AMERICAN CULTURAL UNIVERSALISM: CAN EQUALITY IN AMERICAN CULTURE AND POLITICS EXIST?

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By

Larry Creech B.A.

Georgetown University
Washington, D.C.

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AMERICAN CULTURAL UNIVERSALISM: CAN EQUALITY IN AMERICAN CULTURE AND POLITICS EXIST?

Larry Creech, B.A.
Mentor: Paul Lewis, J.D.

ABSTRACT

Within the United States there are seven (7) population groups as defined by the U.S. Census Bureau. Each population group can have numerous categorized subgroups. There can be one or more cultures within each subgroup resulting in multiple cultural identities which came about from the diaspora of other cultures or nationalities. There are commonalities and differences behind the cultures as well as a concept of fairness, or absence of, that prevents any one population group from agreeing on all the things that go into defining a universal culture.

It is impractical to attempt a full examination of all seven population groups within the space constraints of this thesis. I will examine the population group defined by the United States Census bureau as Hispanic, exploring the cultural and political commonalities and distinctions between Hispanics and the dominant population group defined as White. I will further examine relevant laws enacted by Congress and their cultural impacts, to determine if a universal American culture exists, and if a universal culture exists does it demonstrates equality and fairness. I will further analyze the commonalities to answer the question, who gets to determine what the universal culture will be. The conclusion drawn from this empirical study will provide insight into the resultant failure to identify and agree on a universal culture.
DEDICATION

This thesis is dedicated to the faculty of Georgetown University whose patience, understanding, and excellent scholarship made it possible for me to reach this point. Additionally, I thank my family for their patience, understanding and support throughout the entire process.
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INTRODUCTION

The impact of cultural and religious identities along with the associated politics, both global and national, will define the future character of the American national identity. The multi-civilizational culture and politics that coexist and intertwine into America’s cultural fabric are not producing a universal culture or civilization in any meaningful sense. One perspective suggests the multi-civilizational culture needs to become less fragmented; another perspective is that America’s national character gets its strength from cultural diversity.

The disappearance of ideological competition in the third world removed restraints on national and tribal confrontations but it did not remove the most basic of human behavior; that of the competition and even hostility of one tribe or group with another. Large migrations of peoples produced mass animosity since the beginning of history. The current acceleration of population growth, diminishing traditional social structures, and the escape from tyranny, poverty, famine and ecological disaster to a better existence somewhere else has driven people across national borders.

As the world metaphorically shrinks, the population becomes more intermingled than at any time in its history. This shrinking creates a paradox of globalization and fragmentation. The growth of technological communications has created a world where borders become transparent while simultaneously driving people to find sanctuary from the global changes they cannot control or contemplate. These people feel they are alone in a sea of anonymity and desperately seek anything
familiar; they seek the politics of identity. The integration and disintegration of people into foreign places cause people to search for their own kind in groups that resemble the ethnic and religious values they left behind. When people of differing ethnic origins and languages settle in an area inhabited by an established culture without a common purpose to bring and keep them together, the tribal animus drives them apart.

John Stuart Mill believed there were two elements that characterized the unity of a nation; the willingness to be governed and a common affinity of a shared history, values and language. He wrote:

Free institutions are next to impossible in a country made up of different nationalities. Among a people without fellow feeling, especially if they read and speak different languages, the united public opinion, necessary to the working of representative government, cannot exist...It is in general a necessary condition of free institutions that the boundaries of government should coincide in the main with those of nationalities.¹

The debate about culture is about fairness and ethics as well as politics with implications about what we should value, what we should praise, what we should accept, and what we should teach. At the center of the issue is government’s intrusion into the daily lives of all Americans, overreaching in its attempt to legislate behavior and set a level playing field for all Americans. Congress attempts to legislate behavior based on an individual representative’s ideal of what is right for their constituents rather than a universal viewpoint. This ideal is typically based on the Anglo-American ideal that America’s early settlers and founding fathers was founded on. The ideal is not necessarily wrong; there had to be a foundation from which the country was

founded. However, different cultural traditions enrich everyone. America has embraced diversity and all viewpoints must be considered if any form of consensus of governance is to be found. The question is how far the cultural viewpoints go before they become a disuniting, disruptive force that removes the integration of all and returns to a segregation of groups by various criteria. People who feel disenfranchised will look for alternatives and too often those alternatives lie with groups who have their own agenda. Laws must be universal in content such that they apply to all Americans while inversely, all who aspire to be Americans must be willing to embrace the idea America’s strength and unity lies in its laws and the fair and equitable application of these laws.

Fundamental to ideal of America’s founding is the concept of arête, used in this context as a virtue considered morally excellent and valued as a foundation of principle and good moral being. Virtue is a behavior showing a high moral standard and a pattern of thought based on high moral standards. Virtues can be placed into a broader context of values. The individual has a core of underlying values that contribute to his or her system of beliefs. Integrity in the application of a value ensures its continuity and this continuity separates a value from beliefs. In this context, a value is the core from which the individual behaves. Societies have values that are shared among many of the participants of that culture, with each individual's values largely in agreement with the individual’s values. When arête conflicts with politics the universalism of culture in a society deteriorates.
Being a minority culture forces individual members to look to different places to find value and pride in themselves. The dominance of the majority can cause resentment if there is no common ground and the minority is continually reminded they are different. The minority soon begins to feel they have no control over their destiny and begin to reject any attempt at embracing elements of another culture.

America has been multiethnic from its beginning. With a few notable exceptions such as the American Civil War and the Japanese internment of World War Two, America’s multiethnic experiment has worked so far. In his 1782 publication, *Letters From an American Farmer*, Jean Hector St. John de Crèvecoeur, French immigrant and writer during the Revolutionary War period, wrote of a family whose grandfather was English and married a Dutch woman. Their son married a French woman and had four sons, who in turn married women of different nationalities which prompted the following observation: “From this promiscuous breed, that race now called Americans have arisen.”

He went on to ask: “What then is the American, this new man?” He answered:

> He is an American, who leaving behind him all his ancient prejudices and manners, receives new ones from the new mode of life he has embraced, the new government he obeys, and the new rank he holds. The American is a new man, who acts upon new principles…Here individuals of all nations are melted into a new race of men.

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3 Ibid.

4 Ibid.
With the signing of the Declaration of Independence of 1776 and the Constitution of 1787, America strengthened the idea of self-government and put in place the instruments to make a multiethnic, inclusive society successful.

But the experiment was not without its faults. The new non-English speaking immigrant found it was not easy for them to assimilate into an Anglo-American dominated culture and politics. Nonwhites, both immigrant and Native American, found white Americans arrogant in their feelings of racial superiority. America’s reluctance to abolish slavery without war illustrates it was a racist nation in spite of the ideals set forth in the Declaration of Independence and the Constitution.

Yet even though nonwhites were treated poorly, they nevertheless contributed to the formation of a national identity by their very presence. The United States had a solution to the fragility of a multiethnic society. The solution was to create a new society and national identity that transcended the new immigrant’s ethnicities, old loyalties and prejudices. This concept worked through America’s early years as it assimilated and grew from segregated ethnic society into a melting pot with a shared identity.

This prevailed until the twentieth century after the First World War when Woodrow Wilson’s doctrine of self-determination for all people posited a new vision. After the Second World War when most colonial empires dissolved, the United States made entry for immigrants easier but arguably had the adverse affect of retarding assimilation and promoting separate ethnic and racial communities.
There were some positive consequences to the promotion of ethnicity and racial identities. As a result of World War Two and American’s involvement abroad American’s began to give recognition to minorities as they began to learn more about other cultures from other continents thereby acquiring a better sense of the world and of themselves.

Taken to the extreme, ethnicity has bad consequences also. The new ethnicity rejects the idea of America being a nation of individuals who are Americans, and embraced the philosophy that it is a nation of groups with permanent ethnic ties. Characteristic of this philosophy is the classification by Congress through the Census Bureau of all Americans based on their ethnic and racial criteria. This interpretation of the ethnic makeup may have its statistical uses, but when presented as the big picture it changes the entire look of America as a society of one and puts our historic ideology of having a universal American identity in jeopardy.

All is not without hope, but assimilation and integration is a partnership. Those who come to America must be received and welcomed by those already here, putting aside the superior attitude and embracing the differences that bind us and helping to educate the newcomers to the American ideal. Those who are coming must also want to assimilate and be willing to embrace new customs, not at the loss of the heritage, but in addition to.
CHAPTER ONE
WHAT IS CULTURE?

The modern term culture has a classical origin from Cicero. In his *Tusculan Disputations* he wrote of a cultivation of the soul, *cultura animi*, using an agricultural metaphor to describe the development of the philosophical soul which was understood teleologically as the highest ideal for human development.⁵ In a modern context this metaphor no longer assumes that philosophy is man's only guide but a reference to all the ways in which human beings overcome their original barbarism and become fully human by developing a unique identity.

The word culture can also have different meanings. It may refer to an appreciation of literature, music, or art or it could cross disciplines, moving to another field of endeavor such as biology or physics. Culture has a history of being enmeshed in the debates and politics of the scholarly world. It has not been a neutral term that scholars could define freely to advance their investigations, but rather a term that has reflected strong differences of ideological opinion.

The 19th century German philosopher G. W. E Hegel asserted the discipline of philosophy was not just a timeless synthesis of profound thinkers, but rather philosophy had a history that represented a development or dialectical growth and progression. He further contended that a similar dialectical development characterized human civilization, which he viewed as having emerged from the ancient Greeks, and

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which at its core was a development of the human spirit, of human beings coming to mature self-consciousness.\(^6\)

For anthropologists and other behavioral scientists culture is the full range of learned human behavior patterns. The term was first used this way by the pioneer English Anthropologist Edward B. Tylor in his 1873 book, *Primitive Culture*, where he said that culture is:

…that complex whole which includes knowledge, belief, art, law, morals, custom, and any other capabilities and habits acquired by man as a member of society. The condition of culture among the various societies of mankind, in so far as it is capable of being investigated on general principles, is a subject apt for the study of laws of human thought and action. On the one hand, the uniformity which so largely pervades civilization may be ascribed, in great measure, to the uniform action of uniform causes; while on the other hand its various grades may be regarded as stages of development or evolution, each the outcome of previous history, and about to do its proper part in shaping the history of the future.\(^7\)

If one compares Hegel's logic to that of Tylor, what becomes apparent is Tylor took the Hegelian notion of growth and development and moved it out of the philosophical realm into the social and practical realms, democratizing it so that all the humans are participants.

Karl Marx refuted Hegel’s theory by changing his emphasis on the dialectic of the spirit to the dialectic of classes and the economy.\(^8\) Half a century later, Tylor changed Hegel’s emphasis to the basic characteristics of humanity, such as language


and religion, and the set of basic discoveries, such as tools, weapons, cloth, clothing, and the production of food. Since Tylor’s time, the concept of culture has become a central focus of anthropology.

The connection between culture and language has been noted as far back as the classical period. As an illustration, the ancient Greeks distinguished between civilized peoples and barbarians or those who speak unintelligible languages. The fact that different groups speak different, unintelligible languages is often considered more tangible evidence for cultural differences than other less obvious cultural traits.9

Franz Boas, founder of American anthropology, believed differences in groups of people should be attributed to the social environment. This belief led him to replace the theory of racial heredity with culture as the effective mechanism. He recognized the differences among people, but he did not see these differences as the outcome of race, the conventional basis of heredity. These differences had to be accounted for in social terms which led toward Tylor’s idea of culture, except that the idea did not work for two reasons. First, it suggested people could be ranked; second, it focused on traits that could be easily diffused from one group to another.10

Boas further maintained that the shared language of a community was the most essential carrier of their common culture. He asserted it would be impossible to study the culture of a people without also knowing their language. The fact that the

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intellectual culture of a people was created, shared and maintained using language meant that understanding the language of a cultural group was the key to understanding its culture. While this is true as far as it goes, culture and language are not directly dependent on one another in that differing cultures may share a common language or speakers of completely different languages may share similar cultural traits. Boaz established the principle of cultural relativism that asserted an individual human's beliefs and behavior could be understood in terms of the individual's culture.\footnote{Ibid., 284.}

He understood that the evolution of a culture involved symbolic thought and social thought as well as social learning, and he further understood the evolution of a culture could coincide with the evolution of other features. He also argued that culture could not be reduced to biology or other expressions of symbolic thought. Instead he viewed culture as always in a state of flux and not a discrete thing.\footnote{Franz Boas, “The Aims of Anthropological Research,” in \textit{Race, Language and Culture}, ed. George Stocking (Chicago: University of Chicago Press, 1932), 253.}

Boas further argued that complete integration is rare and that a culture only appears to be integrated because of observer bias. For Boas, the appearance of patterns, such as a national culture, was the effect of a particular point of view.\footnote{Ibid., 256.}

Culture as an entity has come to mean any innovation that is new and found to be useful to a group of people and expressed in their behavior but which does not exist
as a physical object. Humanity is in a global culture change period, driven by the expansion of international commerce, mass media, and the human population explosion.

