

# REVELATIONS: COMMEMORATING THE THEORETICAL, METHODOLOGICAL, AND POLITICAL CONTRIBUTIONS OF PROFESSOR MONTOYA'S MÁSCARAS

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## INTRODUCTION

What a pleasure and honor to be celebrating the historic work of my sister-colleague, the sublime Margaret Montoya. It is doubly meaningful that this symposium is so thoughtfully coordinated with the one tomorrow, honoring the amazing Mari Matsuda. Events like these truly induce writer's block, as the momentous import of the occasion seems to overwhelm our mere mortal ability to articulate an appropriate level of insight and wisdom that might even approach the original brilliance of a piece like *Máscaras*.<sup>1</sup> Forgive me in advance, as I am certain I will fall short in such a tall task.

Before I begin my main comments, I want to make an important acknowledgment. Events do not just happen. They are created and forged. It is very significant that this event is happening on the eve of the Supreme Court considering the elimination of a racial remedy that has allowed significant diversification of an otherwise elite enterprise—legal education.<sup>2</sup> I want to fully credit the intellectual tour de force that is the

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\* Professor, DePaul University College of Law. I thank the dedicated and brilliant 2012-13 editors-in-chief of the *Chicana/o-Latina/o Law Review*, Daniel Borca and Laura Hernandez, who conceived of and executed an outstanding symposium event and volume. They are joined by this year's editors, Julio Navarro, Susan Lopez and Arifa Raza (among others), who are skillfully shepherding the volume to publication. I am grateful to my careful and conscientious research assistant, Candace McPherson. Finally, I am indebted to Professor Margaret Montoya, from whom I have learned so much in terms of writing, teaching, organizing, parenting, and living a meaningful life.

<sup>1</sup> Margaret E. Montoya, *Law and Literature: Máscaras, Trenzadas y Greñas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse*, 17 HARV. J.L. & GENDER 185 (1994) [hereinafter *Máscaras* HWLJ] (concurrently published in 15 CHICANO-LATINO L. REV. 1 (1994) [hereinafter *Máscaras* CLLR]).

<sup>2</sup> See *Fisher v. University of Texas at Austin*, 631 F.3d 213, 570 U.S. at 7 (2013). The Court agreed with the Fifth Circuit that the University demonstrated its admission policy served a compelling state interest. The Court accepted its 2003 holding in *Grutter v. Bollinger*, 539 U.S. 306 at 325, that the educational benefits that come from student body diversity serve a

Critical Race Studies (“CRS”) program here at The University of California Los Angeles (“UCLA”) that provides the important theoretical and organizational infrastructure for events like these. Most law students would be incredibly fortunate to have even one of the scholarly giants assembled here. I want to point out that these are not just giants in the field of Critical Race Theory (“CRT”), but also giants in legal scholarship period. When scholars do these various productivity studies pointing out the best published, most cited members of the legal professoriate in the nation, the CRT faculty are disproportionately represented among the most productive law faculty, at both UCLA and nationally, affirming once again, that excellence through diversity is not just a marketing slogan.<sup>3</sup> UCLA law students, you suffer an embarrassment of riches.

But I truly want to acknowledge the law students themselves who organized both symposia, and in particular, the law students working on the *Chicana/o-Latina/o Law Review* (“CLLR”)—not only for creating and sustaining a vibrant tradition of high quality intellectual and political activism, but also specifically for taking on the additional task of coordinating with another law review across the country—the *Harvard Women’s Law Journal* (“HWLJ”)—to pull together this symposium and joint volume. This coordination is no small feat, and it is even more difficult where there are differing standards of professionalism, differing approaches to scholarship, and differing political viewpoints that inform the project.

The original collaboration twenty years ago could exist as a fact pattern for a final exam on intersectionality! You have a premier women’s law journal and a premier race law journal, coming together for the first time to publish an article by a feminist of color. The Latina author uses Spanish in her title to “embed a rhetorical signal to the reader that she was being invited into the lived experiences and legal reasoning of a Latina.”<sup>4</sup> The women’s journal, located at one of the top law schools,

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compelling state interest sufficient to justify the use of race in university admissions. However, the Court held that the Fifth Circuit erred in giving similar deference to the University’s determination that its race-conscious admissions policy was necessary to achieve the beneficial effects of diversity.

