observing that such code-mixing is linked to psychological and sociological cues; for instance, some speakers switch to the stronger language when the topic relates to emotional issues and back to the other language when the conversation returns to general topics).

7. At various points throughout this Article, I use the passive voice when I am making a connection to what I believe are collective experiences. While this construction is disfavored in legal writing, the purposely vague subject is meant to suggest an inclusiveness to the idea or the experience being described in order not to have to describe the collectivity.

heard my mother saying something that went beyond well-groomed hair and being judged by our appearance—she could offer strategies for passing *that* scrutiny. She used the Spanish word, partly because there is no precise English equivalent, but also because she was interpreting the world for us.

The real message of "*greñudas*" was conveyed through the use of the Spanish word—it was unspoken and subtextual. She was teaching us that our world was divided, that They-Who-Don't-Speak-Spanish would see us as different, would judge us, would find us lacking. Her lessons about combing, washing and doing homework frequently relayed a deeper message: be prepared, because you will be judged by your skin color, your names,[8] your accents. They will see you as ugly, lazy, dumb and dirty.

As I put on my uniform and as my mother braided my hair, I changed; I became my public self. My *trenzas* announced that I was clean and well-cared-for at home. My *trenzas* and school uniform blurred the differences between my family's economic and cultural circumstances and those of the more economically comfortable Anglo students. I welcomed the braids and uniform as a disguise which concealed my minimal wardrobe and the relative poverty in which my family lived.

As we walked to school, away from home, away from the unpaved streets, away from the "Spanish" to the "Anglo" part of town, I felt both drawn to and repelled by my strange surroundings. I wondered what Anglos were like in their big houses.[9] What did they eat?[10] How did they furnish their homes? How did they pass the time? Did my English sound like theirs?

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8. Names and surnames always have been cultural markers among Latinas/os. Many of us suffered an early trauma when our names were anglicized as we began school. I did not have that experience. I was named Margaret Elizabeth for my maternal grandmother, who was half Irish. Her name was Margaret Wallace. My brother was named Richard David; he goes by Ricardo. My sister was named María Elena; she goes by Mary Ellen.

9. For empirical information on various aspects of Chicano family life, demonstrating the differences between Chicano and Anglo kinship structures, see Oscar Ramírez & Carlos H. Arce, *The Contemporary Chicano Family: An Empirically Based Review*, *in* EXPLORATIONS IN CHICANO PSYCHOLOGY 3 (Augustine Barón, Jr. ed., 1981).

10. Food habits can identify a particular ethnic group or nationality in a pejorative manner. For example, a common racial slur used for Latinos is "beaners." *See* Paul Fieldhouse, FOOD & NUTRITION: CUSTOMS & CULTURE 82-83 (1986). Studies have shown that immigrants more rapidly change their style of clothing than alter their food preferences. Mexican-Americans have been shown to retain beans, rice and tortillas in the diet even as the family income allows for convenience foods. Laurie Carter, Attitudes of Mexican-American Mothers about Food and Nutrition (1981) (unpublished M.A. thesis, California State University (Long Beach)).

Surely their closets were filled with dresses, sweaters and shoes, *apenas estrenados*.[11]

I remember being called on one afternoon in second grade to describe what we had eaten for lunch. Rather than admit to eating *caldito* (soup) *y tortillas*,[12] partly because I had no English words for those foods, I regaled the class with a story about what I assumed an "American" family would eat at lunch: pork chops, mashed potatoes, green salad, sliced bread, and apple pie. The nun reported to my mother that I had lied. Afraid of being mocked, I unsuccessfully masked the truth, and consequently revealed more about myself than I concealed.

In those days, before the ecumenical reforms, Catholicism still professed great concern about sinning. Although elementary school children were too young to commit most sins, lying was a real spiritual danger. Paradoxically, we were surrounded by Truth disguised in myriad ways. Religious language was oblique and filled with multiple meanings: Virgin Mother, Risen Son, bread that was the Body and wine that was the Blood. Our teachers, the Nuns, were completely hidden—women without surnames, families, friends or homes of their own. They embodied the collapsing of the private into the public. Their black and white habits hid their breasts, waists, legs, hair color and hair texture.

Our school was well integrated with "Spanish" students because it was located in a town with a predominantly Latino population.[13] The culture of the school, however, was overwhelmingly

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11. "Apenas estrenados" is a Spanish concept that has no English equivalent. "Estrenar" connotes wearing something for the first time and conveys the special privilege that attaches to the first wearing. We had few opportunities to "estrenar" new clothes.

12. George Sanchez, "Go After the Women": Americanization and the Mexican Immigrant Woman 1915-1929 (1984) (unpublished manuscript, SCCR Working Paper No. 6, on file with the Stanford Center for Chicano Research), describes programs aimed at Mexican women established during the period 1915-1929 for the purpose of changing the cultural values of immigrant families. Two particular areas of focus were diet and health.

> In the eyes of reformers, the typical noon lunch of the Mexican child, thought to consist of a "folded tortilla with no filling," became the first step in a life of crime. With "no milk or fruit to whet the appetite" the child would become lazy and subsequently "take food from the lunch boxes of more fortunate children" in order to appease his/her hunger. "Thus," reformers alleged, "the initial step in a life of thieving is taken." Teaching immigrant women proper food values would keep the head of the family out of jail, the rest of the family off the charity lists, and save the taxpayers a great amount of money.

Id. at 17 (quoting PEARL IDELIA ELLIS, AMERICANIZATION THROUGH HOMEMAKING 19-29 (1929)).

13. Attendance at highly-integrated schools is an important factor in the academic success of professionally-educated Latinas. *See* Patricia Gándara, *Passing Through the Eye of the Needle: High-Achieving Chicanas*, 4 HISPANIC J. BEHAV. SCI. 167, 167 (1982).

Anglo and middle class. The use of Spanish was frowned upon and occasionally punished.[14] Any trace of an accent[15] when speaking English would be pointed out and sarcastically mocked. This mocking persisted even though, and maybe because, some of the nuns were also "Spanish."[16]

I remember being assigned to tutor another second-grader in reading. He wore denim overalls, had his hair shaved for some medical procedure and spoke mostly Spanish. I think of him now, and perhaps thought of him then, as being exposed—exposed by not being able to read, exposed by not having a uniform, exposed by not having hair, exposed by not knowing English. From my perspective as a child, it all seemed connected somehow—Spanish-ness, sickness, poverty and ignorance.

By the age of seven, I was keenly aware that I lived in a society that had little room for those who were poor, brown, or female. I was all three. I moved between dualized worlds: private/public, Catholic/secular, poverty/privilege, Latina/Anglo.[17] My *trenzas* and school uniform were a cultural disguise. They were also a precursor for the more elaborate mask I would later develop.

Presenting an acceptable face, speaking without a Spanish accent, hiding what we really felt—masking our inner selves—were defenses against racism passed on to us by our parents to

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14. *See, e.g.,* RENATO ROSALDO, CULTURE & TRUTH: THE REMAKING OF SOCIAL ANALYSIS 149 (1989):

> For Chicanos, "our" felt oppression derives as much from cultural domination as from the brute facts of poverty. During my junior high school days in Tucson, Arizona, for example, Chicano students could be obliged to bend over and grab their ankles so that teachers could give them "swats" with a board. This punishment somehow fit the "crime" of speaking Spanish in school .... In "our" everyday lives, cultural domination surfaces as myriad mundane sites of cultural repression and personal humiliation.

15. *See* Mari J. Matsuda, *Voices of America: Accent, Antidiscrimination Law, and a Jurisprudence for the Last Reconstruction*, 100 YALE L.J. 1329, 1391-92 (1991) (asserting that accent resides in one of those "sacred places of the self" and arguing for an extension of Title VII to outlaw accent discrimination). Accents have complex intra-group aspects. *See infra* notes 66-67 (analyzing the psychological implications of sounding Chicana/o in a *Mexicano* setting).

16. For analyses of the internalization of colonization, see, e.g., FRANTZ FANON, BLACK SKIN, WHITE MASKS (1967); ANTONIO GRAMSCI, LETTERS FROM PRISON, VOL. 1-2 (Frank Rosengarten ed. & Raymond Rosenthal trans., 1994); ALBERT MEMMI, THE COLONIZER AND THE COLONIZED (1965).

17. *Cf.* LIONNET, *supra* note 2, at 18:

> [T]o internalize patriarchal law is to create mutually exclusive categories of "reality" (male/female; white/black; primitive/civilized; autobiographical/fictional; etc.) and to forget that the production of discourses can function according to Darwinian divergence: that a given space (text) will support more life (generate more meanings) if occupied by diverse forms of life (languages).... [S]ubvert[ing] all binary modes of thought... privileg[es] (more or less explicitly) the intermediary spaces where boundaries become effaced and Manichean categories collapse into each other.

help us get along in school and in society. We learned that it was safer to be inscrutable. We absorbed the necessity of constructing and maintaining a disguise for use in public. We struggled to be seen as Mexican but also wanted acceptance as Americans at a time when the mental image conjured up by that word included only Anglos.

Mine is the first generation of Latinas to be represented in colleges and universities in anything approaching significant numbers.[18] We are now represented in virtually every college and university. But, for the most part, we find ourselves isolated. Rarely has another Latina gone before us. Rarely is there another Latina whom we can watch to try and figure out all the little questions about subtextual meaning, about how dress or speech or makeup are interpreted in this particular environment.

My participation in the Chicano student movement in college fundamentally changed me. My adoption of the ethnic label as a primary identifier gave me an ideological mask that serves to this day. This transformation of my public persona was psychically liberating.[19] This nascent liberation was, however, reactive and inchoate. Even as I struggled to redefine myself, I was locked in a reluctant embrace with those whose definitions of me I was trying to shrug off.

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18. In 1989, only 6.2% of Mexican-Americans over age 35 had completed four years of college as compared with 20.6% of the non-Hispanic population. *See* Deborah J. Carter & Reginald Wilson, *Minorities in Higher Education*, 9 AMERICAN COUNCIL ON EDUC., ANN. STATUS REP. 39 (1991). "High school completion rates for Hispanic 18 to 24 year-olds are 20% lower than for African-Americans and 25% lower than for whites." *Id.* at 16.

19. In 1968 Chicano students from the various campuses of the University of California articulated a statement of principles for the Chicano student movement called the *Plan de Santa Barbara*:

> Culturally, the word Chicano, in the past a pejorative and class-bound adjective, has now become the root idea of a new cultural identity for our people. It also reveals a growing solidarity and the development of a common social praxis. The widespread use of the term Chicano today signals a rebirth of pride and confidence. Chicanismo simply embodies an ancient truth: that man is never closer to his true self as when he is close to his community.
>
> Chicanismo draws its faith and strength from two main sources: from the just struggle of our people and from an objective analysis of our community's strategic needs. We recognize that without a strategic use of education, an education that places value on what we value, we will not realize our destiny. Chicanos recognize the central importance of institutions of higher learning to modern progress, in this case, to the development of our community. But we go further: we believe that higher education must contribute to the formation of a complete man who truly values life and freedom.