Cultures are internally affected both by forces encouraging change and forces resisting change. These forces are related to both social structures and natural events and are involved in the perpetuation of cultural ideas and practices within current structures, which themselves are subject to change.

Social conflict and the development of technologies can also produce changes within a society by altering social dynamics, promoting new cultural models, and promoting or enabling generative action. These social shifts may also accompany ideological shifts and other types of cultural change. As an illustration, the American feminist movement illustrated how new practices which produced a shift in gender relations altered both gender and economic structures as evidenced by the expanded role of women in the military. Environmental conditions may also be factors not unlike the tropical forests returning after the last ice age. Plants suitable for domestication were available which led to the invention of agriculture, which in turn brought about cultural innovations and shifts in social dynamics.

War or competition over resources may impact technological development or social dynamics as well as cultural ideas which can transfer from one society to another through diffusion or acculturation. In diffusion, the form of something moves from one culture to another. Stimulus diffusion, or the sharing of ideas, refers to an

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element of one culture leading to an invention or propagation in another while direct borrowing tends to refer to technological or tangible diffusion from one culture to another. Diffusion of innovation theory presents a research-based model of why and when individuals and cultures adopt new ideas and practices.\footnote{Everett M. Rogers, \textit{Diffusion of Innovations} (New York: Free Press, 2003).}

Acculturation has different meanings, but in this context refers to replacement of the traits of one culture with those of another, such as what happened to Native American tribes during the process of colonization. Related processes on an individual level include assimilation or adoption of a different culture by an individual, and transculturation.

Culture is a powerful human tool for survival, but it is also a fragile phenomenon. It is constantly changing and easily lost because it exists only in our minds. Our written languages, governments, buildings, and other man-made things are merely the products of culture; they are not culture in themselves. For this reason, archaeologists cannot dig up culture directly in their excavations. The broken pots and other artifacts of ancient people that they uncover are only material remains that reflect cultural patterns; things that were made and used through cultural knowledge and skills.

Culture may be viewed as having three levels that are part of learned behavior patterns and perceptions. The first and most obvious are cultural traditions that distinguish a specific society. When people speak of Spanish, Italian, or French culture, they are referring to the shared language, traditions, and beliefs that sets each
group apart from others. In most cases, those who share a specific culture do so because they acquired it as they were raised by parents and other family members who have it.

The second level of culture may be called a subculture. In complex and diverse societies where people came from many different parts of the world, they often retained a large part of their original cultural traditions. The result is they are likely to be part of an identifiable subculture in the new society which distinguishes them from the rest of their society. Ethnic groups such as Vietnamese Americans and Mexican Americans are examples of identifiable American subcultures. Members of each respective subculture share a common identity, food tradition, dialect or language, and other cultural traits that come from a common ancestral background and experience. As the cultural differences between members of a subculture and the dominant national culture blur and eventually disappear, the subculture ceases to exist except as a group of people who claim a common ancestry. German Americans and Irish Americans are current day examples in the United States. Most of them identify as Americans first with an ethnic origin, but primarily as being part of the cultural mainstream of America.

The third level of culture consists of cultural universals. These are learned behavior patterns shared by all of humanity. Regardless of where people live now or where they migrated from, they share these universal traits. Examples include; communicating with a verbal language consisting of specific sounds and grammatical rules; classifying people by age and gender; classifying people based on marriage and
descendant relationships; raising children in a family unit; having a sexual division of labor such as men's work and women's work; a concept of privacy, rules to regulate sexual behavior; cultural definitions that define good and bad behavior; possible body ornamentation such as tattoos; humor and game playing; art and hierarchal leadership. In addition to all cultures having these and possibly other universal traits, different cultures each have specific ways of expressing each of them.

While each member of a society has a culture, culture and society is not the same thing. While cultures are complex units of learned behavior patterns and perceptions, societies are groups of interacting organisms. People are not the only animals that have societies. Schools of fish, flocks of birds, and hives of bees are societies. In the case of humans, however, societies are groups of people who directly or indirectly interact with each other. People in human societies also generally perceive that their society is distinct from other societies in terms of shared traditions and expectations inextricably connected as culture is created and transmitted to others in a society. Cultures are also not the product of single individuals. They are the continuously evolving result of people interacting with each other. Cultural patterns such as language and politics make no sense except in terms of the interaction of people.

W.C. McGrew concluded a discipline required subjects, and most species of nonhuman primates are endangered by their human cousins.¹⁶ McGrew suggested a

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definition of culture that he found scientifically useful in his studies of culture. He suggested that instead of defining culture as a kind of knowledge we view culture as a process.

He listed six steps in the process:

1. A new pattern of behavior is invented, or an existing one is modified.
2. The innovator transmits this pattern to another.
3. The form of the pattern is consistent within and across performers, perhaps even in terms of recognizable stylistic features.
4. The one who acquires the pattern retains the ability to perform it long after having acquired it.
5. The pattern spreads across social units in a population. These social units may be families, clans, troops, or bands.
6. The pattern endures across generations.\(^\text{17}\)

McGrew admitted that all six criteria may be strict, given the difficulties in observing primate behavior in the wild, but he insisted on the need to be as inclusive as possible and on the need for a definition of culture that casts a wide net:

Culture is considered to be group-specific behavior that is acquired, at least in part, from social influences. Here, group is considered to be the species-typical unit, whether it be a troop, lineage, subgroup, or so on. Prima facie evidence of culture comes from within-species but across-group variation in behavior, as when a pattern is persistent in one community of chimpanzees but is absent from another, or when different communities perform different versions of the same pattern. The suggestion of culture in action is stronger when the difference across the groups cannot be explained solely by ecological factors...\(^\text{18}\)

\(^{17}\) Ibid.

\(^{18}\) Ibid., 305.
However, the presence or absence of resources could suggest across-group differences without any social learning. Disentangling diversity in social relations would be an easier undertaking than disentangling subsistence activities.

In recent years the West, corporate America and the United States government in particular, have practiced the self-aggrandizing and irritating behavior of suggesting that American culture should be the culture of the world, while simultaneously and hypocritically expounding on the values of diversity. It is disingenuous to promote diversity at home while trying to change culture elsewhere. Either diversity or differing culture is good or it is not. American culture, to include clothing, food, entertainment and other types of consumer goods, is embraced throughout the world. Another conceited idea is that America has led the way for the rest of the world to follow in modernization to such a great extent that peoples of other countries abandon their traditional values and customs to adopt those of the West and America. This thinking, if accepted by other countries, would suggest the emergence of a homogeneous and universal world society patterned on America. At best this thinking is misguided and arrogant and at worst it is dangerous.

In 1993 Samuel P. Huntington published an essay titled *The Clash of Civilizations* which garnered an enormous amount of attention. His central thesis of a new world in international politics is particularly interesting in the context of American politics and culture.

It is my hypothesis that the fundamental source of conflict in this new world will not be primarily ideological or primarily economic. The great divisions
among humankind and the dominating source of conflict will be cultural…..
The fault lines between civilizations will be the battle lines of the future.  

Huntington asserted cultural identity will become increasingly important in the future and America will be shaped in large part by the interactions among the various population groups. He theorized that conflicts will occur along cultural fault lines separating one culture from another by their differences. These differences are not only real but they are fundamental. Cultures are distinguished by their history, language, tradition and most importantly, their religion. The people of these cultures have different views on God, the individual, the citizen and the state, parents and children, and the importance of rights and responsibility and quality. These differences have percolated for a long time and will not soon disappear. Difference does not necessarily always mean conflict or violence, but whenever the differences are protracted they turn into violent conflicts. Once the conflict begins between cultures living in America they will quickly spread. These interactions between peoples of different cultures will then amplify and may stretch back into historical memory and as people define their identity in ethnic and religious terms they begin to form an “us” versus “them” relation between people of different ethnicity or religion with culture and religion forming the basis of some of these conflicts.

Human growth and creativity does not occur within separate and isolated cultures, but within their meeting and mingling. Classical Greece had enormous accomplishments, but they were not the results of Grecians but their encounter as

traders, pirates, explorers, conquerors and slaves within the fertile civilization of the Mediterranean. This is where culture occurs.
CHAPTER TWO
THE HISPANIC DIASPORA

There are millions of people around the world who settled far from their ancestral homelands and are minorities because their cultural, ethnic, and religious identities conflicted with the majority in the nations they came to. People who live in this state of affairs are said to be living in diaspora. A person or group living in diaspora maintain a myth or collective memory of their homeland which they consider their ancestral homeland or their true home, a home to which they hope to eventually return to. They are committed to the restoration or maintenance of that homeland and relate to the homeland on a personal level to the extent it shapes their identity.¹

The word diaspora comes from the Greek diaspeirein, meaning the movement, migration, or scattering of a people away from an established or ancestral homeland.² Historically the word referred to the Jewish diaspora after the exile from Babylon, but the word has also come to refer to other mass-dispersions of people, often movements of an involuntary nature.

More recent use of the word distinguished among different kinds of diaspora, based on causes such as imperialism, labor migrations, as well as social cohesion within the community and ties to the ancestral lands. Some communities maintain political ties with their homeland while others are simply maintaining relationships


with others in the community, but in all cases there is a lack of full assimilation to the host country.

Approximately one in ten Hispanics lives the Hispanic diaspora in the United States. These are persons who identify culturally, ethnically, linguistically, or socially as Hispanic but happen to live in the United States.

There are a number of theories why people feel disenfranchised, not only from their homeland, but from their new home as well. Knowledge of the history of relations between the United States and Latin America is useful in understanding the events accounting for the Hispanic presence in the United States. There is a belief among some Americans, correct or not, that Mexicans migrate to the United States due to the harsh economic situation in their home country which to some extent is true, but it is also because part of the Southwest and Western states was under the control of Spain, later to become Mexico in 1821, before any European settlement in North America. For many Mexican-Americans, the perceived estrangement from Mexico is exacerbated by the knowledge that portions of the United States were once part of Spain and Mexico. There remains a sense of loss and humiliation; a feeling they are living as aliens in a land which rightfully belongs to them.

Hispanics in general encounter further obstacles because of their inability to speak Spanish, or inversely, their inability to speak English, and their lack of knowledge of Hispanic history or Hispanic culture, the result being the difficulty to successfully function in either society.
All of the above are sources of disenfranchisement but the root of the
disenfranchisement is more attributable to the intrusion of the United States
Government trying to define individual groups of people of possibly different ethnic
origin than the majority. In 1970 the United States Census used Hispanic as an
identifier and check block on the census form to collect data. They have changed the
definition of Hispanic each census since 1970. The choice a person was given was
later changed on the 2000 Census to Spanish/Hispanic/Latino.

The discussion of what term to use involves a discussion of racial and ethnic
grouping. The term Hispanic is viewed as a designator that homogenizes millions of
persons in America from various diverse racial and ethnic origins as well as national
and cultural experiences under one label. It is a term invented during the Nixon
administration, allegedly inspired by the members of the Cuban community in exile,
which allowed lighter skinned people to claim a European heritage. Additionally it
overemphasized the legacy of European and Spanish colonial rule in Latin America
rather than representing the diversity of racial and cultural characteristics. The term
Hispanic draws attention to the European colonial past and diverts attention away
from the historical assertion of American domination and control over Latin America
as well as Latin Americans in the United States. It became the preferred term of
assimilationists who identified less with their home countries than with the Spanish
language they continued to speak. The term became the preferred term of politicians,
executives and young professionals.
The term Latino is a form of self-definition and empowerment by Latinos in response to a government imposed classification. It is a term originally employed by Napoleon era France as a public relations ploy to explain why a French emperor was installed in Mexico City. It is a 1970s resurrection of the original term meant to allude to a separate identity from Spain. Latino became the preferred term of the intelligentsia and recent immigrants to America. Most importantly it alludes to an allegiance to, or sympathy with, Latin America and the Third World status that implies Latinos are not just Spaniards but a mixture of Spaniards, Africans, and indigenous people. Its use has become so prevalent some government organizations have begun to add it to their list of standards.