<sup>3</sup> You can find the core CRS faculty on the UCLA School of Law website at <https://www.law.ucla.edu/academic-programs-and-courses/specializations/critical-race-studies/Pages/crs-faculty.aspx> (last visited Mar. 19, 2014). The CRS Faculty at UCLA School of Law have authored seminal works in critical race theory: their reputation is world renowned and their interests reflect the diversity of thought and practice areas within the entire field.

<sup>4</sup> Margaret Montoya, *Twentieth Anniversary Reflection: Máscaras y Trenzas: Reflexiones*

requests the author to edit out the Spanish language in the title. The author initially and graciously accedes.<sup>5</sup> Her agreeability, I must point out, is both surprising and unsurprising. For those who know Margaret Montoya, the transgressor, you know that she is unafraid to speak truth to power, to cross borders, and to mention the unmentionable. So her initial accommodation of the request may seem surprising.

For those who know Professor Montoya very well, however, it is also unsurprising. Despite the public persona of insurgent activist, many of us know her without her mask; the seven-year old girl with the braids in *Máscaras*.<sup>6</sup> Margaret once shared with a circle of friends an incident at a fancy hotel pool where she was staying as a guest. An older white woman languishing in a hot tub stopped Professor Montoya, dressed in her street clothes with her conference badge, as she passed by, and demanded a towel. When Professor Montoya relayed this to us, as law professors of color with many women among us, we immediately got it. Brown female in hotel equals service worker at the beck and call of paying guests. We nodded in agreement. After the recognition and laughter died down among us, I asked her, “So what did you do?” And she answered, “I looked for a towel!”<sup>7</sup> Well, we all just fell out after that, laughing until our sides hurt and tears came to our eyes. Of course the incident reflects the cultural training imparted to those who are brown, female, and poor, about how they are to act and survive in white spaces designed for luxury and leisure. But it also revealed to me, Professor Montoya’s natural disposition toward the world—decent, humble, helpful,

*Un Proyecto de Identidad y Análisis a Través de Veinte Años*, 36 HARV. J.L. & GENDER 469 (2013) [hereinafter *Reflexiones HWLJ*] (This article was concurrently published in 32 CHICANA/O-LATINA/O L. REV. (SYMPOSIUM ISSUE) 7 (2014).

<sup>5</sup> *Id.* at 470. The editors of the *Harvard Women’s Law Journal* (“HWLJ”), the forerunner to the current *Harvard Journal of Law and Gender*, discouraged Montoya from using Spanish in the title of the article. Her recollection is that the editors of the Chicano-Latino Law Review (“CLLR”) objected to edits of the original article recommended by the HWLJ editors to which she acceded (as this was her first interaction with journal editors), which led to an admonitory foreword by Maria A. Salas-Mendoza, the CLLR Editor-in-Chief. Maria A. Salas-Mendoza, *Foreword*, 15 CHICANA/O-LATINA/O L. REV. (1994) (“We wondered whether the article might be losing its ‘flavor.’”).

<sup>6</sup> Montoya, *Reflexiones HWLJ*, *supra* note 5 at 469.

<sup>7</sup> More specifically, Professor Montoya began looking around, desperately searching in an armoire, baskets, shelves—some place where towels might be stored. But she could not find one, and eventually told the woman so. At that point, Professor Montoya recalls, the woman scolded her, “Well, don’t you work here?” After relaying the story to her two white male clinician colleagues nearby, they denied any race or gender dynamics at work, contending that, “She could have just as easily asked one of us for a towel. You’re too sensitive.”

and trusting. Assuming good faith and intention, even where it may not be deserved.

And let me make clear that I do not put the HWLJ editors from two decades ago in the same moral category as the lounging white woman demanding a towel from brown, female passers-by. I do not know any of them. I do not doubt there may have been women of color among them, and I'm sure Professor Montoya's initial response considered her relative power as faculty member over student editors when considering the requested edit. It was, after all, her first experience with the law review editorial process. So, bottom line, as this anecdote reveals, it was not totally unsurprising that Professor Montoya initially agreed to edit out the Spanish title as requested.

This personal anecdote may reveal what makes the subsequent pushback by the CLLR editors all the more important, as well as why diversity in legal education is so imperative. Some of the best learning comes from such peer-to-peer education. As Professor Mari Matsuda once said and I never forgot, "I know I am having a good class when I do the least amount of talking." This insight about the importance of peer-based education grounds the *Grutter* decision, which is now being challenged, and granted legitimacy to the concept of "critical mass" and the diversity rationale.<sup>8</sup> So I want to thank the editors of CLLR for continuing this tradition of peer-to-peer good faith engagement and collaboration that has the power to transform ruptures and divides into more productive teachable moments.