ANTONIA CASTEÑEDA SHULAR ET AL., TEXT AND CONTEXT: CHICANO LITERATURE 85-86 (1972). The quoted language is indicative of the gender exclusivity that characterized student movements of the 1960s, including that of Chicanos.

When I arrived as a student at Harvard Law School, I dressed so as to proclaim my politics. During my first day of orientation, I wore a Mexican peasant blouse and cutoff jeans on which I had embroidered the Chicano symbol of the *águila* (a stylized eagle) on one seat pocket and the woman symbol on the other. The *águila* reminded me of the red and black flags of the United Farm Worker rallies; it reminded me that I had links to a particular community. I was never to finish the fill-in stitches in the woman symbol. My symbols, like my struggles, were ambiguous.

The separation of the two symbols reminds me today that my participation in the Chicano movement had been limited by my gender, while in the women's movement it had been limited by my ethnicity. I drew power from both movements—I identified with both—but I knew that I was at the margin of each one.

As time went on, my clothes lost their political distinctiveness. My clothes signified my ambivalence: perhaps if I dressed like a lawyer, eventually I would acquire more conventional ideas and ideals and fit in with my peers. Or perhaps if I dressed like a lawyer, I could harbor for some future use the disruptive and, at times, unwelcome thoughts that entered my head. My clothing would become protective coloration. Chameleon-like, I would dress to fade into the ideological, political and cultural background rather than proclaim my differences.

B. *Máscaras and Latina Assimilation*

Academic success traditionally has required that one exhibit the linguistic and cognitive characteristics of the dominant culture.[20] Until challenged by recent empirical research by Chicano social scientists, retention of traditional Mexican-American culture was believed to impede successful adjustment within mainstream American society.[21] This "damaging-culture" model provided a rationale for advocating the complete assimilation of Latinos into the mainstream culture.[22] The wide-spread accept-

20. *Cf.* ARTHUR M. SCHLESINGER, JR., THE DISUNITING OF AMERICA (1992).

21. *See* Raymond Buriel, *Integration with Traditional Mexican-American Culture and Sociocultural Adjustment, in* CHICANO PSYCHOLOGY 95 (Joe L. Martinez, Jr. & Richard H. Mendoza eds., 2d ed. 1984). *See also* Rachel F. Moran, *Commentary: The Implications of Being a Society of One*, 20 U.S.F. L. REV. 503 (1986); Carlos Villarreal, *Culture in Lawmaking: A Chicano Perspective*, 24 U.C. DAVIS L. REV. 1193 (1991) (comparing the sociological harms associated with assimilationist, fragmentary and separatist models of acculturation for Chicanos and arguing that courts should incorporate heterogenous identities in decisionmaking).

22. *See* Richard H. Mendoza, *Acculturation and Sociocultural Variability, in* CHICANO PSYCHOLOGY, *supra* note 21, at 73. Mendoza criticizes the work of E.V. Stonequist, who identified

> a *unique* maladjustment that is not found in persons displaying complete [assimilation]. Stonequist, who popularized the syndrome, labeled it "mar-

ance of traditional assimilationist thought fueled social and familial pressure on Latinos to abandon traditional values and lifestyles in order to achieve educational and economic upward mobility.[23]

Acculturation into the dominant culture is a concomitant of education. Virtually all Latino students with a college-level education appear to be highly assimilated into Anglo culture.

To support their academic progress, Latinos have encouraged their children to speak English well and have tolerated other aspects of acculturation, such as changes in friends, clothes and recreational preferences. As they undertake the daily interactions involved in socialization, students adopt masks of the dominant culture which manifest the negative values ascribed to traditional Latina/o culture. Latina/o history is replete with stories about those who changed their names, lost the Spanish language and with it any trace of a Spanish accent, or deliberately married out of the culture. In short, some did whatever was necessary to be seen as not-different by the majority.[24]

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ginality." According to Stonequist, the unfortunate victims of this disorder, which is alleged to be caused by the incompatible demands of multicultural situations, suffer from "feelings of double-consciousness or duality of personality." They are described as being emotionally unstable, living in limbo and experiencing severe inner conflicts and "alternating currents of attraction and repulsion, of love and hatred."

Id. *See* E.V. Stonequist, *The Marginal Man, in* CONTRIBUTIONS TO URBAN SOCIOLOGY (E. Burgess & D.J. Bogue eds., 1964).

23. *See* Manuel Ramírez, *Identity Crisis in the Barrios, in* PAIN AND PROMISE 57-60 (Edward Simmen ed., 1972) (arguing for bicultural education and against assimilation).

24. There are numerous examples of Latinas/os writing to decry the loss of ethnic identity. *See, e.g.*, DAVID F. GOMEZ, SOMOS CHICANOS: STRANGERS IN OUR OWN LAND 5 (1973) who writes:

> My Anglo-white experiences at school so completely conflicted with my Mexican-brown experiences at home that I rejected one for the other only to find that I couldn't fully participate in either. I became a withdrawn person living on the periphery of the white world and wanting to have less and less to do with the brown world.

In his autobiographical essay, Gomez quotes a José Angel Gutierrez poem:

> Through brown eyes, seeing only brown colors and feeling only
> brown feelings . . . I saw . . . I felt . . . I hated . . . I cried . . . I tried.
> . . .
> While, on the side . . . I realized I BELIEVED in
> white as pretty,
> my being governor,
> blonde blue eyed baby Jesus,
> cokes and hamburgers,
> equality for all regardless of race, creed, or color,
> Mr. Williams, our banker.
> I had to!
> That was all I had.
> Beans and Communism were bad.

Id.

Some Latinos, like other Outsiders, move away from their ethnic communities and want nothing to do with those they left behind. Many others, however, see education as the only ladder for themselves and for their community. Academic success does not come without costs, however. Latinas/os who pursue higher education often end up feeling doubly estranged because of the socialization process: estranged not only from their ancestral roots but from the dominant culture as well.[25]

Feeling masked because of ethnic and racial differences is directly linked to the process of cultural assimilation, and to the pervasive Latina/o resistance against assimilation, against being seen as "*agringada*," of becoming a *gringa*, of being taken for something one never wanted to become. Assimilation has become yet another mask for the Latina/o to hide behind.[26] I have a clay mask made by Mexican artisans that captures this idea but from a different perspective. The outermost mask is a white skeleton face wearing a grimace. The second layer shows a face with an aquiline nose and a goatee suggesting the face of the Spaniard, the colonizer of indigenous Mexico. This second mask parts to show the face of a pensive Aztec. This clay sculpture suggests the indigenous Indian preserved behind the false masks, the death mask, the conquistador mask. In other words, the sculpture represents all of us who have been colonized and acculturated—who have succeeded in withholding a precious part of our past behind our constructed public personas.

Belonging to a higher economic class than that of one's family or community and affecting the mannerisms, clothing styles or speech patterns that typify the privileged classes can strain familial and ethnic bonds.[27] Families, even those who have supported the education and advancement of their children, can end up feeling estranged from their children and resentful of the cultural costs involved in their academic and economic success. Accusa-

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25. *Id.*

26. Gomez writes:

> White society very nearly achieved its stated end and purpose by *gringoizing* me and throwing my heart into the melting pot. But not quite. Today I admit that I am not white, and that I do not want to be white. I am a Chicano. To make such an admission is for me to rip away the mask that I have assumed for too long.

Id. at 27.

27. *See* José E. Limón, *Agringado Joking in Texas Mexican Society: Folklore and Differential Identity*, *in* NEW DIRECTIONS IN CHICANO SCHOLARSHIP 33, 41-42 (Ricardo Romo & Raymund Paredes eds., 1978) (examining "a particular kind of ethnic joking . . . about and sometimes directed at individuals who violate ethnic boundaries, in this particular cultural case Texas Mexicans who act like or want to become *gringos*").

tions of *vendida*, "selling-out," forgetting the ethnic community, and abandoning the family can accompany academic success.[28]

Even when there are no recriminations from family or friends, there can be internal doubts about what one has given up in order to achieve academic success. Concerns about ethnic identity and personal authenticity are imbedded within the question, "Who am I really?" We have been told, "You don't seem Latina," or have been asked, "How Latina are you?" Such comments, when made by Anglos, imply that we have risen above our group. We are special, better, acceptable. When made by Latinos, however, the questions carry an innuendo of cultural betrayal and the threat of cultural excommunication.

The public environment in which we live our professional lives can be profoundly different from the homes we came from. The details of our lives bear little resemblance to the culture in which we once were immersed. There is sometimes the feeling of moving between different worlds, of putting on one face and taking off another.

There are times when the strands of our lives resist being woven into a neat braid. Recently I happened upon an autobiography, *Always Running: La Vida Loca, Gang Days in L.A.*, written by Luis J. Rodriguez.[29] I found the book while on a trip to Cambridge as an elected director of the Harvard Alumni Association. I had attended a long day of meetings in the rarified seclusion of the Harvard Faculty Club, where I always feel like an spectator rather than a participant. The building evokes the "clubiness" of its name: dark wood paneling, well worn rugs, rooms called libraries. I can never seem to dress well enough or choose words, accents or voices carefully enough to feel that I belong there. And yet two or three times a year for the past two and a half years, I have been coming to these meetings. Occasionally, I can give voice to my experience—to one Latina's experience.

After one such day, I wandered into a bookstore in Harvard Square. I leafed through the Rodriguez book. Suddenly, I focused on my cousin's name, Rodolfo "Sonny" Gomez, listed among those to whom the book was dedicated. Rodriguez didn't state it explicitly, but it was, presumably, a list of his homeboys and homegirls who didn't survive "la vida loca." I knew that but for the grace of God . . . Sonny could have had my fate and I, his.

Standing in the bookstore, my eyes filled with tears. We both stood with a foot in two worlds. I remembered Sonny; he

28. *Id.*

29. LUIS J. RODRIGUEZ, ALWAYS RUNNING: LA VIDA LOCA, GANG DAYS IN L.A. (1993).

drove a yellow MG convertible, introduced me to the music of Bob Dylan, talked about Karl Marx and Chicanismo.

My multiple identities do not usually clash as violently as they did at that particular moment. Those moments set me apart from the privileged majority, the experience of being yanked back unpredictably into powerlessness.