In 1997 the United States Office of Management and Budget defined Hispanic or Latino as “…a person of Mexican, Puerto Rican, Cuban, South or Central America, or other Spanish culture or origin, regardless of race.”3 The United States Department of Transportation defined Hispanic in 2011 as, “…persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or Spanish or Portuguese culture or origin, regardless of race.”4 Other agencies use definitions that exclude people from Spain while others include people from Brazil, but not Spain or Portugal, because the government determined there is an ethnic difference. The U.S. Equal Employment


Opportunity Commission took the confusion even further and encouraged any individual who simply thought they might be Hispanic, using the U.S. Office of Management and Budget definition, to self-identify as Hispanic. The end result was anyone who thought their origins could be traced to part of the former Spanish Empire could self-identify as Hispanic and an employer would be prohibited from overriding an individual's self-identification for any reason. It should not come as any surprise that minorities feel confused, disenfranchised, and feel they are living the diaspora.

There are those who feel the term Hispanic, the term used by the U.S. Census Bureau to categorize people of Latin-American or Spanish descent that live in America, is not a correct or adequate description. They believe a more acceptable synonym, Latino, refers to the Latin-based languages of Spain, France, Italy and Portugal. The term embraces Portuguese-speaking Americans in a way that the word Hispanic does not. Hispanic is an American derivation of Hispána, the Spanish word for the cultural diaspora created by Spain. That diaspora was the result of an age of conquest and imperialism and the term Hispanic is a source of contention for activists who argued that white bureaucrats who knew nothing of their culture made the decision regarding who they were and how they would be categorized. When Latinos dismiss the use of the word Hispanic, it is hurtful to some in Hispanic society. It underscores how uninformed the community of the Hispanic family has become, and the disadvantage in which they find themselves.

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Luis Valdez, playwright and founder of Teatro Campesino, while delivering the keynote address at the California Arts Council in 1983 asserted:

The term Hispanic is just too general. It's not really very usable except as a term of convenience that eventually skirts the real issue, the real problems that we have before us. We suspect that Anglo Americans cannot distinguish between a Puerto Rican and a Chicano. . . . These are differences in the Hispanic world that we recognize because we have been struggling with national identities, even a certain amount of national cultural expression. So we come and say that we're part of one unvariegated mass ... Hispanic doesn't do it for me. It doesn't go deep enough….⁶

Javier Ruperez, the Spanish ambassador to America in 1975 said, “For us Spaniards, there's always a very strong link to the Spanish-speaking people across the Atlantic. They are part of the Spanish family.”⁷ He went on to say he understood why some people may prefer the term Latino to further distinguish them from their ancestral home, but it was hurtful to be accused by Spanish Americans of being imperialists because of misunderstood events in human history.

Caspar W. Weinberger, the Secretary of Health, Education and Welfare in 1975, ordered that a committee be convened to resolve the identity matter. Abdin Noboa-Rios of the National Institute of Education and a member of the committee said:

There was never any consensus in that group to the very end. We came up with an agreement, but . . . there were some bad feelings. I know two people who didn't speak for up to a year after it was over.⁸

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⁸ Ibid.
For the 2010 census, the Census Bureau defined Hispanic as; “… a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.”\(^9\) The results of the 2010 census indicate the Hispanic population grew forty-three percent between 2000 and 2010 representing sixteen percent of the total population. During the same period the total population growth of the United States was ten percent. The entire Hispanic population group, as defined by the Census Bureau, is comprised of twenty-two sub-groups categorized by country of origin.\(^10\)

A Pew Hispanic Center/Kaiser Family Foundation 2002 National Survey of Latinos found an overwhelming majority of foreign born Hispanics, ninety-five percent, identify themselves by national origin. By contrast, sixty-six percent of second generation Hispanics indicated they do not use their parent’s country of origin as an identifier. Out of this group seventy-two percent indicated they never use the identifier Hispanic or Latino.

The struggle over labels the Hispanic diaspora faces in the United States is an exercise in a people trying to find their identity. Forcing people with multiple identities to choose and label themselves as one thing fragments and denies part of their identity and humanity. It puts them in the position of constantly negotiating and redefining themselves by the arbitrary standards they are presented with, and further

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creates a competition among them as they compete for scarce resources and the
dominant ideology’s approval and acceptance.

The link between group membership and self-esteem is derived from the social
identity theory described by H. Tajfel and J. Turner in their 1986 essay The Social
Identity Theory of Intergroup Behavior. 11 The theory suggests group members
distinguish their group from others as a way to enhance their self-esteem. A person’s
identity in a group is an important source of overall self-esteem. If the person’s group
is viewed negatively by society, it follows they may view themselves negatively. The
idea is that self-esteem among group members belonging to a disadvantaged group
being negatively stereotyped will be less simply because they are a member of that
group. However, empirical findings refute the results, with strong evidence showing
that while there is an importance in group membership it does not account for either
high or low self-esteem simply because one belongs to a lower status group.12

There are shortcomings in the available research on group identity and self-
estee in that most research has been done on African-Americans compared to White
Americans with little research being done with Hispanics. There is also little research
comparing self-esteem and identity in relation to a national group, specifically an
American nationality. Therefore the lack of research between the plethora of
subgroups within the population groups to correlate identity with self-esteem yields
inconclusive results.


12 Ibid.
Education, or lack of, is a primary factor in the failure of Hispanics to assimilate into the American mainstream. The fundamental way education can be improved to increase assimilation is through civic renewal which takes place through the transmission of values from one generation to the next. This transmission happens through the family unit and is the reason that strong families are often mentioned as a critical component of civil society. Civic education through public and private schooling both play an equally vital role in maintaining democracy. Equally important are the broader socializing functions that education plays, such as exposing children to a common set of values through the study of literature and history. John Dewey observed in 1923:

The chief work of the school has been to operate as a cement in the social structure or, to use a less mechanical metaphor, it has been the shuttle which has carried the threads across and woven the otherwise separate threads into a coherent pattern.13

A conclusion that may be drawn from studies is when comparing America to their ancestral countries, Hispanics are optimistic about their future. They believe America offers more opportunity and that Hispanic children have more opportunities in employment and education than they themselves had. Conversely they are less positive on the moral values and strength of family ties in America. In spite of this they have confidence that Hispanics will pass on the important values to their children growing up in America and their children will maintain close association with their families.13

However, a more disturbing conclusion arrived at when researching the possibility of a universal culture is the sheer number of disparate groups. The various United States Government agencies that provide differing definitions of population groups not only contribute to the confusion but assure the continuing segregation of the American population as evidenced by the Hispanic group. With twenty-two countries represented in the Hispanic population alone, each with differing cultures, there cannot be agreement among these groups regarding what a universal Hispanic looks like, and when added to the other population groups the prospect of any agreement regarding a universal American culture seems implausible.
CHAPTER THREE
UNDERSTANDING HISPANIC CULTURE IN AMERICA

When discussing culture there are many aspects to be considered, and when discussed in the context of a country’s culture the complexity increases. There is also a tendency to confuse behavior with culture. As an illustration, popular clothing attire and street language is behavior, not culture. In this discussion, religion, language, art, and music are the components of the cultural landscape to be discussed. Books have been written on each of these topics as well as other cultural topics, but in this discussion I will limit the discussion to the primary drivers affecting the possibility of a universal culture, specifically; (1) religion, (2) entertainment, and (3) language.

In Salman Rushdie’s 1988 novel of cultural dislocation and immigration, *The Satanic Verses*, Rushdie illustrated the transformation that occurred in London by Indian immigrants, not unlike that underway in America. The character Archangel Gibreel contemplated a sedate, ambiguous London where uniformity was the norm and any opposition disdained: “…O most slippery, most devilish of cities! In which such stark, imperative oppositions were drowned beneath an endless drizzle of greys.”¹ In a dream as Gibreel floated high above London he decided the remedy to London’s constant and unyielding troubles was to convert the weather of London to that of India which he reasoned would produce the benefits noted:

…increased moral definition, institution of a national siesta, development of vivid and expansive patterns of behavior among the populace, higher quality popular music, new birds in the trees…Improved street-life, outrageously

coloured [sic] flowers…spider-monkeys in the oaks…Religious fervor, political ferment, renewal of interest in the intelligentsia. No more British reserve; hot-water bottles to be banished forever, replaced in the foetid nights by the making of slow and odorous love.²

There were less than desirable results from the Indianization:  “Disadvantages: cholera, typhoid, Legionnaires’ disease, cockroaches, dust, noise, a culture of excess.”³

Rushdie’s illustration of the transformation happening in London by the immigrants from India, minus the climate change metaphor, is much the same as Hispanics immigrating to America.

While this thesis is focused on the Hispanic population group the transformation is not unique to Hispanics. Each of the other six population groups are comprised of sub-groups, each with their own unique cultural characteristic, but none have the diversity of cultural uniqueness as does the Hispanic group. Throughout America there are enclaves of Hispanic cultural groups living in communities segregated from other Hispanic communities due to some perceived difference. In large metropolitan areas such as New York, San Francisco, Los Angeles, Chicago, Seattle, and the District of Columbia, ethnic communities exist and thrive. Some are of such scale and economic success they no longer have multi-lingual signage and store fronts, but advertise in their native language even though they may not be from the same homeland. Names such as Little Italy and Chinatown have become an economic benefit not only to their local community, but the entire city because of their

² Ibid.
³ Ibid., 366.
advertised diversity. In New York City’s lower east side, in deference to the predominant Puerto Rican population, the area between East Sixth Street and East Third Street is referred to as Nuyorican, a bilingual pun for New York Puerto Rican. There are even secondary street signs at Fourth and Third streets that read Loisaida Avenue, another bilingual pun for the lower east side. The Hispanics who live there move from one culture to another; that of their homeland Puerto Rico and the other of what could be incorrectly referred to as the universal American culture. It is a way of living within a safe, comfortable, established identity of the self while experimenting to find the other identity that allows them to assimilate into what may be perceived as an unfriendly environment for those of the Hispanic population group. While this duality works for some in the long run, for most it only provides a longer term refuge or safe haven some are reticent to leave for fear of the unknown. This feeling of belonging becomes memorialized as a permanent way of life by predatory organizations who publicly advocate for equality and opportunity for Hispanics while in the background serve their own financial and political interests by gaining trust and advocating further segregation which contradicts their stated purpose of integration into the American society on equal terms. The Puerto Rican community in New York City has been used as an example, but the idea exists in smaller scale throughout America’s cities and even extends into rural communities as well.

There are basic standards used by government agencies and others to assess ethnicity such as country of origin, language and religion. Table 1, using data from the
<table>
<thead>
<tr>
<th>Origin and Type</th>
<th>Number</th>
<th>% of Total Hispanic group</th>
<th>% of Growth of all countries from 2000 Census</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>HISPANIC OR LATINO BY TYPE</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mexican</td>
<td>31,798,258</td>
<td>63.0%</td>
<td>54.1%</td>
</tr>
<tr>
<td>Puerto Rican</td>
<td>4,623,716</td>
<td>9.2%</td>
<td>35.7%</td>
</tr>
<tr>
<td>Cuban</td>
<td>1,785,547</td>
<td>3.5%</td>
<td>43.8%</td>
</tr>
<tr>
<td>Other Hispanic or Latino</td>
<td>12,270,073</td>
<td>24.3%</td>
<td>22.5%</td>
</tr>
<tr>
<td>Dominican (Dominican Republic)</td>
<td>1,414,703</td>
<td>2.8%</td>
<td>84.9%</td>
</tr>
<tr>
<td>Central American (excludes Mexican)</td>
<td>3,998,280</td>
<td>7.9%</td>
<td>137.0%</td>
</tr>
<tr>
<td>Costa Rican</td>
<td>126,418</td>
<td>0.3%</td>
<td>84.3%</td>
</tr>
<tr>
<td>Guatemalan</td>
<td>1,044,209</td>
<td>2.1%</td>
<td>180.3%</td>
</tr>
<tr>
<td>Honduran</td>
<td>633,401</td>
<td>1.3%</td>
<td>191.1%</td>
</tr>
<tr>
<td>Nicaraguan</td>
<td>348,202</td>
<td>0.7%</td>
<td>96.0%</td>
</tr>
<tr>
<td>Panamanian</td>
<td>165,456</td>
<td>0.3%</td>
<td>80.4%</td>
</tr>
<tr>
<td>Salvadoran</td>
<td>1,648,968</td>
<td>3.3%</td>
<td>151.7%</td>
</tr>
<tr>
<td>Other Central American*</td>
<td>31,626</td>
<td>0.1%</td>
<td>-69.5%</td>
</tr>
<tr>
<td>South American</td>
<td>2,769,434</td>
<td>5.5%</td>
<td>104.6%</td>
</tr>
<tr>
<td>Argentinean</td>
<td>224,952</td>
<td>0.4%</td>
<td>123.0%</td>
</tr>
<tr>
<td>Bolivian</td>
<td>99,210</td>
<td>0.2%</td>
<td>135.8%</td>
</tr>
<tr>
<td>Chilean</td>
<td>126,810</td>
<td>0.3%</td>
<td>84.2%</td>
</tr>
<tr>
<td>Colombian</td>
<td>908,734</td>
<td>1.8%</td>
<td>93.1%</td>
</tr>
<tr>
<td>Ecuadorian</td>
<td>564,631</td>
<td>1.1%</td>
<td>116.7%</td>
</tr>
<tr>
<td>Paraguayan</td>
<td>20,023</td>
<td>-</td>
<td>128.3%</td>
</tr>
<tr>
<td>Peruvian</td>
<td>531,358</td>
<td>1.1%</td>
<td>127.1%</td>
</tr>
<tr>
<td>Uruguayan</td>
<td>56,884</td>
<td>0.1%</td>
<td>202.5%</td>
</tr>
<tr>
<td>Venezuelan</td>
<td>215,023</td>
<td>0.4%</td>
<td>135.0%</td>
</tr>
<tr>
<td>Other South American**</td>
<td>21,809</td>
<td>-</td>
<td>-62.1%</td>
</tr>
</tbody>
</table>


* This category includes people who reported Central American Indian groups, "Canal Zone," and "Central American."