I'd like to turn to the task at hand: to reflect upon the *Máscaras* work that has grown up now and become an independent twenty-something year-old.

## I. LOOKING BACKWARDS: WHAT *Máscaras* HAS MEANT

### A. *Theoretically:*

Professor Montoya's work is both personal and collective, narrative and analytical, cultural and legal, particular and universal. I contend that due to its uniqueness in both form and content, her theoretical

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<sup>8</sup> *Grutter v. Bollinger*, 539 U.S. 306 at 333. The University of Michigan Law School sought, through the school's official admissions policy, to attain the purported educational benefits of having a diverse student body by enrolling a "critical mass" of students who were members of underrepresented minority groups such as African-Americans, Hispanics, and Native Americans. The Law School defined its critical mass concept by reference to the substantial, important, and laudable educational benefits that diversity is designed to produce, including cross-racial understanding and the breaking down of racial stereotypes. *Id.* at 329.

contributions have not been fully acknowledged or appreciated. Like prior female intellectuals of color writing before her, be it in the *Combahee River Collective*,<sup>9</sup> the *This Bridge Called My Back*<sup>10</sup> anthology or the *All the Blacks are Men, All the Women Are White, but Some of Us Are Brave*<sup>11</sup> anthology, Professor Montoya's work may be easily misunderstood or undervalued as lacking in theory and representing mere narrative or personal storytelling. As she recounts in *Reflexiones*, the chair of her scholarship third-year, pre-tenure review committee provided an ominous backhanded compliment: "You write well, but this is not legal scholarship," warning her that she would not get tenure unless she published more traditional "analytical" articles.<sup>12</sup>

The autobiographical device interweaving Montoya's intersectional consciousness defied the expected (and mind-numbing) traditional format of identifying a legal problem, stating why you should care about it, offering doctrinal or policy analysis, then a suggested reform, along with anticipated criticisms, and a clever conclusion. In a sense, her chair's advice is a compliment: She not only writes well, but reading the work is not boring or predictable and it has multiple points of intervention and theoretical analysis.

For example, much of *Máscaras* presciently anticipates the work now known as "performative identity theory" best articulated by Devon Carbado and Mitu Gulati in their prior collaborations and their new book, *Acting White*.<sup>13</sup> As Professor Montoya acknowledges in her

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<sup>9</sup> See THE COMBAHEE RIVER COLLECTIVE, THE COMBAHEE RIVER COLLECTIVE STATEMENT: BLACK FEMINIST ORGANIZING IN THE SEVENTIES AND EIGHTIES, 21 (1986) (The Combahee River collective is a Black feminist lesbian organization and movement most active in Boston 1974-1980 and best known for developing the Combahee River Collection Statement, an important document in the history of contemporary Black feminism and the genesis of the development of the concepts of identity as used among American political organizers and social theorists.).

<sup>10</sup> THIS BRIDGE CALLED MY BACK: WRITINGS BY RADICAL WOMEN OF COLOR (Cherrie Moraga & Gloria Anzaluda, eds. 1984) (*This Bridge Called My Back* intends to reflect an uncompromised definition of feminism by women of color in the U.S.).

<sup>11</sup> BUT SOME OF US ARE BRAVE: ALL THE WOMEN ARE WHITE, ALL THE BLACKS ARE MEN: BLACK WOMEN'S STUDIES (Gloria T. Hall, Patricia Bell, and Barbara Smith eds. 1982).

<sup>12</sup> Montoya, *Reflexiones* HWLJ, *supra* note 5 at 484. Montoya included in a footnote, "What counts as legal scholarship is contestable, but presumably having an article appear in a legal journal is persuasive evidence. I had numerous offers from law reviews to publish the article but chose the then-named *Harvard Women's Law Journal* to reach other women and women of color in elite law schools." The article was also one of the first to be published concurrently when it appeared in the UCLA *Chicano-Latino Law Review*, which reached her racial-ethnic group. "My decisions were based on audience and readership." *Id.*

<sup>13</sup> DEVON W. CARBADO AND MITU GULATI, *ACTING WHITE?: RETHINKING RACE IN POST-RACIAL AMERICA* (2013).

*Reflexiones* follow-up to *Máscaras*, her original work embedded through the *máscaras* trope, the issues of cultural assimilation, identity performances, and imposter syndrome.<sup>14</sup> *Máscaras* (narrated with affect, prose, and insight), the Latina condition of “covering” or “masking” oneself to survive the ways in which raced, gendered and classed people are too often both over-determined and underestimated by dominant society, the legal system, or legal education.