Throughout the last decade, the efficacy of the assimilationist model has been challenged by Latinos and others who have examined the heterogeneity of orientations and experiences among Latinos. They have demonstrated that "integration with one's ancestral culture is conducive to success and adjustment in American society."[30] Sociocultural adjustment is now understood as a multifaceted process that depends upon complex variables rather than a unilevel process whereby the customs of one culture are merely substituted for those of another.[31]

Latinos have long exhibited bicultural behavior and values, but until recently there was no discourse or body of literature establishing the validity of such cultural integration.[32] Contemporary Latina/o poetry and fictional writing exhibit this bilingual and bicultural character.[33] Latina/o public discourse increasingly mirrors private speech.[34]

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30. Buriel, *supra* note 21, at 97.

31. One model that examines sociocultural adjustment identifies four typological patterns of acculturation:

> *cultural resistance*, defined as an active or passive resistance to alternate cultural norms, while maintaining native customs; *cultural shift*, defined as a substitution of native customs with alternate cultural norms; *cultural incorporation*, defined as an adaptation of customs from both native and alternate cultures; and *cultural transmutation*, defined as an alteration of native and alternate cultural practices to create a unique subcultural entity . . . [A]n individual might display (1) cultural *resistance* in terms of friendship and kinship ties and of marriage partner preferences, (2) cultural *shift* in terms of dress customs and music preferences, (3) cultural *incorporation* in terms of dietary patterns, celebration of major holidays, and knowledge of humor, and (4) cultural *transmutation* by employing a dialect such as Caló [a dialect that uses words not readily identified as English or Spanish].

Mendoza, *supra* note 22, at 64-65.

32. Legal scholarship produced by critical race theorists and feminists emphasizes the value of such cultural integration. Professor Mari Matsuda has proposed that Outsiders within the legal academy bring a "multiple consciousness" to bear on fundamental jurisprudential inquiries. Multiple consciousness allows Outsiders to operate "within the abstractions of standard jurisprudential discourse, and within the details of our own special knowledge." Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 WOMEN'S RTS. L. REP. 7, 9 (1989).

33. *See, e.g.*, ANA CASTILLO, THE MIXQUIAHUALA LETTERS (1986); IGUANA DREAMS (Delia Poey & Virgil Suarez eds., 1992); INFINITE DIVISIONS: AN ANTHOLOGY OF CHICANA LITERATURE (Tey D. Rebolledo & Eliana S. Rivero eds., 1993).

34. In December 1993, Martha Vazquez, an immigrant from Mexico, was sworn in as New Mexico's first Latina federal district court judge. Her relatives from both sides of the border, husband, four young children and Brownie troop attended. The ceremony was performed in both English and Spanish.

As Latinas/os begin to construct varied identities, we can still feel caught between the traditional understanding of what "real Latinas/os" are like and the strategies we invoke to respond to novel situations. Resolution of these issues need not be an isolating, individualistic or secretive process, alienating us from our families or our communities.

1. *Outsider Masks*

Despite important historical, ethnic and linguistic differences, stories of assimilation told from the various perspectives of subordinated groups have strains of similarities. In addition to the personal and collective pain that we experience because of societal pressures to assimilate, Latinas/os face the disquietude of being masked for some of the same reasons as other Outsiders.

Being masked may be a universal condition in that all of us control how we present ourselves to others.[35] There is, however, a fundamental difference in feeling masked because one is a member of one or more oppressed groups within the society. When members of the dominant culture mask themselves to control the impressions they make, such behavior is not inherently self-loathing. But when we attempt to mask immutable characteristics of skin color, eye shape or hair texture because historically they have been loathsome to the dominant culture, then the masks of acculturation can be experienced as self-hate. Moreover, unmasking for members of the dominant culture does not involve the fear or depth of humiliation that it does for the subordinated, for whom the unmasking is often involuntary and unexpected.

For Outsiders, unmasking is a holistic experience: I do not have separate masks for my female-ness and Latina-ness. The construction of my public persona involves all that I am. My public face is an adjustment to the present and a response to the past. Any unmasking resonates through the pathways of my memory. For Outsiders, the necessity of unmasking has been historical. Strategies are passed on from one generation to another to accommodate, to resist, to subvert oppressive forces. Involuntary unmasking is painful, it evokes echoes of past hurts, hurts one has suffered, and hurts one has heard stories about.

Outsiders are also faced with the gnawing suspicion that the public identities available to them are limited to those reflecting the values, norms and behavior of the dominant ideology. Through my cultural disguise, I sought to mirror the behavior of those who mattered more than I. As a child, I altered or denied

35. *See* ERVING GOFFMAN, THE PRESENTATION OF THE SELF IN EVERYDAY LIFE 9-10 (1959).

my language, my clothes, my foods. My *trenzas* helped me to fit in, to get by, to move up. As an adult, I still alter or deny my self/selves, both consciously and unconsciously.

A significant aspect of subordination is the persistence with which we mimic the styles, preferences and mannerisms of those who dominate us, even when we have become aware of the mimicry. Lost to the Outsider are those identities that would have developed but for our real and perceived needs to camouflage ourselves in the masks of the Master. Lost to all are the variety of choices, the multiplicity of identities that would be available if we were not trapped by the dynamics of subordination, of privilege.

For stigmatized groups,[36] such as people of color, the poor, women, gays and lesbians, assuming a mask is comparable to being "on stage." Being "on stage" is frequently experienced as being acutely aware of one's words, affect, tone of voice, movements and gestures because they seem out of sync with what one is feeling and thinking.[37] At unexpected moments, we fear that we will be discovered to be someone or something other than who or what we pretend to be. Lurking just behind our carefully constructed disguises and lodged within us is the child whom no one would have mistaken for being anything other than what she was. Her masking was yet imperfect, still in rehearsal, and at times unnecessary.

For Outsiders, being masked in the legal profession has psychological as well as ideological consequences. Not only do we perceive ourselves as being "on stage," but the experience of class-jumping—being born poor but later living on the privileged side of the economic divide as an adult—can also induce schizoid feelings. As first-year law students don their three-piece suits, they make manifest the class ascendancy implicit in legal educa-

36. In emphasizing group status by relying on categorical discourse, my purpose is not to essentialize disparate experiences. I seek to identify the subordinating effects of the masking process and the manner in which masking can reinforce the meanings of the categories. *See generally* Angela Harris, *Categorical Discourse and Dominance Theory*, 5 BERKELEY WOMEN'S L.J. 181 (1990) (discussing categorical discourse and essentialism).

37. ANDREW J. WEIGERT ET AL., SOCIETY AND IDENTITY 58-60 (1986):

> Problematic situations are characterized by a sense of being personally "on stage." When an individual feels "on," the taken-for-granted and undoubted self-consciousness of one's presented identity is lost, and a dramaturgical consciousness emerges . . . .
>
> Stigmatized persons necessarily learn to develop skill in handling problematic situations. . . . [M]ental patients, closet homosexuals, ethnics who pass, transsexuals who emerge . . . constitute a constituency highly skilled in the universal tasks of dramaturgical effectiveness. Those type of persons are explicitly skilled at what we all learn to do more or less well and without forethought; present, negotiate, and control multiple identities in a reasonable, organized hierarchy.

tion. Most Latinas/os in the legal profession now occupy an economic niche considerably higher than that of our parents, our relatives and frequently that of our students. Our speech, clothes, cars, homes and lifestyle emphasize this difference.

The masks we choose can impede our legal representation and advocacy by driving a wedge between self, our *familias*, and our communities. As our economic security increases, we escape the choicelessness and lack of control over vital decisions that oppress communities of color. To remain connected to the community requires one to be Janus-faced, able to present one face to the larger society and another among ourselves. Janus-faced not in the conventional meaning of being deceitful, but in the sense of having two faces simultaneously. One face is the adult face that allows us to make our way through the labyrinth of the dominant culture. The other, the face of the child, is one of difference, free of artifice. This image with its dichotomized character fails to capture the multiplicity, fluidity and interchangeability of faces, masks and identities upon which we rely.

2. *Masking as Generalized Phenomena*

Throughout history, masking and unmasking concepts have been used to explore the inner self—the person hiding behind the public face.[38] These themes can be found in works produced by Euro-American males included in the traditional academic canon.[39] Shakespeare's "All the world's a stage/ And all the men and women merely players,"[40] illustrates this idea.[41] Figuring out how to present oneself in public has elements of a theatrical performance for everyone.[42]

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38. *See* THE COMPACT EDITION OF THE OXFORD ENGLISH DICTIONARY 724 (1971), which traces the etymology of the English word "person" to the Latin word persōna meaning "a mask used by a player, a character or personage acted." *Id.*

39. *See, e.g.*, ERIK ERIKSON, IDENTITY AND THE LIFE CYCLE (1980); ERIK ERIKSON, IDENTITY, YOUTH AND CRISES (1968); GOFFMAN, *supra* note 35; GEORGE SANTAYANA, SOLILOQUIES IN ENGLAND AND LATER SOLILOQUIES (1924); LIONEL TRILLING, SINCERITY AND AUTHENTICITY (1972).

40. WILLIAM SHAKESPEARE, AS YOU LIKE IT act 2, sc. 7. This line "is not a clever improvisation casually tossed off by Shakespeare's cynic Jaques, it is a commonplace of Western civilization. It is a truth and was written on the wall of Shakespeare's theatre, the Globe, in a language older than English: '*Totus mundus facit histrionem*'." [The whole world makes drama.] TRILLING, *supra* note 39, at 10 n.1.

41. It is probably no mere historical accident that the word person, in its first meaning, is a mask. It is rather a recognition of the fact that everyone is always and everywhere, more or less consciously, playing a role .... It is in these roles that we know each other; it is in these roles that we know ourselves.

ROBERT E. PARK, RACE AND CULTURE 249 (1950).

42. Drawing on examples from a community of Shetland Island subsistence farmers, Erving Goffman wrote one of the seminal sociological works studying the techniques used by individuals to control the impressions formed by others in ordinary life situations. Using a theatrical model, Goffman identifies the dramaturgical

Latinoamericano writers also have employed mask metaphors.[43] Octavio Paz's analysis of the Mexican psyche pertains specifically to the experience of the Mexican immigrant:

> The Mexican, whether young or old, criollo or mestizo, general or laborer or lawyer, seems to me to be a person who shuts himself away to protect himself: his face is a mask and so is his smile. In his harsh solitude, which is both barbed and courteous, everything serves him as a defense: silence and words, politeness and disdain, irony and resignation. . . . He builds a wall of indifference and remoteness between reality and himself, a wall that is no less impenetrable for being invisible. The Mexican is always remote, from the world and from other people. And also from himself.[44]

Blaming the Mexican for his remoteness, Paz shows little understanding of the discriminatory and oppressive forces within American society and fails to accept the mask as a strategy for resisting external subordinating forces. Paz concludes by urging humanity to tear off the mask, to eschew the disguise so that the naked self can find transcendence in the company of others locked in their own feelings of solitude.[45]

The genre of contemporary Latin American poetry called public poetry eschews this concept of universality, reaching instead for solidarity and community through "a celebratory return to 'ordinary' discourse and 'ordinary' experience."[46]

3. *Masking Within the Legal Environment*

The legal profession provides ample opportunity for role-playing, drama, story-telling and posturing. Researchers have studied the use of masks and other theatrical devices among practicing lawyers[47] and in the law school environment.[48] Mask

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principles which define the performances of everyday life. *See* GOFFMAN, *supra* note 35 *passim*.