** This category includes people who reported South American Indian groups and "South American."
United States Census Bureau’s 2010 Census file illustrates the population and growth demographic of the American Hispanic population. Hispanics of all population subgroups grew almost seventy percent, representing sixteen percent of the total American population, making it the second largest population group and the largest minority population group. However, the population chart in Table 1 tells only how many of the different subgroups are Hispanic Americans. To better understand why these groups immigrate in such large numbers one has to analyze many factors such as per capita income, political stability and human rights, unemployment rate, literacy rate, poverty level and others.\(^4\)

There are core values in any group which they bring with them when they immigrate. Fundamental to an ethnic group’s core culture is their religion. Religion is a collection of cultural systems, belief systems, and worldviews which tend to derive morality, ethics, religious laws or a preferred lifestyle from their ideas about human nature. As illustrated by Table 2, Catholicism is the predominant religion throughout the Hispanic subgroups, and as such has significant influence on Hispanic culture in America.

Hispanics are transforming the nation’s religious landscape, especially the Catholic Church, not only because of their growing numbers but also because they are

\(^4\) Table 1 does not provide any data for those of Hispanic origin residing in the United States as undocumented or who entered the country illegally.
Table 2. Hispanic Language and Religion

<table>
<thead>
<tr>
<th>Origin</th>
<th>Language</th>
<th>Religion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mexico</td>
<td>Spanish</td>
<td>Catholic</td>
</tr>
<tr>
<td>Puerto Rico</td>
<td>Spanish</td>
<td>Catholic</td>
</tr>
<tr>
<td>Cuba</td>
<td>Spanish</td>
<td>Catholic</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>Spanish</td>
<td>Catholic</td>
</tr>
<tr>
<td>Central American (excludes Mexico)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Costa Rica</td>
<td>Spanish, with a southwestern Caribbean Creole, English</td>
<td>Roman Catholic 76.3%, Evangelical Protestant 13.7%,</td>
</tr>
<tr>
<td>Guatemala</td>
<td>Spanish, 24 indigenous languages</td>
<td>Catholic, Protestant, Mayan</td>
</tr>
<tr>
<td>El Salvador</td>
<td>Spanish</td>
<td>Catholic, Protestant, Mayan</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>Spanish, English</td>
<td>Catholic</td>
</tr>
<tr>
<td>Panama</td>
<td>Spanish (official); 14% speak English as their native tongue</td>
<td>Catholic 84%, Protestant 15%</td>
</tr>
<tr>
<td>South American</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Argentina</td>
<td>Spanish</td>
<td>Catholic 92%, Protestant 2%, Jewish 2%, other 4%</td>
</tr>
<tr>
<td>Bolivia</td>
<td>Spanish, Quechua, Aymara, Guarani</td>
<td>Catholic</td>
</tr>
<tr>
<td>Chile</td>
<td>Spanish</td>
<td>Catholic 70%, Evangelical 15.1%</td>
</tr>
<tr>
<td>Colombia</td>
<td>Spanish</td>
<td>80% Catholic; 13.5% non-Catholic Christian; 4.5% other religious groups</td>
</tr>
<tr>
<td>Ecuador</td>
<td>Spanish</td>
<td>Catholic</td>
</tr>
<tr>
<td>Paraguay</td>
<td>Spanish , Guarani</td>
<td>Catholic 89.6%; Mennonite and other Protestant denominations</td>
</tr>
<tr>
<td>Peru</td>
<td>Spanish is the principal language. Other indigenous languages also have official status</td>
<td>Catholic (81%), other (10%).</td>
</tr>
<tr>
<td>Uruguay</td>
<td>Spanish</td>
<td>Catholic 66%, Protestant and other Christian 2%, Jewish 1%</td>
</tr>
<tr>
<td>Venezuela</td>
<td>Spanish</td>
<td>Roman Catholic 96%, Protestant 2%, other 2%</td>
</tr>
</tbody>
</table>

Sources: U.S. Census Bureau, Census 2000 Summary File 1 and 2010 Census Summary File 1.
practicing a charismatic form of Christianity. Religious expression associated with the Pentecostal and charismatic movements have become a key attribute of worship for Hispanics. Additionally, the growth of the Hispanic population is leading to the emergence of Hispanic oriented churches across the United States.

About a third of all Catholics in America are Hispanics, and the percentage is increasing.\(^5\) This demographic reality, combined with the distinctive characteristics of Hispanic Catholicism, suggests that Hispanics can bring about change in the nation's largest religious institution. Most significantly given their numbers, more than half of Hispanic Catholics identify themselves as charismatics compared with only an eighth of non-Hispanic Catholics.\(^6\) While remaining committed to the church and its traditional teachings, many Hispanic Catholics profess to have witnessed or experienced occurrences typical of spirit-filled or renewalist movements including divine healing and direct revelations from God. Additionally, many Hispanic Catholics who do not identify themselves as renewalists are to some extent influenced by spirit-filled forms of Christianity.

The renewalist movement is a powerful presence among Hispanic Protestants as well even though Protestants represent a very small percentage of Hispanic


\(^6\) Ibid.
religious adherents. More than half of Hispanics in this category identify with spirit-filled religion, compared with about a fifth of non-Hispanic Protestants.  

Many Hispanics joining evangelical churches are converts from Catholicism, citing a desire for a more direct, personal experience of God. While the converts express some dissatisfaction with the lack of excitement in a typical Catholic Mass, negative views of Catholicism do not appear to be a significant reason for their conversion.

The practice of religion is not only renewalist in character but for most Hispanics across all the major religious traditions it is also distinctively ethnic. Two-thirds of Hispanic worshipers attend churches with Hispanic clergy, services in Spanish and predominantly Hispanic congregations.

While most prevalent among the foreign born and Spanish speakers, Hispanic-oriented worship is also prevalent among native-born and English-speaking Hispanics. This suggests the phenomenon is not simply a product of immigration or language but that it involves a broader and more lasting form of ethnic identification.

The two defining characteristics, (1) the prevalence of spirit-filled religious expressions and, (2) ethnic oriented worship, combined with the rapid growth of the Hispanic population leave little doubt that an in depth understanding of religious faith among Hispanics is essential to understanding the Hispanic population group.

Beyond the strictly religious aspect, there are roles Hispanics play in American politics and public affairs which are influenced by the distinctive characteristics of

\[7\] Ibid.
their religious faith. Most Hispanics see the church as a guide to moral political thought, and they expect the same of their political leaders. The church is at the core of most Hispanics life and is viewed as the appropriate place to come together to address social and political topics.

The conventional measures of culture provide only a small slice of what the Hispanic culture embodies. The arts are rich with inadequately recognized accomplishments by a multitude of Hispanics. In the theatre and television Hispanics typically are type cast or cast in negative roles when cast at all. Hollywood looks for what is traditionally considered the stereotypical Hispanic look rather than looking for the talent first. As may be expected Hispanics, from such a variety of countries, vary in appearance just as any other ethnic group does. Some are lighter skinned, varying hair texture and so on, but the entertainment industry has defined the look and people have been conditioned to expect a certain appearance. However we can never be clear on what they want us to expect. The stereotypical look could range from Desi Arnez and Ricardo Montalban with residual Spanish accents to Selena Gomez and Charlie Sheen who have no accent and could easily be mistaken for a member of other population groups.

One of the breakthrough artists who paved the way for others to follow was Carmen Miranda, a Portuguese-born Brazilian singer, Broadway actress and Hollywood film star popular in the 1940s and 1950s. She was reportedly the highest paid woman in the United States and easily identifiable by her signature fruit covered hat and outfit. Between 1939 and 1944, she appeared in eight successful Hollywood
musicals and two Broadway musicals. Representative of her drawing power was Miranda’s “Weekend in Havana” which opened in 1941 opposite “Citizen Kane”. It made twice the money of “Citizen Kane”, an amazing accomplishment for any movie, especially one starring a foreign born Hispanic actress.

Carmen Miranda's parodic image created negative images of Latin Americans and of women in general. However, there was a subtle depth to her image where she was able to create her character as both feminine and ethnic excess, a feat that called into question both feminine and foreign stereotyping.

Miranda performed an exaggerated comical femininity routine that undercut any threat her female sexuality might pose that at the same time called into question society's views about the feminine essence. Her costumes lampooned feminine fashion; lots of accessories, shoes so high they were practically impossible to walk in, and hats adorned with fruit. Miranda's outfits suggested female sexuality to the extreme, revealing and accentuating body parts, such as the navel and breasts, that were traditionally taboo. The December 23, 1943 New York Times review of Busby Berkeley’s “The Gang's All Here” said, when referring to Miranda’s dancing, “One or two of his dance spectacles seem to stem straight from Freud and, if interpreted, might bring a rosy blush to several cheeks.”

Her considerable talent as a singer, dancer and actress allowed her to use parody to reinforce regressive stereotypes of both Latin Americans as well as women and supported the sexist conceptions of the traditional American ideology. While Miranda’s legacy endured for decades and eventually helped clear the way for other
Hispanics in the entertainment industry, it would be decades before Hispanics began to be accepted in their own right while other ethnic groups filled the role requiring a Hispanic character.

In the original Scarface in 1933, Paul Muni, an Austrian-Hungarian native, was cast as a Cuban refugee, and later another non-Hispanic, Al Pacino, was cast in the same role in the 1983 remake. Other non-Hispanic actors and actresses have portrayed Hispanics such as Natalie Wood as Maria in the 1961 hit West Side Story. There have been exceptions such as Hispanic actresses Salma Hayek, a native born Mexican, who starred in “Quasimodo” and “Desperado”. While Hayek is a beautiful and accomplished actress, her acceptance into the Hollywood elite was made possible in part because of the stereotyped image of a beautiful Hispanic female, Carmen Miranda. Others who are Hispanic but have more of the physical attributes of their African heritage, such as darker skin and facial features, do not fare as well.

Jennifer Lopez, the daughter of Puerto Rican parents, is enormously successful both as an actress and a singer. Here again is another Hispanic who has incredible talent but one has to question if her acceptance is solely due to her talent or because she is Hispanic while looking acceptably Anglo. Jimmy Smits, a remarkably talented American actor born to a Surinamese father and Puerto Rican mother, has excelled in both stage and screen. Here again is an example of a Hispanic actor that is visually acceptable because he has the acceptable light skin, straight hair and little accent.
One of the most prolific celebrities is the Columbian born American comedian, actor, producer and singer, John Leguizamo. Leguizamo began his career as a standup comedian but his enormous talent was quickly realized and he has since acted, done voice over, and produced more than seventy films. Additionally he has acted in seven television shows and six Broadway productions in a career spanning twenty seven years.

The Leguizamo family moved to different ethnic neighborhoods during his youth where he learned to adopt the stances, mannerisms and apprehension of Italian Americans, Irish Americans, Jewish Americans and African Americans as he sampled the various personalities, absorbing the traits he would later use in his actors repertoire and discarding those too ethnic to be acceptable. His multiethnic journey is the classic example of the New York immigrant experience; the Hispanic who made good.