Take for example, Professor Montoya’s distinction between universal masking versus outsider masking:

*Being masked may be a universal condition in that all of us control how we present ourselves to others. There is, however, a fundamental difference in feeling masked because one is a member of one or more oppressed groups in society . . . 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 . . . 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.*<sup>15</sup>

In this passage, Professor Montoya clearly articulates the structure of cultural expectations that influences one to perform a “public identity” consistent with dominant ideology and values.<sup>16</sup>

Another theoretical contribution *Máscaras* makes is the recognition of the important connection between affect and emotions and the law.<sup>17</sup> The most successful litigators know that the practice of law is all

<sup>14</sup> Montoya, *Reflexiones* HWLJ, *supra* note 5 at 479.

<sup>15</sup> Montoya, *Máscaras* HWLJ, *supra* note 2 at 197.

<sup>16</sup> *Id.* at 192.

<sup>17</sup> See generally Ann Juergens, *Practicing What We Teach: The Importance of Emotion and Community Connection in Law Work and Law Teaching*, 11 CLINICAL L. REV. 413; Ronda Muir, *The Importance of Emotional Intelligence in Law Firm Partners*, LAW PRACTICE MAGAZINE, July/August 2007, at 60, available at [http://www.americanbar.org/publications/law\\_practice\\_home/](http://www.americanbar.org/publications/law_practice_home/)

about making an emotional connection to your client's plight with the judge or jury, but somehow, we are supposed to leave emotion and feeling aside in the law school classroom. Professor Montoya's recounting of the Josephine Chavez case, and her reaction to it as a 1L at Harvard Law School ("HLS"), reflects her understanding of how such emotions must be accounted for in legal analysis. The particular case, the *People of the State of California v. Josephine Chavez* involved whether the baby born to twenty-one-year old Latina was alive for the purposes of state manslaughter statute, and whether the statute required the umbilical cord be cut before being considered a person.<sup>18</sup>

*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.*<sup>19</sup>

Feeling silenced by the absence of any context of the fear and cultural shame young Josephine must have faced, and how such powerful emotions are inextricably linked to her state of mind in her post-partum actions, 1L Margaret Montoya had an outburst in class asking, "What about the other facts? What about her youth, her poverty, her fear over the pregnancy, her delivery in silence?" Here, Professor Montoya captures not only the raw emotion of the defendant who stands unintelligible and silent before the court, but also the 1L student, who is rendered too often silent and unintelligible in the law school classroom designed to reproduce a method of analysis that conveniently ignores "sociological factoids" that expose the structures of subordination in the legal system.<sup>20</sup> Like the best works in Law and Society, Professor Montoya even as a student understood the inextricably intertwined nature of the legal and the social.

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<sup>18</sup> Montoya, *Máscaras* HWLJ, *supra* note 2 at 203.

<sup>19</sup> *Id.* at 206.

<sup>20</sup> See Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591 (1982).

B. *Methodologically:*

Professor Montoya's method poses epistemological challenge: How do we know the universal subject is so universal, unless we measure it against the vantage point of the particular? How do we know the legal method is neutral and accurate, unless we test it against varied experience? One would think that for a field that revolves around cases and thus, the case method, that there would not be such aversion to a non-traditional approach that emphasizes an individual story. Undaunted, Professor Montoya wrote the article that was in her, that explained the world she inhabited.

Like her theoretical stance, which is both complex and unassuming, so is her methodology. At first glance, it might be described as autobiographical narrative. Yet, this is both accurate and misleading. She does use her own life story to provide larger insights about the law, legal education, and legal reasoning. But to presume that the method resides in simply telling stories out of school so to speak, vastly understates her project, and at times, encourages others less committed to this form to undertake often truly cringe-worthy autobiographical narrative scholarship! What makes *Máscaras* so powerful, is not simply the compelling exposition of one's life through carefully selected snippets, but the fact that this exposition is carefully situated within the larger context of family and community, as well as history and structure. It is threaded vertically, across generations of Montoya identities' and horizontally across other identities as well as other voices—of intellectuals, poets, and everyday individuals. It recognizes the historicity of Latina autobiography, or rather, the silences and absences of Latina autobiography in U.S. literature generally, and in legal scholarship specifically.<sup>21</sup> Her interdisciplinary method pays attention not only to what is present, but also to what and who is absent, not only what exists in the text, but what is missing, and why. The best of narrative work represents what Margaret herself has referred to as in the tradition of “intersubjective verifiability.”<sup>22</sup> That is to say that this approach does not make grand claims to the universal, or the objective, but the subjective decidedly exceeds the realm of the liberal individual. The intersubjective method must be tested collectively

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<sup>21</sup> Montoya, *Máscaras* HWLJ, *supra* note 2 at 211.