43. *See, e.g.*, PABLO NERUDA, BLANCO ANTOLOGIA ESENCIAL (1971); MARIO VARGAS LLOSA, A WRITER'S REALITY (1991); EDUARDO GALEANO, MEMORIA DEL FUEGO (1971).

44. OCTAVIO PAZ, THE LABYRINTH OF SOLITUDE 29 (1961).

45. *Id.* at 194.

46. MIKE GONZALEZ & DAVID TREECE, THE GATHERING OF VOICES, THE TWENTIETH-CENTURY POETRY OF LATIN AMERICA xiv-xv (1992).

47. *See, e.g.*, James R. Elkins, *The Legal Persona: An Essay on the Professional Mask*, 64 VA. L. REV. 735 (1978).

48. A researcher testing the hypothesis that first-year grades correlate with personality characteristics found no such relation. His study did reveal that all the students sampled:

> wear a social mask and attempt to make a strong and definite impression on others; they act and react in great measure on the basis of the social role which they have adopted and which they feel is expected of them . . . . While they publicly project strength, activity, and enthusiasm, their private personality is one of awkwardness, defensiveness, and nervousness. . . . [They] are frequently engaged in playing a part.

imagery has been used repeatedly to describe different aspects of legal education, lawyering and law making. One distinctive example is John T. Noonan, Jr.'s analysis exposing the purposeful ambiguity and the duplicity of legal discourse.[49]

Some law students are undoubtedly attracted to the profession by the opportunity to disguise themselves and have no desire or need to look for their hidden selves.[50] Some law students, however, may resent the role-playing they know to be necessary to succeed in their studies and in their relations with professors and peers. Understanding how and why we mask ourselves can help provide opportunities for students to explore their public and private personalities and to give expression to their feelings.

C. *Desen/Mascarando Silencio / Un/Masking Silence*

Esto es el exilio
Este tenerme que inventar un nombre,
una figura,
una voz nueva.
Este tener que andar diciendo de dónde soy
qué hago aqui.
Esto es el exilio
esta soledad clavándose en mi carne . . .

This is exile
this having to invent a name for myself,
a face, a new voice.
This having to go around saying
where I'm from
what I'm doing here.
This is exile
this solitude biting into my flesh . . . .[51]

Stephen Reich, *California Psychological Inventory: Profile of a Sample of First-Year Law Students*, 39 PSYCHOL. REPS. 871, 873-74 (1976).

49. In 1971, John T. Noonan, Jr. criticized the law's emphasis on rationalized rules and the duplicity of legal language; he described the fictions employed by Holmes, Cardozo and other famous judges and lawyers to suppress the humanity of those acting (e.g., "sovereign") or those being acted upon (e.g., "property" for slaves). Noonan's purposes were to show the dangers inherent in a system which fails to acknowledge human identity and to free the language of law from the masks and legal fictions which deny the humanity of different groups in society. *See* JOHN T. NOONAN, JR., PERSONS AND MASKS OF THE LAW (1976).

50. *See* Leslie G. Espinoza, *Masks and Other Disguises: Exposing Legal Academia*, 103 HARV. L. REV. 1878 (1990). Espinoza refers to her own "elaborate disguise of acculturation" and observes that other Outsiders "clothe [themselves] in the dominant discourse of the legal academy and dress [themselves] in the attire of rigor and merit." *Id.* at 1885-86.

51. GONZALEZ & TREECE, *supra* note 46, at 345 (quoting Giaconda Belli, Gonzalez & Treece, trans.).

1. *My Story Continues*

My memories from law school begin with the first case I ever read in Criminal Law. I was assigned to seat number one in a room that held some 175 students.

The case was entitled *The People of the State of California v. Josefina Chavez*.[52] It was the only case in which I remember encountering a Latina, and she was the defendant in a manslaughter prosecution. The facts, as I think back and before I have searched out the casebook, involved a young woman giving birth one night over the toilet in her mother's home without waking her child, brothers, sisters or mother. The baby dropped into the toilet. Josefina cut the umbilical cord with a razor blade. She recovered the body of the baby, wrapped it in newspaper and hid it under the bathtub. She ran away, but later she turned herself in to her probation officer.

The legal issue was whether the baby had been born alive for purposes of the California manslaughter statute: whether the baby had been born alive and was therefore subject to being killed. The class wrestled with what it meant to be alive in legal terms. Had the lungs filled with air? Had the heart pumped blood?

For two days I sat mute, transfixed while the professor and the students debated the issue. Finally, on the third day, I timidly raised my hand. I heard myself blurt out: What about the other facts? What about her youth, her poverty, her fear over the pregnancy, her delivery in silence? I spoke for perhaps two minutes, and when I finished, my voice was high-pitched and anxious.

An African American student in the back of the room punctuated my comments with "Hear! Hear!" Later other students thanked me for speaking up and in other ways showed their support.[53]

I sat there after class had ended, in seat number one on day number three, wondering why it had been so hard to speak. Only later would I begin to wonder whether I would ever develop the mental acuity, the logical clarity to be able to sort out the legally relevant facts from what others deemed sociological factoids. Why *did* the facts relating to the girl-woman's reality go unvoiced? Why were her life, her anguish, her fears rendered

52. People v. Josephine Chavez, 176 P.2d 92 (Cal. App. 1947).

53. Shortly thereafter I was nominated and elected the section representative to the student government of Harvard Law School. I attributed the election results entirely to my outburst in Criminal Law. Like most other students, I was in search of markers and signs to determine how others viewed me. There were few such signs, and most were ambiguous.

irrelevant? Engaging in analyses about The Law, her behavior and her guilt demanded that I disembody Josefina, that I silence her reality which screamed in my head.

Perhaps my memory has played tricks with me. I decide to look for the casebook and reread the *Chavez* case. I am surprised, after years of thinking about the case, to learn that her name was Josephine and not Josefina. My memory distorted her name, exaggerating her ethnicity, her differences. The facts in the opinion are even more tragic than I remembered:

> The defendant was an unmarried woman about 21 years of age. She had previously had an illegitimate child, and at about 12:30 A.M. on March 31, 1946, she gave birth to the child here in question. She lived with her mother and sisters in a small house having two bedrooms, with a bathroom off the kitchen porch. On this night the mother slept in the back bedroom, and the defendant occupied the front bedroom with her two sisters. She had attempted to conceal the fact of her pregnancy from her family by wearing a girdle and loose sweaters . . . .
>
> After going to bed on the evening of March 30, she had several attacks of what she called "cramps" . . . . She made a third trip [to the bathroom] about 12:30 a.m., the other members of her family being asleep. She left the doors open and no lights were turned on. As she was sitting on the toilet she "felt a little pressure on the lower bones. Then I knew the baby was going to be born." . . . She knew from her previous experience that the placenta had to be removed and so, after the baby was in the toilet "a little while," she expelled the placenta by putting pressure on her stomach. She did not notice whether the baby's head was under water, because the afterbirth fell over its head. It took two to three minutes for the placenta to come out. She then turned on the light and found a napkin and pinned it on herself. She then removed the baby from the toilet, picking it up by the feet, and cut the cord with a razor blade. She testified that the baby was limp and made no cry; that she thought it was dead; and that she made no attempt to tie the cord as she thought there was no use. She then laid the baby on the floor and proceeded to take further care of herself and clean up the room. The baby remained on the floor about fifteen minutes, after which she wrapped it in a newspaper and placed it under the bath tub to conceal it from her mother. She then returned to bed and the next day went about as usual, going to a carnival that evening. On the next day, April 1, her mother discovered the body of the infant under the bath tub.[54]

54. 176 P.2d at 92-93.

The legal issue in the case is also somewhat different from what I recall. The question presented is not only whether the baby was born alive for purposes of the California manslaughter statute,[55] but also whether the statute required that the baby be entirely separate from its mother with the umbilical cord cut before being considered a person. The court concurred with the jury's finding that a baby in the process of being born but with the capability of living an independent life is a human being within the meaning of the homicide statutes. The appellate court affirmed the judgment of the lower court, concluding that a criminal act had been committed because of the mother's "complete failure . . . to use any of the care towards th[e] infant which was necessary for its welfare and which was naturally required of her."[56]

The appellate opinion focused on the legal personhood of the dead baby, but questions of criminal intent, mens rea and diminished capacity thread through the case. Contextualization of the facts through the use of gender-linked and cultural information would inform our understanding of the latter legal issues. Contextual information should have been relevant to determining the criminality of her behavior. Josephine Chavez's behavior seems to have been motivated as much by complex cultural norms and values as by criminal intent.

A discussion raising questions about the gender-, class-, and ethnicity-based interpretations in the opinion, however, would have run counter to traditional legal discourse.[57] Interjecting information about the material realities and cultural context of a poor Latina woman's life introduces taboo information into the classroom. Such information would transgress the prevalent ideological discourse. The puritanical and elitist protocol governing the classroom,[58] especially during the 1970s, supported the notion that one's right to a seat in the law school classroom could be brought into question if one were to admit knowing about the details of pregnancies and self abortions, or the hidden motivations of a *pachuca* (or a *chola*, a "homegirl" in today's Latino gang parlance). By overtly linking oneself to the life experiences of poor women, especially *pachucas*, one would emphasize one's differences from those who seemed to have been admitted to law school by right.

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55. CAL. PENAL CODE § 192 (West 1947).

56. 176 P.2d at 96.

57. For a different analysis of the distortions of traditional legal discourse, see Elkins, *supra* note 47.

58. *See* Taunya Lovell Banks, *Gender Bias in the Classroom*, 14 S. ILL. U. L.J. 527 (1990); Ann C. Scales, *Surviving Legal De-Education: An Outsider's Guide*, 15 VT. L. REV. 139 (1990).

Information about the cultural context of Josephine Chavez's life would also transgress the linguistic discourse within the classroom. One would find it useful, and perhaps necessary, to use Spanish words and concepts to describe accurately and to contextualize Josephine Chavez's experience. In the 1970s, however, Spanish was still the language of Speedy Gonzales, José Jimenez and other racist parodies.