Similar in some ways to Carmen Miranda before him, this chameleon existence was an important part of Leguizamo’s success, but it also speaks to the core problem of all Hispanic artists; that of identity. These actors and actresses had great success portraying other ethnicities and occasionally Hispanic roles, but they were not allowed to portray the authentic Hispanic unless they met Hollywood’s stereotyped requirements of light skin, straight hair and little accent. The requirements ran from the extreme of Bill Dana’s portrayal of the dim witted Hispanic character, Jose Jimenez who was found to be so offensive to Hispanics that in 1970 while attending a Mexican American Cultural Festival Dana announced the character he portrayed was dead. It is interesting to note that while Bill Dana’s character is Hispanic he is not
Hispanic at all but of Hungarian-Jewish ancestry. The contrast to Bill Dana’s Jose Jimenez was Charlie Sheen, whose birth name is Carlos Irwin Estevez and by appearance could portray a Caucasian, Hispanic or Native American.

The new paradigm was the dialed down accent, Spanish slang kept to a minimum; Hispanics portray a sanitized version of what society believed to be a real Hispanic while denying the world the opportunity of seeing and learning what Hispanic culture really is. It means an artist is misunderstood, mistaken for something else, being the always popular chameleon. Even with the number of Hispanics in film they continue to be relegated to non-Hispanic roles or roles that depict the sanitized, or inversely, the negative roles we have come to accept from Hollywood as the real Hispanic. American Hispanics know and understand the diversity of their culture but see it rarely reflected in the entertainment industry. As the Hispanic stereotype is discarded and more Hispanics find roles in the arts and entertainment possibly more of the true Hispanic culture will be on display.

The steady growth of the Hispanic population group pejoratively referred to as the browning of America is viewed with alarm by some whites who view immigrants as a threat to American values and the American core culture. Language lies within that core, and the dramatic growth of the Hispanic population group may be viewed by some as a threat to the survivability of English, often referred to as the official language of America. As recently as 1987, respondents to one national poll thought the Constitution had legally declared English the official language and saw no real threat. This benign perception has changed. In 1986 California became the first state to
enact legislation making English the state’s official language. Since then approximately two dozen states have enacted similar legislation.

An understanding of the English language is the major indicator of the rate of acculturation among Hispanics because it facilitates interaction with the predominantly Anglo American dominant culture accelerating the rate of acculturation. The Hispanic relationship to the Spanish language is paradoxical. Spanish language skills are a source of both ethnic solidarity as well as social stigma. As a result, native-born Hispanics often try to dissociate themselves from the new immigrant sections of the community, or inversely, will reject English in favor of Spanish at home as a display of solidarity. This selective language association and dissociation has an important negative effect on personal identity.

Ethnicity has long been an important area of social scientific inquiry. Political science and sociological studies of ethnicity have traditionally focused on how and why ethnic identities are lost or maintained and how that affects relations within various subgroups. This methodology has focused on whether groups remain ethnic or become assimilated with little attention paid to differences within the ethnic categories. The result is we know little about how identities vary within ethnic communities.

Language is how ethnic groups communicate and develop feelings of solidarity to preserve their group histories. This preservation of group histories is not unique to Hispanics. However, their relationship to language can become problematic when the language exists in a subordinate position within a system of social stratification. The
relationship between language and the identity of a group can become problematic if
the language is a source of pride and solidarity while simultaneously being a source of
stigma. The result is people who speak the socially unacceptable varieties of Spanish
often become alienated from their own variety of language and judge it as inferior or
incomprehensible.

English is the primary and socially accepted language in America and
immigrant minorities are encouraged to adopt English as their primary language. In
the Hispanic community, this has given the Spanish language a negative association
that has created a paradoxical relationship between Hispanics and the Spanish
language. There is an additional stigma attached due illegal immigration of
undocumented aliens where there is the perception of guilt by association. Spanish is a
source of ethnic pride and solidarity while at the same time is seen as an obstacle to
socioeconomic and social mobility. As a result Hispanics selectively distance
themselves from components of the greater community as well as other Hispanic
subgroups and in particular any that may be here illegally. Spanish is the key to
Hispanic ethnic identity but because it is a stigmatized language their relationship to it
is paradoxical. Hispanics are aware of their position as a subordinate group in society
and for them speaking Spanish and English is a strength but speaking only Spanish is
a weakness.

The phenomena of English only legislation initiatives introduced by some
states serve as evidence that the broader American public is resisting pressure to dilute
what they view as a major component of the national identity. The fact is none of these
pieces of legislation or citizen initiatives have ever included efforts to teach immigrants English. They include no money for English language instruction and no opening of public schools for nighttime courses in English and American civics. In fact, civics is no longer taught in American schools to anyone below the college level. It is easy to blame immigrants and proponents of multi-culturalism for the disuniting of society, but absent any meaningful effort to create opportunities for acculturation and language acquisition, it is difficult to view these measures as anything other than anti-immigrant. In the early history of immigration, those coming into Ellis Island were provided the opportunity to learn about America and learn to speak some English before they were allowed citizenship. The only such services offered today are typically done by church groups or philanthropic organizations.

There are many facets to Hispanic culture which contribute to America’s cultural diversity, but when the distinction moves from true cultural diversity to a separatist, multi-cultural ideology it serves the purpose of fragmenting not only the population group, in this case the Hispanic population group, but it also fractures the synthesis of American society. Cultural diversity was intended to be a unifying factor, an accomplishment America could proudly hold up for the world to see as a model of an inclusiveness democracy could provide for people of all ethnic and cultural backgrounds. For many of the reasons just discussed diversity has become a segregating element that pits different groups, sub-groups, and cultures against one another in competition for a piece of the American promise. As a result, minority groups feel disenfranchised, lacking representation by what they see as a white
majority that does not understand their needs. This leads to the question that is at the core of the thesis; is there or can there be fairness in American culture and politics?
CHAPTER FOUR

THE POLITICAL AND LEGAL DILEMMA

Previous chapters have discussed culture in general and how members of the Hispanic population group came to be in America. All of this has spoken to the various cultural aspects or uniqueness of the Hispanic culture. We recognize that America, as a cultural melting pot, is populated with people from many countries with their distinct cultures. However, in America it is presumed that because the Constitution enumerates individual rights everyone in fact has those rights and is free to practice those rights. This chapter examines whether the constitutional rights guaranteed every American are consistent with the Hispanic American experience. Additionally, and perhaps more to the point, it examines whether the very Congress entrusted to making the laws assuring equality upheld their high moral charge or failed.

The late United States Senator from New York, Daniel Patrick Moynihan, in a letter written to a supporter said: “The central conservative truth is that it is culture, not politics that determines the success of a society. The central liberal truth is that politics can change a culture and save it from itself.”\(^1\) Moynihan’s quote sounds well intentioned, but it also reveals an all too typical paternalistic government view envisioning society as depending on the paternalism of the elite over those judged

incapable of appreciating what is best for them. It sounds not far removed from Plato’s philosopher-king.

The idea of universal citizenship has been a driving force of modern political life since the 18th century French Revolution challenged aristocratic privileges motivating others to press for inclusion in that citizenship status. Modern political theory asserted the equal moral worth of all persons, and social movements of the oppressed took this seriously as implying the inclusion of all persons in full citizenship status under the equal protection of the law.

There is an assumption in modern political thought that universality of citizenship for all implies a citizenship in the sense that citizenship status transcends particular differences among people. Whatever the social or group differences among citizens, whatever their inequalities of wealth, status, and power in the everyday activities of civil society, citizenship gives everyone the same status, or so goes the theory. With equality conceived as sameness, the ideal of universal citizenship carries two meanings in addition to the extension of citizenship to everyone: (1) universality is defined as what citizens have in common as opposed to how they differ, and, (2) universality in the sense of laws and rules that say the same for all and apply to all in the same way; or laws and rules that are blind to individual and group differences.

Many of those who feel disenfranchised believe citizenship, viewed as equal political and civil rights, would lead to their freedom and equality. As America progresses in the twenty first century and citizenship rights have been legally extended to all groups, the Hispanic population group still feels they are treated as second-class
citizens. Social movements of oppressed and excluded groups ask why extension of equal citizenship rights has not led to social justice and equality. Part of the answer is straightforward Marxism: those social activities that most determine the status of individuals and groups are anarchic and oligarchic. Economic life is not sufficiently under the control of citizens to affect the unequal status and treatment of groups. The assumed link between culture and citizenship for everyone is in and of itself problematic. Contemporary social movements have, to some extent, further weakened the link while asserting a sense of pride in group specificity against ideals of assimilation. They have also questioned whether justice means law and policy will enforce equal treatment for everyone. Fundamental to these challenges is the concept of differentiated citizenship as the best way to realize the inclusion and participation of everyone in full citizenship.

The universality of citizenship, viewed in the context of inclusion and participation of everyone, is at odds with two other meanings of universality embedded in modern political theory; that is universality is generality, and universality means equal treatment. First, the idea citizenship expresses a general will that transcends the specific differences of group affiliation has in reality excluded groups considered incapable of adapting to that general point of view. The idea of citizenship as expressing a general will has enforced homogeneity of citizens. To the degree that contemporary proponents of revitalized citizenship retain the idea of a general will and common life, they support the same exclusions and homogeneity. The inclusion and
participation of everyone in public discussion and decision making requires a method to implement group representation.

Second, where differences in culture and behavioral styles exist among groups and one of these groups are privileged, strict adherence to a principle of equal treatment tends to perpetuate oppression or disadvantage. An important point is that privileged treatment is not always in favor of the majority. As an illustration, there is an argument that affirmative action, regardless of the best of intentions, perpetuates an idea of government supported and enforced preferential treatment applied to a specific group. Affirmative action, as a method of inclusion and participation for African-Americans in social and political institutions, requires the articulation of special rights that addresses group differences in order to undermine historical oppression and disadvantage.

Until the Thirteenth Amendment to the United States Constitution was ratified on December 6th, 1865, America condoned the practice of slavery. The northern states outlawed slavery in the late 18th and early 19th century, but their industrial economies were dependent on raw materials produced by slave labor. After Reconstruction in the 1870s, Southern states implemented an apartheid system regulated by Jim Crow laws which effectively made segregation legal, but the segregation was not limited to any specific ethnic group. Asian Americans were marginalized during much of American history as a result of the United States government implementing the Chinese Exclusion Act of 1882 prohibiting Chinese immigrants from entering America. During the Second World War Japanese Americans, most of who were American citizens,
were imprisoned in internment camps. Hispanic Americans also face segregation along with other types of discrimination and are subjected to second class citizen status, in practice if not by law.

Contrary to what Americans are told by the media and the government, the influx of Hispanics to the United States is not based entirely on simply the desire to leave their homeland and enjoy the good life in America, but mainly due to United States policies toward Latin American, Mexico and South America which affect their economy to the extent they are left with little in the way of options except to move to America where the jobs and the money is.

While the United States has emerged as the world leader in advocacy for human rights and democracy, it has not always been that way. For most of the history of the United States it has been an imperial power having territorial possessions throughout the world with a specific domination over all the Americas and maintains that position even into the twenty first century. This imperialism has been viewed as largely benign because it has been framed in benevolent terms and justified in the name of spreading democracy. The United States’ method of choice to attain and maintain hegemony was war or the threat of war. It is through conquest in the nineteenth century the United States acquired Puerto Rico, the Philippines, Guam, and Hawaii and roughly half of the total territory of Mexico.

The ambitions of conquest began early in America’s history with Benjamin Franklin articulating the intentions to make Mexico and Cuba part of the United
Thomas Jefferson had an even more expansionist view, asserting the United States “…has a hemisphere to itself. It must have a separate system of interest which must not be subordinated to those of Europe.”\textsuperscript{3} He further asserted the countries in the Spanish empire should be taken by the United States “…piece by piece [sic].”\textsuperscript{4}

American domination over Latin America was justified to the public by the archaic and misguided concept of manifest destiny. American policy makers focused on the idea that America was governed by people of a superior race, religion and culture clearly separating it from others making the United States uniquely situated to dominate other countries; a concept sounding eerily similar to the ideology of the early to mid twentieth century Germany. Even though there was a diversity of races in early America, including Native Americans and Europeans from other countries, the leaders and founders of America considered America as belonging to Anglo-Saxon Americans.

In the early nineteenth century Hispanics, and in particular Mexicans, were vilified as inferior to Anglo Americans. In an editorial in the \textit{New York Evening Post} then Pennsylvania Senator James Buchanan, who was to become the fifteenth President of the United States in 1857, categorized Mexicans as Indians:

…aboriginal Indians. Such Indians as Cortez conquered three thousand years ago, only rendered a little more mischievous by a bastard civilization…. They

\textsuperscript{2} Juan Perea, \textit{Race and Races: Cases and Resources for a Diverse America} (St. Paul: West Group, 2007), 258.

\textsuperscript{3} Peter Smith, \textit{Talons of the Eagle: Dynamics of U.S. – Latin American Relations}, 2\textsuperscript{nd} ed. (New York: Oxford University Press, 1999), 17.