<sup>22</sup> See also Hugh H. Grady & Susan Wells, *Toward A Rhetoric of Intersubjectivity: Introducing Jürgen Habermas*, 6 JOURNAL OF ADVANCED COMPOSITION 33, 34 (1985).

to see to what extent the condition described is cognizable and salient to a larger group or community.<sup>23</sup>

This emphasis on intersubjective verifiability was very helpful to me in my own work and thinking, and it defined what gave *Máscaras* such recognition and staying power. So again, one must not read the method of *Máscaras* superficially or one may miss or misunderstand the careful construction of knowledge claims produced through *Máscaras*.

C. *Politically/Culturally:*

I began my remarks acknowledging the role of CRS faculty, and here, I want to make a specific point about the political importance of Professor Montoya's body of work and *Máscaras* in particular. At the time of its publication, women of color were less than two percent of the legal professoriate. There has been progress, and I charted some of this in a co-authored work with Robert Westley, capturing in particular the dramatic increase in Latina/Latino hiring.<sup>24</sup> I think we have to understand the forces that made such progress possible. I consider the scholarship of Professor Montoya, Professor Matsuda, and those of the CRS faculty in a way that is often not acknowledged. This critical scholarship provides the cultural/political infrastructure for inclusion. This contribution should not be underestimated. I can assure you that the success of *Máscaras* has made it fundamentally easier for law faculties to successfully hire and tenure Latina and other outsider law professors. Additionally, highly-cited scholarship by Latina law professors, like *Máscaras*, provides the theoretical infrastructure for other outsiders seeking authority and legitimacy to pursue related projects or similar methodologies as legal scholarship.

Culturally, *Máscaras* represents a coming out as being part of a family—a mother and loving partner. If you read Professor Montoya's work, and spend any time with her at all, you will see that she refuses to “cover” her familial identity.<sup>25</sup> Indeed, when we were in the stressful throes of organizing hundreds if not a thousand law faculty to take to the streets of San Francisco in academic regalia to protest Proposition 209's anti-affirmative action impact, she would often have us hold up, and take

<sup>23</sup> Indeed, Professor Montoya notes in her recent reflection about how surprised she was to learn how her story resonated not only with her sister, but many others. See Montoya, *Reflexiones*, at n. 29-30.

<sup>24</sup> Sumi Cho & Robert Westley, *Performing LatCrit: Critical Race Coalitions: Key Movements that Performed the Theory*, 33 U.C. DAVIS L. REV. 1377, 1402 (2000).

<sup>25</sup> Montoya, *Reflexiones*, *supra* note 5 at 490.

a time out to discuss a problem or issue that might be going on at home. She never stopped being a mom concerned about her children, or spouse caring about her partner. No matter how busy she was, or how much you must have missed her when she was out “conferencing,” or “organizing,” family was never apart from her.<sup>26</sup> And she pushed many of us to reconfigure the way we did our work, to use her term, as a “race crit Mom.”<sup>27</sup> I confess at times, I can identify distinct phases of my legal career as “B.C.” and “A.D.” – “before children” and “after diapers.” B.C., I did not quite appreciate what she was doing. I was feeling the urgency of whatever project was before us. Now, as a mother of twin tweens, I deeply appreciate how she approached her work. I recall the words of my late friend, a former Black Panther Ronnie Stevenson who quipped, “The revolution is nothing more than your family and your friends.” This one-liner may sound counter-intuitive, but when you think about it, what is more revolutionary than expanding the circle of family and friends with whom you share a new vision of the world?

Presaging the “mindful lawyering” movement,<sup>28</sup> Professor Montoya insisted on integrating her work and family lives, her professional and maternal identity, in a way that reminds me of the late Randy Pausch and his courageous battle with pancreatic cancer.<sup>29</sup> In Pausch’s widely viewed YouTube video of his “last lecture” at his university, he tried to keep his students and audience on their toes.<sup>30</sup> Pedagogically engaging in a series of what he called “head fakes,” he challenged his students to not go for the easy obvious analysis or answer, but to dig deeper.<sup>31</sup> His very last head fake was quite poignant: Pausch concluded his lecture by revealing that it was not just his sharing of a lifetime of accumulated knowledge as part of a crowning career achievement; nor was it merely a sage and beloved teacher giving his best advice to his students. Pausch admitted it was really a last lecture for his children. In a similar sense, and somewhat verified by her luncheon comments today, I think we can also understand *Máscaras*, not only as an important metaphor and methodology,

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<sup>26</sup> *Id.* at 485-6.