To this day, I have dozens of questions about this episode in Josephine Chavez's life. I yearn to read an appellate opinion which reflects a sensitivity to her story, told in her own words. What did it take to conceal her pregnancy from her *familia*? With whom did she share her secret? How could she have given birth with "the doors open and no lights . . . turned on?"[59] How did she do so without waking the others who were asleep? How did she brace herself as she delivered the baby into the toilet? Did she shake as she cut the umbilical cord?

I long to hear Josephine Chavez's story told in what I will call Mothertalk and Latina-Daughtertalk. Mothertalk is about the blood and mess of menstruation, about the every month-ness of periods or about the fear in the pit of the stomach and the ache in the heart when there is no period. Mothertalk is about the blood and mess of pregnancy, about placentas, umbilical cords and stitches. Mothertalk is about sex and its effects. Mothertalk helps make sense of our questions: How does one give birth in darkness and in silence? How does one clean oneself after giving birth? How does one heal oneself? Where does one hide from oneself after seeing one's dead baby in a toilet?

Latina-Daughtertalk is about feelings reflecting the deeply ingrained cultural values of Latino families:[60] in this context, feelings of *vergüenza de sexualidad* ("sexual shame"). Sexual experience comes enshrouded in sexual shame; have sex and you risk being known as *sinvergüenza*,[61] shameless. Another Latina-Daughtertalk value is *respeto á la máma y respeto á la familia. Familias* are not nuclear nor limited by blood ties; they are extended, often including foster siblings and *comadres y compadres, madrinas y padrinos* (godmothers, godfathers and other religion-linked relatives).

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59. 176 P.2d at 92.

60. I am grateful to Professor Larry Catá Backer for pointing out that some Latino values deserve to be rejected for their bias and should not be accorded blind legitimacy.

61. It is difficult to describe embedded meanings when you speak two languages and have two seemingly equivalent words for the same concept. The difference attributable to culture and not denotative meaning between the word "shame" in English and the word "*vergüenza*" in Spanish is evident to me from the fact that my parents never spoke about shame; they did, however, talk about *vergüenza* and about this person or that one as being *sinvergüenza*, a dreaded condition.

Josephine Chavez's need to hide her pregnancy (with her head-to-toe mask) can be explained by a concern about the legal consequences as well as by the *vergünza* within and of her *familia* that would accompany the discovery of the pregnancy, a pregnancy that was at once proof and reproof of her sexuality. Josephine's unwanted pregnancy would likely have been interpreted within her community, her *familia,* and by her mother as a lack of *respeto.*

I sense that students still feel vulnerable when they reveal explicitly gendered or class-based knowledge, such as information about illicit sexuality and its effects, or personal knowledge about the lives of the poor and the subordinated. Even today there is little opportunity to use Spanish words or concepts within the legal academy. Students respond to their feelings of vulnerability by remaining silent about these tabooed areas of knowledge.[62]

The silence had profound consequences for me and presumably for others who identified with Josephine Chavez because she was Latina, or because she was female, or because she was poor. For me, the silence invalidated my experience. I reexperienced the longing I felt that day in Criminal Law many times. At the bottom of that longing was a desire to be recognized, a need to feel some reciprocity. As I engaged in His/Their reality, I needed to feel Him/Them engage in mine.

Embedded in Josephine Chavez's unfortunate experience are various lessons about criminal law specifically and about the law and its effects more generally. The opinion's characteristic avoidance of context and obfuscation of important class- and gender-based assumptions is equally important to the ideological socialization and doctrinal development of law students. Maintaining a silence about Chavez's ethnic and socio-economic context lends credence to the prevailing perception that there is only one relevant reality.[63]

As a child I had painstakingly learned my bicultural act: how to be a public American while retaining what I valued as

62. *See, e.g.*, Lucinda M. Finley, *Breaking Women's Silence in Law: The Dilemma of the Gendered Nature of Legal Reasoning*, 64 NOTRE DAME L. REV. 886 (1989); Stephanie M. Wildman, *The Classroom Climate: Encouraging Student Involvement*, 4 BERKELEY WOMEN'S L.J. 326 (1989).

63. *See* Martha Minow, *The Supreme Court 1986 Term— Foreword: Justice Engendered*, 101 HARV. L. REV. 10, 14-15 (1987):

> The commitment to seek out and to appreciate a perspective other than one's own . . . is a difficult commitment to make and to fulfill. Aspects of language, social structure, and political culture steer in the opposite direction: toward assertions of absolute categories transcending human choice or perspective. . . . Existing institutions and language already carve the world and already express and recreate attitudes about what counts as a difference, and who or what is the relevant point of comparison.

Mexican in the most private parts of my soul. My childhood mask involved my outward self: how I looked, how I sounded. By college, my mask included more subtle aspects of my personality and intellect: a polysyllabic vocabulary, years of tested academic achievement, and a nascent political philosophy wrapped up in the ideology of being Chicana.

Law school, however, challenged the effectiveness of my mask and jeopardized its coherence. My mask seemed brittle and permeable. At other times, it seemed solid and opaque. My cache of cultural, linguistic and gender-linked disguises seemed inadequate; the private me was threatened with unwanted exposure. The private me was suffocating. The private me was leaking out.

I recall that my Criminal Law professor was supportive of my comments, even though his own Socratic dialogue had neither invited such remarks nor presented Josephine Chavez as a complex person worthy of our attention. I remember him as supportive partly because he later invited me and a small number of students for a social gathering at his home. I sensed that the invitation was a significant gesture of inclusion, that he viewed me as belonging in the same way the other students belonged and in a way that I never felt.

Over time, I figured out that my interpretations of the facts in legal opinions were at odds with the prevailing discourse in the classroom, regardless of the subject matter.[64] Much of the discussion assumed that we all shared common life experiences. I remember sitting in the last row and being called on in Tax, questioned about a case involving the liability of a father for a gift of detached and negotiable bond coupons to his son.[65] It was clear that I was befuddled by the facts of the case. Looking at his

64. My experience of seeing something more in Josephine Chavez's story and in other legal opinions and materials, regardless of subject matter, is captured in the poetry of Juan Gelman, the Argentine poet:

> Estudiando la historia,
> fechas, batallas, cartas escritas en la piedra,
> frases célebres, próceres oliendo a santidad,
> sólo percibo oscuras manos
> esclavas, metalúrgicas, mineras, tejedoras,
> creando el resplandor, la aventura del mundo,
> se murieron y aún les crecieron las uñas.
>
> Studying history,
> dates, battles, letters written on stone,
> famous sayings, military heroes smelling of saintliness,
> I only see dark hands
> enslaved, metalworking, mining, weaving
> creating the light, the world's adventure,
> they died and their nails are still growing.

Juan Gelman *in* GONZALEZ & TREECE, *supra* note 46, at 342-43.

65. Helvering v. Horst, 311 U.S. 112 (1940).

notes on the table, the professor asked with annoyance whether I had ever seen a bond. My voice quivering, I answered that I had not. His head shot up in surprise. He focused on who I was; I waited, unmasked. He became visibly flustered as he carefully described the bond with its tear-off coupons to me. Finally, he tossed me an easy question, and I choked out the answer.

This was one instance of feeling publicly unmasked. In this case, it was class-based ignorance which caused my mask(s) to slip. Other students also may have lacked knowledge about bonds. Maybe other students, especially those from families with little money and certainly no trust funds, stocks or bonds, also would have felt unmasked by the questioning. But I felt isolated and different because I could be exposed in so many ways—through class, ethnicity, race, gender, and the subtleties of language, dress, make-up, voice and accent.

For multiple and overlapping reasons I felt excluded from the experiences of others, experiences that provided them with knowledge that better equipped them, indeed privileged them, in the study of The Law, especially within the upper class domain that is Harvard.[66] Not knowing about bonds linked the complexities of class-jumping with the fearful certainty that, in the eyes of some, and most painfully in my own/my mother's eyes, I would be seen as *greñuda*: dirty, ugly, dumb and uncombed.[67]

It was not possible for me to guard against the unexpected visibility—or, paradoxically, the invisibility—caused by class, gender or ethnic differences that lurked in the materials we studied. Such issues were, after all, pervasive, and I was very sensitive to them.

Sitting in the cavernous classrooms at Harvard under the stern gaze of patrician jurists[68] was an emotionally wrenching experience. I remember the day one of the students was called on to explain *Erie v. Tompkins*.[69] His identification of the salient facts, his articulation of the major and minor issues and his synopsis of the Court's reasoning was so precise and concise that it left a hush in the room. He had already achieved and was able to model for the rest of us the objectivity, clarity and mental acuity that we/I aspired to.

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66. Professor Leslie Espinoza, a scholar of color, has written about exclusion from the dominant discourse: "It is painful to feel excluded and disturbing to perceive the world differently from those whose discourse dominates. . . . To explore that difference, to acknowledge it, is to be vulnerable." Espinoza, *supra* note 50, at 1885-86.

67. *See, e.g.*, sources cited *supra* note 16.

68. The classrooms at Harvard Law School feature large portraits of famous judges. Until fairly recently, all the paintings were of white male judges.

69. Erie Railroad Co. v. Tompkins, 304 U.S. 64 (1938).

The respect shown for this type of analysis was qualitatively different than that shown for contextual or cultural analysis. Such occurrences in the classroom were memorable because they were defining: rational objectivity trumped emotional subjectivity. What They had to say trumped what I wanted to say but didn't.

I have no memory of ever speaking out again to explain facts from my perspective as I had done that one day in Criminal Law. There was to be only one Latina in any of my cases, only one Josephine. While I was at Harvard, my voice was not heard again in the classroom examining, exploring or explaining the life situations of either defendants or victims. Silence accommodated the ideological uniformity, but also revealed the inauthenticity implicit in discursive assimilation.

As time went on, I felt diminished and irrelevant. It wasn't any one discussion, any one class or any one professor. The pervasiveness of the ideology marginalized me, and others; its efficacy depended upon its subtextual nature, and this masked quality made it difficult to pinpoint.

I had arrived at Harvard feeling different. I understood difference to be ineluctably linked with, and limited to, race, class and gender.[70] The kernel of that feeling I first associated with Josephine Chavez, that scrim of silence, remains within me. It is still my experience that issues of race, ethnicity, gender or class are invisible to most of my white and/or male colleagues. Issues of sexual orientation, able-bodiedness and sometimes class privilege can be invisible to me. I still make conscious choices about when to connect such issues to the topic at hand and when to remain silent. I'm still unclear about strategies and tactics, about being frontal or oblique.