\textsuperscript{4} Ibid., 18.
do not possess the elements of an independent national existence…and they must share the destiny of their race.\(^5\)

The attitude prevalent throughout government towards Hispanics was the view they were unable to govern their own countries which laid the foundation for a foreign policy initiative designed to ensure hegemony over all the Americas. The result was the Monroe Doctrine of 1823.\(^6\)

The doctrine was implemented by President James Monroe and asserted the Americas would not be further colonized by European countries and the United States would not interfere in the internal concerns of European countries. It stated that any further efforts by European countries to colonize land or interfere with any states in the Americas would be viewed as acts of aggression and the United States would intervene militarily to protect its possessions. The policy actually included the entire Western Hemisphere, including parts of Europe and Africa, serving the additional purpose of preventing any European power from taking over any of the Spanish Empire’s colonies at a time when Spain was about to lose the Latin American countries.\(^7\)

Mexico suffered a permanent loss resulting from the United States imperial expansionism of the 1800s. At the end of the Mexican-American War in 1848 there were approximately seventy-five thousand Mexicans living on land that is now

\(^5\) Ibid., 47.


\(^7\) Ibid.
California, Texas, New Mexico, Arizona, Nevada and parts of Colorado, Utah and Kansas. The Treaty of Guadalupe Hidalgo\(^8\) ended the war with a fifteen million dollar payment to Mexico which was ostensibly compensation for the seizure of Mexican land. This did nothing to compensate the Mexican citizens for their loss as well as withholding the right to vote and political representation. In its original form the treaty extended full rights to Mexicans consistent with international law, but in the final version it was modified to grant Congress the power to decide when, how, and if Mexicans would be granted rights as United States citizens.

In an ironic turn of events the United States went to war with Spain to stop the colonization of Cuba. The Treaty of Paris of 1898\(^9\) ended the war with Spain ceding the territories of Philippines, Guam, Puerto Rico and other Pacific islands to the United States. The wording of Article IX of the treaty insured the citizens of the conquered territories did not have citizenship and constitutional rights. In one of the Insular Cases, Downes v. Bidwell, the United States Supreme Court decided constitutional rights could not be conferred on Puerto Rico, basing the decision on the Doctrine of Conquest determined by a broad interpretation in Johnson v. McIntosh.\(^{10}\) The legal rationale for American colonial expansion was set forth by Justice Henry

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Billings Brown stating that “…any other decision could be fatal to the development of… the American Empire.” The result of this ruling allowed the United States to retain absolute power regarding the civil and political rights of Puerto Rico. It was one of several territories that “…belong to but are not a part of the United States.”

There was more policy to come that would further subordinate Latin America to the United States. In 1901 Senator Orville Platt of Connecticut introduced a rider to the Army Appropriations Act which defined the conditions for withdrawal of American troops in Cuba and an end to the Spanish-American War. The Amendment guaranteed American involvement in Cuban affairs and gave the United States claim to certain territories in Cuba including the Guantanamo Naval Base. Platt wanted the United States to maintain control over Cuba, but not allow immigration of Cuban people into America because “The people of Cuba, by reason of their race and characteristic, cannot be easily assimilated by us… Their presence in the American union, as a state, would be most disturbing.” The Platt Amendment as passed in 1904 assigned Cuba status as a colony insuring complete control by the United States. For the twenty eight year duration of the Amendment, United States military forces invaded and occupied Cuba for nine of those years. The Guantanamo Naval Base occupation continues to this day. Most provisions of the Platt Amendment were

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12 Ibid., 49.

repealed in 1934 with the Treaty of Relations between the United States and Cuba as a part of President Franklin D. Roosevelt's Good Neighbor Policy\textsuperscript{14} toward Latin America which made Cuba an independent republic.

Hispanics continued to be portrayed to the American public throughout the nineteenth and well into the twentieth century by the news media as inferior and prone to uncivilized behavior, reinforcing the rationale the United States was a benevolent landlord in managing the country of an inept people. The news media laid the foundation that helped establish the legal framework for the separate and unequal application of law by the United States Supreme Court, much like that established by the Plessy v. Ferguson case in 1896 against African-Americans.\textsuperscript{15} The Insular Cases heard by the United States Supreme Court were the court’s decision that full constitutional rights did not necessarily extend to all areas under American control. The darkest ramification of the ruling is direct; residents of the occupied territories have no constitutional rights even if they had American citizenship conferred upon them.

In 1917 Congress passed the Jones Act\textsuperscript{16} making the native inhabitants of Puerto Rico American citizens in spite of a unanimous vote of the Puerto Rican

\textsuperscript{14} U.S. Department of State, Office of the Historian, \url{http://history.state.gov/milestones/1921-1936/GoodNeighbor} (accessed February 24, 2012).


legislature to the contrary. Even with citizenship forced on the Puerto Ricans they were still denied full Constitutional rights.

In 1922 the United States Supreme Court reasoned that Puerto Rico was an unincorporated territory, even though the Jones Act made Puerto Ricans American citizens. In Balzac v. People of Porto Rico [sic] they decided Puerto Ricans did not have the right to a jury trial and other rights unless specifically granted by the United States Congress because absolute power to determine the rights of Puerto Ricans had been granted Congress by the Constitution. To date these precedents have not been overturned and in recent United States judicial history using the Insular Cases as the precedent there continues to be a denial of equal rights.

There is a United Nations Special Committee that meets infrequently to discuss the situation of decolonization in Puerto Rico. In its sixth meeting in June 2010 the committee reported:

...the Assembly released the United States from its obligations under Chapter XI of the Charter of the United Nations. It has maintained that Puerto Rico has exercised its right to self-determination, has attained a full measure of self-government, has decided freely and democratically to enter into a free association with the United States and is therefore beyond the purview of United Nations consideration.  


The essence of this report means the United States was free of the obligation to tell the United Nations anything about what occurred in Puerto Rico because the citizens of Puerto Rico, exercising their right of self-government and self-determination decided they no longer needed any outside intervention in dealing with the United States and that it was satisfied with the current situation. Yet a thorough reading of the findings indicates the past three presidential administrations have given little more than lip service to honestly addressing the Puerto Rico situation.

In 1998 President Clinton established a Presidential task force on Puerto Rico’s status; in December 2003, President Bush named new members to the Task Force while amending President Clinton’s executive order so reporting was done every two years instead of annually. As late as 2009 President Barack Obama notified the new Governor, Luis Fortuño, “…he would try to resolve the colonial case of Puerto Rico during his first term.”

In 2007 the United States House of Representatives debated two pieces of draft legislation in the Subcommittee on Insular Affairs of the Committee on Natural Resources. The Puerto Rico Democracy Act of 2007 (H.R.900) was introduced in the House of Representatives on 7 February providing for voters to choose between two options:


20 Ibid., 6.

(1) Puerto Rico should continue the existing form of territorial status as defined by the Constitution, basic laws and policies of the United States; (2) Puerto Rico should pursue a path toward a constitutionally viable permanent non-territorial status.22

The Puerto Rico Self-Determination Act of 2007 (H.R.1230)23 was introduced in the House of Representatives on 28 February recognizing the right of the people of Puerto Rico to call a constitutional convention through which the people would exercise their natural right to self-determination and to establish a mechanism for congressional consideration of such decision. Neither bill was voted on and the session of Congress ended, effectively killing the legislation.

The continuation of policies such as the Monroe Doctrine24 and the Treaty of Guadalupe-Hildalgo25 as well as the Insular Cases that denied Puerto Ricans the right to a jury trial illustrate the institutional, legalized framework of law and policy which create challenges to Hispanic equality today. Laws and policies continue to allow for the institutionalized framework of segregation and discrimination. This institutionalized framework created a culture that harkens back to the mid nineteenth century concept of Manifest Destiny which initially advocated the expansion of America across the North American continent, and was expanded upon by Woodrow


Wilson to mean America had an apparent and inexorable right to expand democracy throughout the world. In the nineteenth and twentieth centuries the idea of Manifest Destiny came to mean to Hispanics the idea that the white Anglo-American race knew better than they what was good for them. It should not come as a surprise Hispanics in America struggle with loyalty to America while at the same time self-segregate as a separate and distinct culture to advocate for the rights promised but not effectively delivered.

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CHAPTER FIVE
ENFORCEMENT AND EQUALITY

There is an increasingly robust discussion among legal, anthropology and sociology scholars regarding what is meant by culture and how culture and legal policy interrelate. This discussion has gained urgency due to the overall increase of the minority populations in America; specifically the Hispanic population group that has become the largest and fastest growing minority.

One reason for the legal and academic pairing of law and culture is that political culture wars are being fought with the inevitable result that law will be called upon to settle the issue. The United States Congress mistakenly believes it can change culture through legislative action, but the reality is Congress cannot change culture any more than it can control human nature. Congress can influence culture by creating laws, but too often these laws have unintended and unanticipated consequences. Once Congress creates law, a violation of that law must be enforced by the Executive Branch and the Judiciary must act on the enforcement of a violation of the law. The disconnect is the result of the actual creation of a law and its reception by those who are intended to obey it. The law has become a cultural issue rather than singly a legal issue, becoming so clouded by the legal contradictions, the Supreme Court is divided over whether issues coming before it are legal or cultural issues.

Scholars have recognized that the poorest, most dispossessed and least powerful groups in a society populate prisons. Alexis de Tocqueville believed crime was the result of social conditions. Those with less opportunity were more likely to
commit crimes, asserting that poverty and inequality contributed to crime. In his book, *On the Penitentiary System in the United States and its Application in France* he states; “It is well known that most individuals on whom the law inflicts punishment have been unfortunate before they become guilty.”\(^1\)

The United States has made significant progress over the last fifty years towards ensuring equal treatment under law for all citizens as guaranteed by the United States Constitution. However, in the area of justice, racial inequality is growing in terms of numbers of minorities being charged and penalized for violation of law, and the inequality is not improving as was the intent of legislation (see Tables 3, 4).

**Table 3. U.S. Sentencing Commission Inmates by Race 2006**

<table>
<thead>
<tr>
<th></th>
<th>White</th>
<th>Black</th>
<th>Hispanic</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>68,184</td>
<td>19,961</td>
<td>16,351</td>
<td>2,744</td>
</tr>
</tbody>
</table>


**Table 4. U.S. Sentencing Commission Inmates by Race 2010**

<table>
<thead>
<tr>
<th></th>
<th>White</th>
<th>Black</th>
<th>Hispanic</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>76,108</td>
<td>20,021</td>
<td>15,092</td>
<td>2,664</td>
</tr>
</tbody>
</table>


The tables reflect data available from the United States Sentencing Commission, and taking into account the disparity of methodology and results across agencies and independent organizations, the data reflects significant increases in prison population in the Hispanic population group during the five year period.

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According to the United States Sentencing Commission 2010 sentencing report, offenses for illegal immigration accounted for thirty-two and a half percent of all sentencing with Hispanics accounting for eighty-six percent of the total (see Table 5). \(^2\)

This represents an increase of forty-four percent from 2006. \(^3\)

Table 5. 2010 U.S. Sentencing Commission Inmates Immigration Demographic and Offense Information For Immigration Offenses

<table>
<thead>
<tr>
<th></th>
<th>White</th>
<th></th>
<th>Black</th>
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<th>Hispanic</th>
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<th>Other</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>Number</td>
<td>%</td>
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<td>%</td>
<td>Number</td>
<td>%</td>
</tr>
<tr>
<td>41,322</td>
<td>2,490</td>
<td>6.0%</td>
<td>472</td>
<td>1.1%</td>
<td>35,719</td>
<td>86.4%</td>
<td>2,641</td>
<td>6.4%</td>
</tr>
</tbody>
</table>


The National Center on Institutions and Alternatives, a liberal independent research organization specializing in alternatives to incarceration, concluded in a 2001 study that Hispanics were largely reported, either self-identifying or by assignment by the reporting agency, as belonging to the White demographic thereby artificially inflating the metrics for whites and under reporting data for the Hispanic.

The accuracy of the reporting and how to standardize the reporting is the subject of much research in the United States, becoming a growth industry in itself.

Since the Civil Rights legislation of 1964, data from studies to assure compliance with the Civil Rights law have increased significantly, providing data on delinquency, types of crime, and sentencing. What the research has surprisingly not shown is while the


United States Census Bureau has attempted to differentiate Hispanics from any other population group, statistics available from the Department of Justice, the Federal Bureau of Investigation and other Federal law enforcement agencies do not consider Hispanics in their arrest demographics. There is some statistical information available at the state and local level, but the reporting methodology and the data collected is not standardized within or among the states. Additionally, the Federal agencies collect and report on data regarding prisoners in the Federal system only. They do not collect any state or local data showing detentions, arrests or incarcerations by race or ethnicity leaving a gap in the data. The United States Sentencing Commission does provide data on offenders incarcerated by primary offense and race, but four of the population groups are omitted. The salient point is that even within the Federal government there is an absence of a common methodology on the data to be collected and reported.