<sup>27</sup> *Id.* at 491. Montoya states, “I have worked hard to make my different roles as professor, mother, and wife cohere with and amplify one another.”

<sup>28</sup> See Angela P. Harris, *Toward Lawyering as Peacemaking: A Seminar on Mindfulness, Morality, and Professional Identity*, 61 J. LEGAL EDUC. (May 2012).

<sup>29</sup> Randy Pausch, *The Last Lecture*, <http://www.youtube.com/watch?v=j7zzQpvoYcQ> (last visited Mar. 19, 2014).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

which also, by the way was her job talk, but is also a head fake, as it is an ongoing love letter to her family—the family she grew up in in Las Vegas, New Mexico and the one she has created in Albuquerque. Understanding her work with this focal point does not diminish it. On the contrary, as my Black Panther friend suggested, we may be at our most revolutionary when we are working to expand the circle of those whom we call our family.

## II. LOOKING FORWARD: WHAT *Máscaras* MAY MEAN FOR THE NEXT GENERATION

I cannot presume to narrate what this work does or should mean for students today. But I can say that I think it is important to, in the method of *Máscaras*, continue to engage cross-generational conversations, including the one that Mari began at the end of the lunch panel.

*Máscaras* was powerful and salient because it captured the sensibility of the times. It articulated, in real time, what it was like to be the subject of a great but awkward social experiment. Those who entered legal academia to desegregate it in the late 1980s and 1990s, were writing, teaching, and organizing without a safety net. *Máscaras* marked the era, in which assimilation and silencing and hyper visibility, alongside invisibility, were the norm in legal education and practice. It captured what was inside many of us trying to get out in far less articulate ways. *Máscaras* captured our boldness in demanding we be recognized as different and that our institutions to be reshaped in our vision. It also represents a more noisy racial identity and politics than what we have today under the so-called post-racial era. If Latina/o Law Student Associations today are debating whether the term, “La Raza,”<sup>32</sup> is too exclusionary, I imagine it is likely difficult to imagine going into a 1L lecture hall in a Mexican peasant blouse and cutoff jeans with a United Farm Workers (“UFW”) aguila eagle on one back pocket and the woman symbol on the other, as Professor Montoya did back in the day!

I provide this context because the ground has significantly shifted since *Máscaras* was published. The retreat from race and identity, not only by the Courts, but also by civil society generally, greatly circumscribes the race, gender, and class talk *Máscaras* so boldly engages. Indeed, as performative identity theory tells us, the new discrimination is

<sup>32</sup> “La Raza” is a Spanish language term popularized during the Chicano Movement in the 1960s translating literally to mean “the race” but used colloquially to refer to “our people,” referring to membership in a racialized group with a shared lineage, history and culture.

not about whether to hire minorities, but which minorities to hire.<sup>33</sup> Have they properly masked their true selves, according to dominant preferences? I recall Professor Matsuda describing how at a former institution, she had the distinct feeling that the posture of the hiring committee was to hire people who looked like her, but were selected to negate her, to offset her voice and power. I recall encountering one of these new hires when I had to face him in an affirmative action debate representing the other side. So yes, your generation has many benefits and blessings, but it also faces many challenges we did not have going forward.

But there is hope. There is always hope. Despite these new challenges, there are inspiring movements that echo the boldness of *Máscaras*. When we consider, for example, the undocumented movement, where young Latinas/os who have everything to lose (i.e. their families, their futures, their education), are courageously putting their bodies on the line to call out an unfair legal system of national security, immigration, deportations, and criminal law; or the transgender movement, also so inspiring for its courage, where transgender youth who are fighting a battle on multiple fronts, are confronted with feeling like they have no home. For these actors, I am confident *Máscaras* still has salience for their lives. But I leave it to you all—the next generation, to identify the contemporary relevance and application of Professor Montoya’s work going forward.

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<sup>33</sup> See generally, Mitu Gulati & Devon W. Carbado, *The Fifth Black Woman*, 11 J. CONT. L. ISSUES 701 (2001).