Issues of race or gender are never trivial or banal from my perspective. Knowing how or when to assert them effectively as others react with hostility, boredom or weariness can be a 'crazy-making' endeavor. Sometimes it seems that every interaction requires that I overlook the terms of the discourse or that I affirmatively redefine them. My truths require that I say unconventional things in unconventional ways.[71]

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70. Learning about the varied experiences of students who had initially seemed to fit neatly into Us and Them categories was one of the profound lessons of law school. My life eventually was transformed by students of color from economically-privileged backgrounds, self-described "poor farm boys" from Minnesota, the Irish daughters of Dorchester, the courage of a student with cerebral palsy. These and other students challenged the categories into which I forced my world.

71. Jerome M. Culp, Jr., *You Can Take Them To Water But You Can't Make Them Drink: Black Legal Scholarship and White Legal Scholars*, 4 U. ILL. L. REV. 1021 (1992). Culp illustrates the way in which Professor Patricia Williams challenges how we come to understand what is law:

Speaking out assumes prerogative. Speaking out is an exercise of privilege. Speaking out takes practice.

Silence ensures invisibility.[72] Silence provides protection. Silence masks.[73]

II. *TRENZAS*: BRAIDING LATINA NARRATIVE

> Let me show you my wounds: my stumbling mind, my
> 'excuse me' tongue, and this
> nagging preoccupation
> with the feeling of not being good enough.[74]

Masking and unmasking ideas have been used for yet another distinct but related purpose—to examine embedded truths and to expose ideas that lurk behind other more accessible and more conventional conclusions. Professor Mari Matsuda has written that "[t]he work of feminists, critical legal scholars, critical race theorists, and other progressive scholars has been the work of unmasking: unmasking a grab for power disguised as

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> So *The Alchemy of Race and Rights* has transformed madness into knowledge and knowledge into a different way of looking at law, and that is what legal scholarship must be about—but seldom is. If white scholars are to understand some of what black scholars and people are saying, they must begin to appreciate stories that are unconventional. Only in the madness of the unconventional is it possible for truth to be found—at least a truth that includes the lives and experiences of black people.

Id. at 1040-41.

72. Invisibility afforded by the "closet" is prominent in the writings and experiences of gay men and lesbians. *See, e.g.*, Marc A. Fajer, *Can Two Real Men Eat Quiche Together?: Storytelling, Gender-Role Stereotypes, and Legal Protection for Lesbians and Gay Men*, 46 U. MIAMI L. REV. 511 (1992).

73. Professor Scales-Trent observes that masking is a wide-spread phenomenon among women law students:

> [W]omen whose lives seemed so different . . . would learn to see the similarities. . . . When they read Mitsuye Yamada's poem 'Masks of Woman,'
>
> > This is my daily mask
> > daughter, sister
> > wife, mother
> > poet, teacher
> > grandmother.
> > My mask is control
> > concealment
> > endurance
> > my mask is escape
> > from my
> > self . . .
>
> black, white and latina women all marvelled: 'She could have been writing about me!' "

Judy Scales-Trent, *Sameness and Difference in a Law School Classroom: Working at the Crossroads*, 4 YALE J.L. & FEMINISM 415, 433-34 (1992) (quoting MITSUYE YAMADA, DESERT RUN: POEMS AND STORIES 89 (1988)).

74. Lorna D. Cervantes, *Poem for the Young White Man Who Asked Me How I, An Intelligent Well-Read Person, Could Believe in the War Between Races*, *in* EMPLUMADA 35 (1981).

science, unmasking a justification for tyranny disguised as history, unmasking an assault on the poor disguised as law."[75]

Stories too can be unmasked to reveal their potential for challenging the dominant discourse. Personal narratives, and in this particular case Latina autobiography, are more than stories. They are an important site of resistance.[76] Furthermore, they invent, reform and refashion personal and collective identity. The recounting of my personal stories in two languages is an individual exercise in resistance against cultural and linguistic domination.

1. *Storytelling as Personal and Collective Redefinition*

In deciding to use an autobiographical narrative format, I am seizing literary space that has rarely been occupied by Latinas in either Spanish or English.[77] Autobiographical works by Latino males have been published in the United States since the mid-1960s.[78] There is, however, no significant body of contemporary autobiography written by Latinas in the United States.[79]

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75. Matsuda, *supra* note 15, at 1394.

76. Is [autobiography] the model for imperializing the consciousness of colonized peoples, replacing their collective potential for resistance with a cult of individuality and even loneliness? Or is it a medium of resistance and counterdiscourse, the legitimate space for producing that excess which throws doubt on the coherence and power of an exclusive historiography?

Doris Sommer, *"Not Just a Personal Story": Women's Testimonios and the Plural Self*, *in* LIFE/LINES: THEORIZING WOMEN'S AUTOBIOGRAPHY 107, 111 (Bella Brodzki & Celeste Schenck eds., 1988).

77. Debra A. Castillo has written, "Latin American women do not write autobiography. . . . Latin American women, unless they have the great good luck of the access to the advantages implicit in [European derived] names . . . the advantages of birth, education, and affluence, do not write at all." Debra A. Castillo, *Rosario Castellanos: "Ashes Without a Face,"* *in* DE/COLONIZING THE SUBJECT: THE POLITICS OF GENDER IN WOMEN'S AUTOBIOGRAPHY 242, 242-43 (Sidonie Smith & Julia Watson eds., 1992). Castillo describes the tradition of women's autobiography in Mexico as "extremely thin." *Id.* at 244.

78. *See, e.g.*, ZETA ACOSTA, THE AUTOBIOGRAPHY OF A BROWN BUFFALO (1972); ERNESTO GALARZA, BARRIO BOY (1971); RUBEN NAVARRETTE, JR., A DARKER SHADE OF CRIMSON: ODYSSEY OF A HARVARD CHICANO (1993); EDWARD RIVERA, FAMILY INSTALLMENTS: MEMORIES OF GROWING UP HISPANIC (1982); RODRIGUEZ, *supra* note 29; RICHARD RODRIGUEZ, HUNGER OF MEMORY: THE EDUCATION OF RICHARD RODRIGUEZ (1982); PIRI THOMAS, DOWN THESE MEAN STREETS (1967).

79. For an analysis of early twentieth-century examples of *nuevamexicana* autobiography, see Genaro Padilla, *Imprisoned Narrative? Or Lies, Secrets, and Silence in New Mexico Women's Autobiography*, *in* CRITICISM IN THE BORDERLANDS: STUDIES IN CHICANO LITERATURE, CULTURE, AND IDEOLOGY 43, 43-60 (Héctor Calderón & José D. Saldívar eds., 1991) (arguing that Anglo-American mythology and romanticism about the Southwest invented at the beginning of the twentieth century "imprisoned" the consciousness of Hispanas/os in New Mexico).

Autobiographical essays can be found in anthologies,[80] but few autobiographical books by Latinas have been published.[81]

That I am writing autobiographically as a Latina is unusual, that I choose to do so in the context of legal scholarship is more unusual yet.[82] My purposes resemble some of the goals ascribed to African American autobiography.[83] Autobiographical writing by African Americans has been described as serving descriptive and persuasive functions that are distinct from White autobiography. African American autobiography "looks not backward over a completed career, but forward to what the black writer is doing and intends to do in the future."[84]

Feminist method has been inextricably linked to consciousness-raising and the primacy of women's experience.[85] One of

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80. *See, e.g.*, LAS MUJERES HABLAN, AN ANTHOLOGY OF NUEVA MEXICANA WRITERS (Tey D. Rebolledo et al. eds., 1988); MAKING FACE, MAKING SOUL, HACIENDO CARAS, CREATIVE AND CRITICAL PERSPECTIVES BY WOMEN OF COLOR (Gloria Anzaldúa ed., 1990); THIS BRIDGE CALLED MY BACK, WRITINGS BY RADICAL WOMEN OF COLOR (Cherríe Moraga & Gloria Anzaldúa eds., 1981).

81. *See, e.g.*, GLORIA ANZALDÚA, BORDERLANDS, LA FRONTERA, THE NEW MESTIZA (1987); MARY HELEN PONCE, HOYT STREET (1993).

82. For other examples of autobiographical legal scholarship by Latinas, see Espinoza, *supra* note 50; Berta Esperanza Hernandez, *Building Bridges—Latinas and Latinos at the Crossroads: Realities, Rhetoric and Replacement*, 25 COLUM. HUM. RTS. L. REV. 369 (1994).

83. For examples of narratives in critical race theory, see DERRICK BELL, AND WE ARE NOT SAVED (1987); DERRICK BELL, FACES FROM THE BOTTOM OF THE WELL (1993); PATRICIA J. WILLIAMS, THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR (1991); Jerome M. Culp, Jr., *Autobiography and Legal Scholarship and Teaching: Finding the Me in the Legal Academy*, 77 VA. L. REV. 539, 543 (1991); Richard Delgado & Jean Stefanic, *Critical Race Theory: An Annotated Bibliography*, 79 VA. L. REV. 461 (1993).

For a discussion of the narrative form as a tool for legal discourse, see Kathryn Abrams, *Hearing the Call of Stories*, 79 CAL. L. REV. 971 (1991); and Scales, *supra* note 58.

For examples of narrative in clinical scholarship, see Anthony V. Alfieri, *Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative*, 100 YALE L.J. 2107 (1991); Clark D. Cunningham, *A Tale of Two Clients: Thinking about Law as Language*, 87 MICH. L. REV. 2459 (1989); Christopher P. Gilkerson, *Poverty Law Narratives: The Critical Practice and Theory of Receiving and Translating Client Stories*, 43 HASTINGS L.J. 861 (1992).

For examples of law and literature scholarship, see James R. Elkins, *On the Emergence of Narrative Jurisprudence: The Humanistic Perspective Finds a New Path*, 9 LEGAL STUD. F. 123 (1985); Steven L. Winter, *The Cognitive Dimension of the Agon Between Legal Power and Narrative Meaning*, 87 MICH. L. REV. 2225 (1989).

84. Culp, *supra* note 83, at 542.

85. *See* Catharine A. MacKinnon, *Feminism, Marxism, Method, and the State: An Agenda for Theory*, 7 SIGNS 515, 535 (1982) ("[T]o feminism, the personal is epistemologically the political, and its epistemology is its politics. Feminism, on this level, is the theory of women's point of view. It is the theory of Judy Grahn's 'common woman' speaking Adrienne Rich's 'common language.' Consciousness raising is its quintessential expression.") (footnotes omitted). *See also* Patricia A. Cain, *Feminist Jurisprudence: Grounding the Theories*, 4 BERKELEY WOMEN'S L.J. 191, 195 (1989); Christine A. Littleton, *Feminist Jurisprudence: The Difference Method Makes*, 41 STAN. L. REV. 751 (1989) (book review).

the central issues of feminism is the cultural construction of subjectivity.[86] In de/constructing myself and rendering myself as a speaking subject, I "dismantle the representation of stereotypes of [my] Self constructed, framed, and projected by the dominant ideology."[87] Language, images and masks are key factors in that de/construction. For Latinas this endeavor entails the use of Spanish with English. My story, like that of Josephine Chavez, requires that I use both languages.[88] Writing about my experiences, as a child and as a law student, will hopefully contribute to a new critical understanding of what it means to be a Latina and increase the discursive space for the telling of stories from the Latina perspective. Telling my stories about my everyday experiences and capturing those experiences through two languages challenges the societal indifference that has isolated and marginalized Latinas.[89]

Partly because of its bilingual character, Latina writing, whether fictional, autobiographical or traditionally academic, continues to be marginalized within the literary canon.[90] Consequently, our individual stories and our collective her/story are lost.