There is analysis available by various think tanks such as the Pew Hispanic Center, the National Center on Institutions and Alternatives and others, but as the case with all statistical analysis, the results are dependent on the methodology and each organization and agency independently has its own unique methodology and reporting needs. Even the Bureau of Prisons, who should have the most accurate and complete data, classifies inmates by race which does not include Hispanics, and by ethnicity, which does have Hispanics. Here again the reporting methodology is inconsistent and accurate only to the extent that one understands how it was collected by the particular organization. Hispanics in prison, both men and women, are sometimes counted as white, African American, Native American, or of an undetermined race due to an
absence of a reporting category for Hispanics. We are left without an accurate picture of the racial/ethnic breakdown of Hispanic prisoners. Current statistics allow us to see only the tip of the iceberg; in reality, the number of Hispanics as well as the percentage of the Hispanic population incarcerated may be much greater than believed.

Our laws are supposed to be racially neutral, though there is argument to the contrary by minority advocacy groups such as the National Council of La Raza, who claim enforcement ends up being racially biased. The system by which lawbreakers are apprehended and punished is one of the pillars of our democracy. For that system to remain intact, the public must be confident that at every stage of the process, from the initial development of a law to the investigation of a crime by a police officer to prosecution and punishment, all citizens in like circumstances should be treated the same, consistent with the Constitution’s guarantees of equal treatment under the law.

Minorities assert this ideal is not being realized. Hispanics and other minorities are already culturally and politically segregated into minority groups and additionally feel victimized by what they consider disproportionate targeting by police and by a court system they believe has different standards of prosecution and sentencing for minorities.

America’s prisons are full with only three percent of all prisoners confined for violent offenses and half of these for drug related offenses. While the racial disparity between the number of white and African American prisoners has received a substantial amount of attention, the reality of the racialized nature of prison growth
has not been adequately explored along lines that clearly spell out the burden borne by Hispanic and other ethnic minority communities.

The amount of research and data has grown disproportionately when compared with the absence of dispassionate scholarly debate on the subject of race or culture and fairness in the justice system. The topic of race and crime continues to provoke strong feelings and fuel ideological discussions over competing schools of thought such as discrimination versus differential involvement, cultures of violence versus structural inequality, and empiricism versus critical theory. There are those who argue that using empirical data to analyze the question of race and crime is in itself a discrete form of racism. Even with the abundance of empirical data, law enforcement officers, criminologists, lawyers and others in the legal profession are hesitant to speak openly on race and crime for fear of being accused of racism if their findings do not support the minority view.

Proponents of the allegation of unequal and unfair treatment of minorities in the justice system point to a growing prison population that is majority black and Hispanic. Minority communities have lost entire generations of young men to prison resulting in a widely held belief among Hispanics and other minorities that the justice system is not to be trusted.

Racial disparities may also affect both innocent and guilty minority citizens. If there is racial disparity in how innocent minority citizens are detained by the police on the street, then the outrage is understandable. A defendant surrenders many civil rights upon conviction, but equal protection of the laws is not one of them. The allegation of
racial disparity in the justice system may be the most prevalent civil rights issues facing America in the twenty first century. It can undermine the progress America has made over the past five decades in ensuring equal treatment under the law and calls into doubt our national faith in the rule of law.

Law is supposed to be an instrument to protect the interests of all, and punishment is based on legally relevant variables such as seriousness of the offense and prior record. Justice research draws on a number of different theories to investigate causality and results, but most are similar in methodology and result in two better known theories; consensus theory advocated by John Rawls, and conflict theory, drawn from the basic Marxist theory of Karl Marx.

According to the consensus view advocated by Rawls, there is an assumption of shared values, where the state is organized to protect the common interests of society at large. In contrast, conflict theorists view society as consisting of groups within society having conflicting and differing values and posit that the state is organized to represent the interests of the more powerful, ruling class. Law is therefore viewed as an instrument to protect the interests of the powerful and the elite, and punishment is based to a large extent on extra-legal variables such as race or social class. A major proposition drawn from conflict theory is that groups which threaten the hegemony of middle-and upper-class rule are more likely to be subjected to intensified social control; more criminalization, more formal processing by the justice system, and increased incarceration compared with groups that are perceived as less threatening to the status quo. Conflict theorists argue that the poor and unemployed in
minority groups such as Hispanics are represented as such threatening groups to the dominant population group.

Most social theory has historically been based on notions of consensus. Not until the eighteenth century revolutionary tradition did the idea of conflict get wide attention. Writers such as Plato, in ancient Greece, and Jean-Jacque Rousseau in eighteenth century France, stressed means of avoiding conflict by defining the requirements for consensus. Only when Marxist theories began to develop in the middle of the nineteenth century did notions of conflict replace those of consensus in social theory. According to such radical ideas, consensus was impossible unless differences in power and wealth were eliminated.


The first is that fairness should be universal, and the second that it should be practical or implementable. He believed that if those creating law were rational, they would use reason to strive for objectivity when deciding how to divide the social goods such as education, wealth and influence among all citizens. He believed this theory of universal values would assure just political outcomes, reduce social and political strife and achieve a greater realization of the promise of democracy. His theory was a device for understanding the principles of justice using reason alone, free of tradition, authority or prejudice, where “…the parties are equally represented as moral persons and the outcome is not conditioned by arbitrary contingencies or the
Unfortunately, the theory was successful in satisfying the image of a fair policy but not so successful in satisfying the desire for universality. The shortcoming in the theory is it depended on a moral consensus that would be attractive to any rational person and would suppress the influences of culture and history. He eventually gave up or perhaps a better wording is, modified the theory, to deemphasize the idea of neutral universal principles of justice and leaned more toward his vision of a contemporary liberal democratic state. With this new idea came the criticism of whose understanding or definition of fairness would be used which negated the condition of wide acceptability required to implement the theory in reality. For Rawls fairness was central to the idea of justice and he believed that fairness was an integral part of human psychology. Rawls theory may work in a homogeneous, non-diverse society, but in America where there are seven population groups and within the Hispanic population groups there are twenty six subgroups, there could be so many differing definitions of what fairness is that it would be impossible to implement. The second obstruction to the theory is the principle of reciprocity which maintains that individuals must recognize and voluntarily act on the obligations they have to each other. In the Theory of Justice he asserts;

We are not to gain from the cooperative labors of others without doing our fair share. The two principles of justice define what is a fair share in the case of institutions belonging to the basic structure. So if these arrangements are just, each person receives a fair share when all (including himself) do their part.\textsuperscript{5}


\textsuperscript{5} Ibid., 112.
The theory as a generalization is sound, but applied across the political, social and cultural spectrum it is unlikely to be enforced.

In *Political Liberalism* Rawls described American culture as a fabric woven of different comprehensive doctrines instead of a single strand of commonly held ideas. Some of these doctrines, such as free faith, philosophical autonomy and pluralism are compatible and can exist side by side with little conflict. This is not only because they are mainstream beliefs, but also because they fit comfortably with the style of American politics. These comprehensive doctrines form an overlapping consensus on what constitutes reasonable practices in culture and politics.

Such a consensus consists of all the reasonable opposing religious, philosophical, and moral doctrines likely to persist over generations and to gain a sizable body of adherents in a more or less just constitutional regime, a regime in which the criterion of justice is that political conception itself. ⁶

Many strands of the fabric of American culture can be accounted for in this overlapping consensus and produce broad agreement. However, other comprehensive doctrines are not easily woven in because they are minority opinions, more extreme and less satisfactory in a liberal regime. Examples would include participatory democracy, religious fundamentalism and radical skepticism. These are the kinds of comprehensive doctrines which tend to be justified on grounds unavailable to all reasonable citizens. The citizens who do adhere to them frequently desire to influence political affairs on the basis of these comprehensive doctrines because they believe the underlying justifications are true. However, there are many comprehensive doctrines

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making such claims and none of them are true for all citizens. Comprehensive
doctrines tend to be exclusive of all views.

Some comprehensive doctrines are not persuasive to everyone. To include
these doctrines in public policy debates would violate the principles of fairness. As an
example, the allegation of racial profiling by police officers; officers maintain they
detain suspects in a predominantly Hispanic neighborhood because they fit the profile
of drug dealers knows to frequent the neighborhood. Residents complain that it is
racial profiling because they are detaining subjects simply because of their
appearance. Police officers are unlikely to understand the debate because they are
usually ethnically outside of the Hispanic culture system that views profiling in racial
terms and are unfamiliar with the history and principles of the Hispanic culture. The
procedure of political discourse under such conditions would therefore be flawed;
impartiality and equal participation would not be possible for all because all could not
participate fairly on a level playing field.

The use of public reason permits reciprocity between citizens which is not
possible if comprehensive doctrines are included in the debate. Only one method of
justifying policy can be used in public, fully expressive of political rather than
comprehensive values. Public reason is the method. It is reasoning which limits itself
to the political.

In justice as fairness, then, the guidelines of public reason and the principles of
justice have essentially the same grounds. They are companion parts of one
agreement. There is no reason why any citizen, or association of citizens,
should have the right to use state power to decide constitutional essentials as
that person’s, or that association’s, comprehensive doctrine directs. When
equally represented, no citizen could grant to another person or association that political authority. Any such authority is, therefore, without grounds in public reason, and reasonable comprehensive doctrines recognize this.\(^7\)

In this way Rawls permits one kind of comprehensive doctrine and sets aside others. This is done to protect the fairness of the political process. Every citizen can reasonably expect to recognize as valid the reasons for establishing a given policy as long as the fundamental viewpoints of comprehensive doctrines are not left out of all stages of justifying a policy, including its debate in legislatures and the vote by citizens for candidates promising to implement it. It is equally available for everyone’s rational understanding. In this sense the reason for excluding certain comprehensive doctrines from public debate is that in so doing, we may offer many citizens a fair chance to participate in politics and recognize as legitimate the institutions and practices of government. Simultaneously those whose conscience might drive them to arrive at political decisions justified by other comprehensive doctrines may not recognize the same legitimacy. This is not unlike Plato’s pessimism that ordinary citizens could be convinced that philosophers would make the ideal rulers. Nevertheless, even Plato adhered to the idea that some agreement was preferable to no consensus at all.\(^8\)

Rawls consensus sounds like the ideal method, but conflict theory, largely based on the writings of Karl Marx, is more aligned with the reality of American society. Conflict criminology claims that crime is inevitable in capitalist societies as

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\(^7\) Ibid., 225-6.

invariably minority groups will become marginalized and unequal. In seeking equality, members of these groups may often turn to crime in order to gain the material wealth they believe brings equality in a capitalist state. Conflict criminology derives its name from the fact that there is no consensual social contract between state and citizen, or between those at the top of the socio economic pyramid and those at the bottom.

The conflict theory assumes that every society is subjected to a process of continuous change and the process will create social conflicts. Individuals and social classes, each with their own distinctive interests, represent the constituent elements of a society. As such, they are individually and collectively participants in this process, but there is no guarantee that the interests of each class will coincide. The lack of common ground is likely to bring them into conflict with each other. Occasionally each group’s contribution may be positive or negative. To that extent the progress made by each societal element is limited by the acts and omissions of some of its members. This limitation may promote a struggle for greater progress, but if the less progressive group has access to the coercive power of law, it may assure inequality and oppress those who are less equal. In turn, this inequality will become a significant source of conflict. The theory identifies the state and the law as instruments of oppression used by the ruling class for their own benefit.

There are various strands of conflict theory. Structural Marxist theory is the purest and most practiced version, asserting that discrete cultural elements are not explanatory in and of themselves, but rather form part of a larger system and is best
understood with respect to relationship to the societal structure as a whole. There are four components to structuralism in a society. First, structure determines the position of each element of a whole. Second, there must be a structure defining the position of each element relative to the other in a society. Third, there must be structural laws that deal with co-existence rather than change. Fourth, structures are the entities that lie beneath the surface.⁹

Thorsten Sellin¹⁰ pioneered a method which involved a comprehensive view of the subject incorporating historical, sociological, psychological, and legal factors into the analysis. He applied both Marxism and a refined Conflict Theory to an examination of the cultural diversity of modern industrial society. In a homogenous society, norms or codes of behavior will emerge and become laws where enforcement is necessary to preserve the unitary culture. However, where disparate cultures diverge from the mainstream, those minority groups will establish their own divergent norms. When laws are enacted, they become the norms, values and interests of the dominant cultural or ethnic group which may produce culture conflict. When the two cultures interact and one seeks to extend its influence onto the other, each side is likely to react defensively. If the balance of power is relatively equal, a consensus may be reached. But if the distribution of power is unequal, the everyday behavior of the minority group may be defined as deviant or destructive. The more diversified and


¹⁰ Sociologist at the University of Pennsylvania and one of the pioneers of scientific criminology.
heterogeneous a society such as America becomes, the greater the probability of more frequent conflict as subgroups living by their own rules break the rules of other groups or society as a whole. The conflict does not necessarily have to be fact, but may be a perception based on various forms of communication.