New narrative forms have enabled Sandra Cisneros, Gloria Anzaldúa and others to explore the cultural borderlands where Outsiders engage and evade the oppressive weight of the domi-

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86. *See* Catherine Belsey, *Constructing the Subject: Deconstructing the Text, in* FEMINIST CRITICISM AND SOCIAL CHANGE 45, 47 (Judith Newton & Deborah Rosenfelt eds., 1985).

87. Eliana Ortega & Nancy S. Sternbach, *At the Threshold of the Unnamed: Latina Literary Discourse in the Eighties, in* BREAKING BOUNDARIES: LATINA WRITING AND CRITICAL READINGS 2, 14 (Asunción Horno-Delgado et al. eds., 1989).

88. [T]he Latina, a bilingual person, will experience a more arduous task, for the self must be inscribed into two symbolic orders: English, the language of the hegemonic culture, and Spanish, the mothertongue. The positioning of this speaking-I into two symbolic orders signifies that she will constantly be negotiating her alliances with one or both of these orders.

Id. at 14.

89. Castillo, *supra* note 77, at 255 (quoting Eugen Gomringer, *Schweigen, in* WORTE SIND SCHATTEN; DIE KONSTELLATIONEM 1951-1968 (Helmut Heissenbüttel ed., 1969):

Eugen Gomringer's concrete poem . . . raises the question of silence as a wall of silence and at the same time enacts the speaking/writing of the word silence in a disembodied command, a fact without a speaker, bricks in the wall:

silencio silencio silencio
silencio silencio silencio
silencio silencio
silencio silencio silencio
silencio silencio silencio

90. *See* Ortega & Sternbach, *supra* note 87, at 15.

nant culture.[91] Anzaldúa's writing epitomizes the power inherent in the *mestiza*'s[92] stories, the power to fashion a new authentic identity, an identity made stronger and more resilient because it braids together the disparate. As Professor Renato Rosaldo has noted:

> Gloria Anzaldúa has further developed and transformed the figure at the crossroads in a manner that celebrates the potential of borders in opening new forms of human understanding. . . . In rejecting the classic "authenticity" of cultural purity, she seeks out the many-stranded possibilities of the borderlands. By sorting through and weaving together its overlapping strands, Anzaldúa's identity becomes ever stronger, not diffused.[93]

Autobiographical writing and other forms of bi/multilingual expression in the legal academy and in legal scholarship legitimize multiple perspectives and validate personal experience. The writing of *mestizas* continues to expand the meaning of scholarship by including voices that "speak without the accents of ancestral power."[94]

Through shared language, goals and visions, *mestiza* scholarship also connects us to those poets of latinoamerica who "speak from the margins of the world system and from a position of exclusion."[95] Like them, we are engaged in a struggle to find ourselves as we reconstruct the world.[96] The exploration of personal agency through autobiography and the seizure of discursive space formerly denied to Latinas are regenerative acts which can transform self-understanding and reclaim for all Latinas the right to define ourselves and to reject uni-dimensional interpretations of our personal and collective experience.

2. *Storytelling as a Challenge to Traditional Legal Discourse*

The law and the practice of law are grounded in the telling of stories. Pleadings and judicial orders can be characterized as stylized stories.[97] Legal persuasion in the form of opening statements and closing arguments is routinely taught as an exercise in

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91. GLORIA ANZALDÚA, *supra* note 81; SANDRA CISNEROS, THE HOUSE ON MANGO STREET (1985).

92. *Mestiza* refers to a woman whose identity is a product of at least two cultures. *See* ANZALDÚA, *supra* note 81.

93. ROSALDO, *supra* note 14, at 216 (footnote omitted).

94. GONZALEZ & TREECE, *supra* note 46, at xv.

95. *Id.*

96. Latinoamericano discourse "is not simply a locus of regret and imaginative explorations of other fictions; it is increasingly the site of a rehearsal of new relationships, new possibilities, new forms of struggle and often, at its best, a moving exhortation to find the self in the reconstruction of the world." *Id.*

97. *See* Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2428 (1989).

storytelling. Client interviews are storytelling and story-listening events. Traditionally, legal culture within law firms, law schools and courthouses has been transmitted through the "war stories" told by seasoned attorneys. Narrative laces through all aspects of legal education, legal practice and legal culture. In these various ways the use of narrative is not new to the legal academy.

Only recently however, has storytelling begun to play a significant role in academic legal writing.[98] In the hands of Outsiders, storytelling seeks to subvert the dominant ideology. Stories told by those on the bottom,[99] told from the "subversive-subaltern" perspective,[100] challenge and expose the hierarchical and patriarchal order that exists within the legal academy and pervades the larger society.[101] Narrative that focuses on the experiences of Outsiders thus empowers both the story-teller and the story-listener by virtue of its opposition to the traditional forms of discourse.[102]

Understanding stories told from different cultural perspectives requires that we suspend our notions of temporal and spacial continuity, plot, climax, and the interplay of narrator and protagonists.[103] The telling of and listening to stories in a multicultural environment requires a fundamental re-examination of

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98. *See, e.g.*, BELL, AND WE ARE NOT SAVED, *supra* note 83; Robert Cover, *The Supreme Court, 1982 Term—Foreword: Nomos and Narrative*, 97 HARV. L. REV. 4 (1983); WILLIAMS, *supra* note 83.

99. *See* Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323 (1987).

100. *See* Gita Rajan, *Subversive-Subaltern Identity: Indira Gandhi as the Speaking Subject*, *in* DE/COLONIZING THE SUBJECT, *supra* note 77, at 196 (arguing that the autobiography of the colonized woman intersects with various sociocultural forces and incorporates political and semiotic contradictions, and that these autobiographies must be read for their calculated subversive trajectories); *see also* ROSALDO, *supra* note 14, at 186.

101. By displacing the more usual forms of academic writing on which the dominant order relies, Outsider stories work a formal as well as a substantive subversion. *Cf.* Anne DiPardo, Narrative Knowers, Expository Knowledge: Discourse as a Dialectic 7 (Center for the Study of Writing, Occasional Paper No. 6, 1989) (reference omitted):

> While classical tradition bestowed preeminence on logical thought and the scientific revolution brought new prestige to empirically discerned fact, a different tradition sees storytelling as a vehicle for an equally rich, distinctly valuable sort of knowledge—indeed, the word "narrative" is derived from the Latin *gnarus,* denoting "knowing" or "expert."

102. *See* GONZALEZ & TREECE, *supra* note 46, at xiv:

> If the counter-universal exists it is in the common experience of alienation, of exploitation, of exclusion itself. It may have many manifestations, and may be exacerbated by other marginalities. Race and gender reinforce and repeat the alienation—and the alienation may prove overwhelming or provide the locus for a resolute resistance. The local and the specific are in many instances the necessary site of resistance.

Id.

103. *See* ROSALDO, *supra* note 14, at 143.

the text, the subtext and the context of stories.[104] The emphasis of critical scholarship (critical race theory, feminist jurisprudence, critical legal studies) on narrative affirms those of us who are Outsiders working within the objectivist orientation of the legal academy and validates our experimentation with innovative formats and themes in our teaching and in our scholarship.[105]

III. *GREÑAS*: UN/BRAIDING LATINA NARRATIVES

Because I, a *mestiza*,
continually walk out of one culture
and into another,
because I am in all cultures at the same time,
alma entre dos mundos, tres, cuatro,
me zumba la cabeza con lo contradictorio,
Estoy norteada por todas las voces que me hablan simultáneamente.[106]

Because I, a *mestiza*,
continually walk out of one culture
and into another,
because I am in all cultures at the same time,
a soul between two worlds, three, four,
my head buzzes with the contradictory,
I am disoriented by all the voices that talk to me simultaneously.[107]

A. *Pursuing Mestizaje (or Transculturation)*[108] *in the Legal Academy*

The Euro-American conquest of the Southwest[109] and Puerto Rico resulted in informal[110] and formal[111] prohibitions

104. "Clarity emerges from the realization that the protagonists' narratives pose a deeper challenge to the analyst's sovereign viewpoint. . . . Complexity involves grappling with narrative forms that work, say, without our notions of 'climax,' 'turning point,' or even 'point of view.' " *Id.* at 141.

105. *See generally* Charles R. Lawrence, *The Word and The River: Pedagogy as Scholarship as Struggle*, 65 So. CAL. L. REV. 2231 (1992).

106. ANZALDÚA, *supra* note 81, at 77.

107. My translation.

108. *See* LIONNET, *supra* note 2, at 15.

109. *See* Eduardo Hernandez Chavez, *Language Policy in the United States: A History of Cultural Genocide*, *in* LATINOS IN THE UNITED STATES: HISTORY, LAW AND PERSPECTIVE (Antoinette Sedillo López ed., forthcoming).

110. *See* GOMEZ, *supra* note 24; ROSALDO, supra note 14, at 149; Espinoza, *supra* note 50.

111. *See, e.g.*, Hector Garcia v. Alton V.W. Gloor, 618 F.2d 264 (5th Cir. 1980) (an employer's "speak-only-English" rule, even if arbitrary and with no genuine business need, does not discriminate on the basis of national origin in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e, as amended), *cert. denied*, 449 U.S. 1113 (1981). *But cf.* Gutierrez v. Municipal Court, 838 F.2d 1031 (9th Cir. 1988) (while limited English-only rule may be permissible in some circum-

against the use of Spanish for public purposes. So by inscribing myself in legal scholarship as *mestiza*, I seek to occupy common ground with Latinas/os in this hemisphere and others, wherever situated, who are challenging "Western bourgeois ideology and hegemonic racialism with the metaphor of transculturation."[112]

As Latinas/os we, like many colonized peoples around the globe, are the biological descendants of both indigenous and European ancestors, as well as the intellectual progeny of Western and indigenous thinkers and writers. As evidenced by my names, I am the result of Mexican-Indian-Irish-French relations. I am also the product of English-speaking schools and a Spanish-speaking community. Claiming our mixed intellectual and linguistic heritage can attentuate the subordinating forces implicit in the monolinguality and homogeneity of the dominant culture.[113] While I reject the idea that personal narratives can or should be generalized into grand or univeralistic theories, our stories can help us search for unifying identifiers and mutual objectives. For example, the deracination of language purges words of their embedded racism, sexism and other biases.[114]

Using Spanish (or other outlaw languages, dialects or patois) in legal scholarship could be seen as an attempt to erect linguistic barriers or create exclusionary discursive spaces, particularly among Outsiders with whom Latinas share mutual ideological, political, and pedagogical objectives.

Personal narratives of alienation or subordination present additional challenges when used in the domain of critical legal writing. Being a member of the legal professoriate, even if one is a member of several traditionally oppressed groups, means having a significant amount of social and cultural power and privi-

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stances, no such rule will be deemed lawful unless employer can show that it is justified by business necessity and notifies employee of the general circumstances when speaking only in English is required and of the consequences of violating the rule), *vacated*, 490 U.S. 1016 (1989). *See also* BILL PIATT, ¿ONLY ENGLISH?: LAW AND LANGUAGE POLICY IN THE UNITED STATES (1990).

112. LIONNET, *supra* note 2, at 15-16 (translating the Cuban poet Nancy Morejón).

113. Gloria Anzaldúa has developed the idea of "the language of the Borderlands." "There, at the juncture of cultures, languages cross-pollinate and are revitalized; they die and are born." ANZALDÚA, *supra* note 81, at Preface.

114. When we attempt to understand the full range of connotations of our racial terminologies, we are forced to reexamine the unconscious linguistic roots of racial prejudice and to face the fact that language predetermines perception. This is why a word like *métis* or *mestizo* is most useful: it derives etymologically from the Latin *mixtus*, "mixed," and its primary meaning refers to cloth made of two different fibers, usually cotton for the warp and flax for the woof: it is a neutral term, with no animal or sexual implication. It is not grounded in biological misnomers and has no moral judgements attached to it. It evacuates all connotation of "pedigreed" ascendance, unlike words like octoroon or half-breed.

See id. at 14.

lege. Personal accounts of humiliation, bias or deprivation told from within the academy may sound to some like whining or may be perceived as excessive involvement with the self rather than with the real needs of the Outsider communities. Hopefully, linguistic diversity will be recognized as enhancing the dialogue within the academy by bringing in new voices and fresh perspectives. For this reason, incorporating Spanish words, sayings, literature and wisdom can have positive ramifications for those in the academy and in the profession, and for those to whom we render legal services.[115]

B. *De Trenzas a Máscaras a Greñas, Another Story*

I am seated in the back of the auditorium on the first day of a three-day conference in Mexico City. The conference, entitled "Encuentro Chicano México 1993," brings together Mexican and Latina/o academics to examine the conditions of Chicanos in the United States. The first roundtable is on historical issues and features a presentation on the history of Spanish-language radio in the United States.[116] Toward the end of the question-and-answer period that is taking place in Spanish, I raise my hand. I want to discuss *FCC v. Metro Broadcasting*,[117] not only for its potential to expand license ownership opportunities for Latinas/os, but also to discuss how Justice Brennan's opinion emphasizes that Latina/o licensees comprehensively change and enhance the business of radio broadcasting.[118]

As I begin to speak and faces turn to the back of the room, I hear myself. My Spanish sounds pinched; I'm fumbling for words; I hear the American intonations and the English constructions forcing themselves on my Spanish. It feels dreamlike; I am aware of two dialogues—one is audible; I am talking to an audience. The other is inaudible; I am talking to myself. I am "on stage" again. What are they thinking behind their faces? Only this time the faces look like my face. Still I feel different, tongue-tied, childlike.

I leave the conference feeling disturbed and nervous. I am scheduled to present a version of this paper on the following day.

115. In a forthcoming article, I argue that the code-switching that characterizes bilinguality (and Lionnet's *métissage*, see LIONNET, *supra* note 2) is analogous to the code-switching involved in translating client stories into legal language. *See* Margaret Montoya, *Law and Language(s): Image, Integration and Innovation*, 7 LA RAZA L.J. (forthcoming 1994).

116. Axel Ramirez & Patricia Casasa, Historia de la radio hispana en los Estados Unidos, Conference presentation at Encuentro Chicano México 1993, at Centro de Enseñanza para Extranjeros, Universidad Nacional Autónoma de México (Aug. 25-27, 1993).

117. 497 U.S. 547 (1990).

118. *See id.* at 581-82.

But what language do I use? I want to speak in Spanish, so as to be understood by the largest number, but to do so puts me at psychological risk: using a limited vocabulary, fractured syntax and accented tones.

Like my *trenzas* and my grade school uniform, I have long adopted a head-to-toe mask to help me become the person I am when I am functioning in an Anglo and/or male environment. I think of this sometimes as I stand in front of the mirror to put on my make-up (as I "make myself up" or invent myself anew),[119] as I apply mascara. Our word "mascara" comes from the anglicized pronunciation for the Spanish word meaning "mask." *Máscara* reveals another level of meaning if we separate it into *más cara*, which means "more face," or *máscaras*, which separates into "more faces."

In different situations, I have constructed my public face through makeup, clothes, vocabulary and selective identification with my past. Ironically, this all seems even more relevant now as I am thrust into what should feel like home territory. The next day I apply my make-up and dress carefully. I wear a white suit, a cobalt blue silk blouse and matching suede heels.

I begin my presentation with a short introduction written in Spanish, but then I switch to English. I am compelled to switch. As a child I was forced to use English; now it is my language of choice. It has become my public voice—it lends me identity, authority, credibility.

I deliver the narratives about my childhood and law school experiences. This is familiar terrain, my voice is confident. I continue with a short synopsis of the expository sections on masking. As I am standing there, I am aware of an internal voice urging me to listen to my own words; I am increasingly aware that my words spoken in English to this Mexican audience capture the very inauthenticity I am describing.

With great trepidation, I say: Masks can be sartorial, ideological, cognitive. Masks can also be lexographic, rhetorical or linguistic. I stand before you with my linguistic mask. *Aquí estoy ocultada por mí máscara linguistica con sus aspectos subtextuales. Desde niña, he entendido el significado de accentos, vocabulario, pronunciación, sintaxis. En ingles estos elementos idiomaticos están relacionados con mí psique, con la persona quien soy. Por la primera vez entiendo que español tiene el mismo poder, a pesar de estar donde no soy parte de una minoría cultural or racial. Para mí, hablar español fuera de la casa me hace sentir vulnerable. Sobre todo, hablar español donde la mayoria lo habla mucho*

119. This insight, this play on the word make-up, was provided by my student, Jude Messer.

mejor que yo, tiene algún parecer de como me sentia cuando era niña, cuando me sentia vulnerable ante de los gringos. Por eso es difícil quitarme la máscara que me presta el ingles y hablarles en español. Así es la locura de la discriminación.[120]

The emotion could be heard in my voice. I continued into the section on *trenzas*, but now I persisted in speaking both languages, weaving English with Spanish, the personal voice with the academic.

I knew it wasn't neat and orderly: my *greñas* were showing for all to see. I shrugged off my mother's concern about how others might judge me, and there I stood "sounding *greñuda.*" But this new identity, this contradictory and ambiguous identity, was my own. I felt authentic. My public persona, like my private face and private speech, no longer reflected only those who had dominated me and my people. I found my voice, *mis voces.*

IV. CONCLUSION

New discursive formats, including the use of Latina autobiography in legal scholarship, enable us to reinvent ourselves. We can reject the dualistic patriarchal masks that we shrank behind and seize instead our multiple, contradictory and ambiguous identities. As we reinvent ourselves we import words and concepts into English and into academic discourse from formerly prohibited languages and taboo knowledge. The disruption of hegemonic tranquility, the ambiguity of discursive variability, the cacaphony of polyglot voices, the chaos of radical pluralism, are the desired by-products of transculturation, of *mestizaje.*[121] The pursuit of *mestizaje*, with its emphasis on our histories, our ances-

120. Here I am, obfuscated by my linguistic mask with its subtextual aspects. Since I was a child, I've understood the meaning of accents, vocabulary, pronunciation, syntax. These linguistic elements of English are related to my psyche, to the person I am. For the first time I understand that Spanish has the same power over me, even though here I am not part of a cultural or racial minority. For me, speaking Spanish outside of the home makes me feel vulnerable, especially where the majority speak so much better than I. All of this has some aspect of how I used to feel as a child, when I felt vulnerable in front of *gringos.* For this reason, it is so difficult to take off this mask that English lends me and to speak in Spanish. This is the craziness of discrimination. (The unease of this experience is recreated in the effort of writing in Spanish and not knowing where words are accented or whether the vocabulary is exact. I am painfully aware that my written Spanish reveals my assimilation in the same way as my spoken English does.)

121. Professor Angela Harris has used Gloria Anzaldúa's *mestiza* representation to write about the "personal i, not the universal unmarked I." In concluding a narrative that, as a Latina, I found particularly moving and evocative, she writes:

> Quietly my students and colleagues claim their invisibility. They resent a world that gives them gender, race, class, sexuality. They wish to be talking heads. They wish we could all just be individuals.
>
> *La mestiza* dances at the funeral of the individual in a red dress.
>
> What is *la mestiza*'s distinctive contribution to her students, colleagues, and institutions? Restlessness, ambiguity, disruption. Creative

tries and our past experiences can give us renewed appreciation for who we are as well as a clearer sense of who we can become.

Our conceptual *trenzas*, our rebraided ideas, even though they may appear unneat or *greñuda* to others, suggest new opportunities for unmasking the subordinating effects of legal discourse. Our rebraided ideas, the *trenzas* of our multicultural lives, offer personally validating interpretations for the *máscaras* we choose to wear. My masks are what they are, in Santayana's words, merely "arrested expressions and . . . echoes of feelings," the cuticles that protect my heart.[122]

Gracias á mí mamá, Josephine Chavez, Gloria Anzaldúa y muchas otras.

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chaos. And also, maybe most important: Her refusal to be either innocent or invisible.

Angela Harris, *Women of Color in Legal Education: Representing La Mestiza*, 6 BERKELEY WOMEN'S L.J. 107, 112 (1991).

122. Santayana writes:

> [M]asks are arrested expressions and admirable echoes of feeling, at once faithful, discreet, and superlative. Living things in contact with the air must acquire a cuticle, and it is not urged against cuticles that they are not hearts; yet some philosophers seem to be angry with images for not being things, and with words for not being feelings. Words and images are like shells, not less integral parts of nature than are the substances they cover, but better addressed to the eye and more open to observation.

SANTAYANA, *supra* note 39, at 131-32.