An illustration is a widely publicized example of news reported by the media becoming truth through perception. In 1997, New York City police officers repeatedly beat Abner Louima on the streets of Brooklyn.\footnote{David Herszenhorn, “The Louima Ruling,” \textit{The New York Times}, March 9, 2012, \url{http://www.nytimes.com/2002/03/01/nyregion/the-loui ma-ruling-chronology-of-the-case.html} (accessed March 8, 2012).} The officers then dragged Louima to the police station, where one of the officers sodomized him with a mop handle, leaving him hospitalized with severe damage to his internal organs. The officers then tried to cover up the abuse. One of the officers involved was eventually charged with sexual abuse and was sentenced to thirty years in prison, while the other was sentenced to five years in prison for attempting to cover it up.

This illustration does not question the character or guilt or innocence of the victims nor does it suggest that all police officers are racist. Both officers were eventually charged and brought to justice, but it does demonstrate how the actions may be perceived by the minority community as an assault by the elite and their protectors on them by proxy. The fact these renegade officers were eventually fired, charged and found guilty of their crimes was overlooked in the media’s reporting of justice being served.
Bad things sometimes happen to people in the implementation and enforcement process of law, but the incident of violent police abuse cited above is only the visible example of alleged misconduct resulting in mistrust of the legal system and self-segregation by the Hispanic community.

While not resulting in violence such as the aforementioned illustration, the perception of the rules of court procedure has also come into question and been challenged. No Mexican-American had ever been assigned as a member of the jury in a capital case in Texas until the Hernandez v. Texas\textsuperscript{12} case in 1954. Pedro Hernandez, a Mexican agricultural worker, was charged in the murder of Joe Espinosa and found guilty. Hernandez's legal team alleged that no jury could be impartial when members of non-Caucasian races were not allowed to be seated as members of the jury. The case eventually went to the United States Supreme Court where it was decided that Mexican-Americans and members of all other racial groups had equal protection under the 14th Amendment of the U.S. Constitution and the definition of a jury by one’s peers was held valid.

The education system is another example of past practice creating not only negative perceptions but also a negative reality in the Hispanic community. Removing the inequities in education has been complicated by the inaction and in some cases the refusal of the courts to address the discriminatory impact of local education policy on

Hispanic children. In 1973 in San Antonio Independent School District v. Rodriguez,\(^{13}\) Hispanic parents brought a class action suit to obtain equal resources for a poor school district whose population was ninety per cent Hispanic. The United States Supreme Court found there was no implicit or explicit right to education in the United States Constitution and sent the matter back to the local courts, effectively saying a child’s right to an education depended on where they lived. The action effectively closed the doors to equal educational opportunities to Hispanic children until 1991, after numerous other suits had been through the state courts, three governors and several state legislatures. Governor Ann Richards signed into law a bill in 1993 that would provide for equal education benefits for all Texas school districts. After twenty years of Hispanic children being denied an education equal to that provided to students in other parts of the state, poor Hispanic children were finally provided an education equal to that already being provided to others. Generations of Hispanic parents and children had been taught they were not equal when it came to educational opportunities.

There has been modest improvement in recent years in breaking the cycle of discrimination in predominantly Hispanic communities. In 2005 the New York State Court of Appeals found the State of New York in violation of the state constitution and directly responsible for discrimination against students of color because the state public school financing system’s disproportionate allocation of funding to public

school children.\textsuperscript{14} The trial court found a causal link between the state’s funding system and the provision of inadequate resources to New York City schools. Eighty per cent of the city’s school system was minorities, including Hispanics, with seventy three per cent eligible for Federal free or reduced lunches. Additionally, the city’s per student funding amount was approximately twenty five per cent less than most of the state’s other school districts. During the trial it was also discovered there were obvious problems with overcrowded classrooms, unqualified teachers, lack of books and poorly maintained school buildings. Surprisingly, then Governor George Pataki decided to fight the decision, claiming the state’s obligation only extends to providing an eighth grade education. Fortunately the Court of Appeals recognized the causality link between the city’s failure to adhere to the state’s constitution by not funding the schools properly and failure of Hispanic and other minority students and ruled in favor of the plaintiff.

As with all people of color, Hispanics perceive policies and laws to discriminate and neglect their most basic of human needs. Considering the long history of legislated discrimination it is understandable that Hispanics and other minorities wonder if they are really accepted as Americans in contemporary American society or relegated to obscurity and inequality.

Racial disparities in the justice system are one manifestation of broader racial divisions in America. Many of the perceptions and prejudices that give rise to

inequities in justice are the same prejudices that have been with us since the founding of the Republic. Not until those underlying prejudices are shattered will true equality for all Americans, in all facets of life, have been achieved. The justice arena is an especially critical battleground in the continued struggle for civil rights. Current disparities in justice threaten fifty years of progress toward equality. Justice reform is a civil rights challenge that cannot be ignored.
CHAPTER SIX

CONCLUSION

When Europeans first set foot on the Atlantic shores of America they still viewed themselves as British citizens, or citizens of whatever country they came from. They risked everything to settle the new world with the goal of providing a new life of freedom for all. It wasn’t until the eighteenth century after the war for independence did British settlers begin to identify themselves as Americans and saw a national identity come to the forefront.

America would see dark days during its growth with one of the darkest occurring a century after the signing of the Constitution. America would find itself embroiled in a civil war with Americans fighting each other, one side fighting to rid itself of the scourge of human slavery and defend the idea of freedom and liberty; the other to maintain the practice of human slavery and bondage. Brother against brother, slave and free man alike shed blood to rid America of slavery. Under the War Powers Act in January 1863, President Abraham Lincoln issued the Emancipation Proclamation freeing slaves in rebellion, but slavery would not be officially outlawed until January 1865 when the Thirteenth Amendment to the United States Constitution was adopted. Although slaves were legally freed, it would be another century before black Americans would see their most basic of rights, rights that were already codified and guaranteed by the Constitution but in reality denied under Jim Crow laws, once again validated by the Civil Rights Act of 1964. After fifty years, true freedom and equality for all is still lacking. Until recent years the struggle for equality was by black
Americans, but more recently the influx of Hispanic immigrants has seen America become more diverse than ever before in its history, and with that diversity has arisen the question of whether America can remain a beacon of freedom and hope for all people when there are disparities in wealth, education, and access and protection in the legal and political system. All persons are entitled by birth or legal immigration to equal rights and freedoms. While laws exist to assure equality for all, the perception is of a disproportionate number of Hispanics sentenced in Federal prisons relative to other population groups, a fact supported by the United States Sentencing Commission reports. The laws as applied do not appear to support an unbiased application of these laws for Hispanics and when factoring in the under reporting due to the non-standardization of reporting among the various agencies the disproportion increases.

This essay addressed the various nationalities, ethnicities, religions, and the history that comprise the Hispanic population group. To Hispanic Americans it is disturbing to consider the laws and government enforcement of those laws America sanctioned through the course of its history that affected people of Hispanic ancestry, giving rise to further feelings of alienation. Although some of the laws and events were so wrong spirited they cannot be defended under any moral or ethical law, it must be taken in the context of their time. Some of these events, though viewed through the lens of twenty-first century observers as imperialistic and racially motivated, were considered necessary by reasonable and rationale leaders of their time.
In the first two hundred years of existence America received immigrants from throughout the world. They spoke different languages, brought different values and views of law with them and they had different views on virtually every element of American culture, society and politics. There have been world wars, even a civil war over the rights of all Americans, most fundamentally, the right of a human to live without bondage. Yet with all the challenges, along with the assimilation of these immigrants into the American society, America is richer and stronger for all they brought with them, not the least of which was a desire to live free, share in the freedoms America offers and defend those freedoms.

One of the most critical areas for the assimilation of the American identity and to eliminate the observed disparities in the legal and justice system is the education system. American schools and colleges have trained new Americans for over two centuries and is the primary means to form the American identity. Woodrow Wilson said;

The great melting-pot of America, the place where we are all made Americans of, is the public school, where men of every race and of every origin and of every station in life send their children, or ought to send their children, and where, being mixed together, the youngsters are all infused with the American spirit and developed into American men and American women.¹

The opposition view contended public education should be about the protection and perpetuation of ethnicity. Unfortunately the only thing this approach accomplished was to feed on prejudice and highlight the differences that incite antagonism. The result is a self-fulfilling prophecy of racial conflict over

multiculturalism and political correctness where a curriculum of the liberal arts should be taught as intellectual disciplines, as well as a way to raise minority self-esteem.

To get to a universal culture Americans must solve the problem of national identity. Are we really a “we” as in one people or are we several distinct peoples? If there is a “we”, who is “them” and what distinguishes us from “them”? Is America a universal nation based on values common to humanity or are we a Western nation whose identity is defined by European heritage only? Anglo Europeans founded and settled America, bringing with them culture and values that have been disseminated to new immigrants. As the founders and settlers, they had the right to assert laws and rights of the dominant population, but without full inclusion of new immigrants of differing cultures and values a separatist, multicultural philosophy developed that continues to fragment and segregate American society further and annihilate any opportunity for a universal culture.

Acculturation of Hispanic immigrants is incomplete at best and in many cases nonexistent. This lack of acculturation and acceptance results in devaluation of cultural identities and social attributes that contributes to the feeling by Hispanics they are not treated fairly in routine daily life. While these issues are contributing factors and their resolution will no doubt make their individual lives temporarily better, they are not the causality nor will reaffirming cultural values solve the problem. Unless carefully structured this can have the opposite effect of further segregating Hispanics from a main stream America into even more groups who self-identify as a hyphenated American. There is a place in American society for recognizing and acclaiming
ethnicity, but it must be framed in the context of the larger picture, that of being an American. Unless carefully structured it may create more subgroups, each having less influence and being more marginalized than the predominant population group it is a part of.

This approach sounds much like the concept of relativism, a concept much criticized by philosophers and politicians alike. Plato asserted that relativism is self-defeating because truth must be absolute; there can be no synthesizing of differing ideas into one truth. American law asserts that laws are equal for all but when that fails in reality minority groups segregate creating a conflict with the white majority population group. Plato, who disliked democracy, advocated a class system whereby citizens were bred for leadership where each person was assigned to a group based on their demonstrated capabilities with the opportunity to be promoted or demoted to a higher class dependent on their demonstrated capabilities. American democracy advocates a system of laws where all have an equal opportunity of access to whatever they aspire to, not totally unlike Plato’s theory, but by identifying and separating citizens into population groups the government creates cultural class systems. The primary difference between the two theories is Plato’s theory initially assigned individuals based on class at birth, where in a democracy America’s are theoretically born into the same class, all with the same opportunities under law. Because of America’s checkered past of imperialistic dominance by the dominant class, or population group, the perception by minority groups is there is not the opportunity for total equality resulting in further self-segregation. Until this perception of a class
system changes, whether real or perceived, there will continue to be segregation by minority groups. As the American population grows, as well as the diversity of population, the trend towards a change in the dominant culture or minority group and with that change a possible change in the idea of equality will occur. On the current trajectory America cannot have a clearly defined universal. Minority population groups can and should, where possible, retain the aesthetics of their respective heritages. I submit this is not relativism but acculturation. America is a nation of laws, laws intended to eliminate the “we” versus “them” conflict, but until the United States Congress abolishes the segregated population groups in all its functions and laws, conflict among the groups will continue with the only change being in who the dominant group is. America will become a society of laws by a changing dominant culture resulting in more pronounced tribal type conflict similar to that seen in less developed countries.

Thomas Payne wrote in his 1776 pamphlet, *Common Sense*, which altered the destiny of America, and thereby the world is still relevant: “We have it in our power to begin the world over again.”^2^ There is room for cultural recognition, but to continue searching for a universal culture that cannot exist is futile. By eliminating the population groups there will be no identified groups and there will be no separation of America into cultural or ethnic classes. America must continue its evolution as one people allowing for individual differences without enslaving itself to dominance by

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any one group. Otherwise there is the risk of such internal conflict America will collapse as the Roman Republic did over two millennia ago.
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