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KEYNOTE ADDRESS

CLAIMING A GLOBAL IDENTITY: LATINO/A CRITICAL SCHOLARSHIP AND INTERNATIONAL HUMAN RIGHTS

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Latino/a Critical scholars and activists have a unique opportunity to crack the provincial shell that shelters critical legal scholarship in this country. Today, I would like to offer suggestions for the formulation of a dual strategy to be pursued at both the international and domestic levels. On the one hand, the international human rights field offers an ideal scenario for the exploration of a human rights discourse, which, in gaining a global perspective, re-energizes and transforms the U.S. civil rights agenda. As the dismantling of the civil rights agenda gets underway, a revitalized human rights agenda gains strength and empowers grassroots movements. On the other hand, as members of communities which constitute the South within the North, our positions must be incorporated in the critique of an international human rights framework that falls short in delivering the promised goods to subordinated groups.

Take the domestic front where the need to pass from a civil rights agenda to its human rights counterpart has reached emergency proportions. A post-Cold War globalization impulse, which erodes traditional notions of nationhood, sovereignty, and borders, sets the stage for passing. To stay in the niche of a civil rights agenda that has delivered crippled results to our commu-

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nities amounts to not rising to the occasion and eludes undertaking the necessary inventories which precede a globally informed human rights advocacy.

In passing from civil rights to human rights, we incorporate a broader array of perspectives to our critiques of the formal/liberal dimension of political citizenship. Notions of equality—whose resilience to sameness and assimilation constitute hostile soil to differences—must be explored from the redefined location of the interrelatedness of the civil, political, socio-economic, and cultural spheres. It is in light of such an integrated approach that a redefinition of marginalization and political citizenship can better weave the fabric of a human rights agenda, which reverses the *disappeared* status of our communities. A redefined human rights agenda is better equipped to challenge the systematic assault against the more recent and darker waves of immigrants, waged within the framework of sanitized versions of political citizenship which devalue identity politics.

Alongside an expanded concept of political citizenship lies the recognition of broader notions of national origin, which adequately capture its cultural and racial dimensions, or the recognition of the realities of transnational diasporic identities. The legal treatment of ethnicity, cultural difference, and national origin, based on colonizing sociological/anthropological renditions of immigration, can profit from an interdisciplinary critique which redefines such conceptual frameworks. To talk about national origin discrimination without addressing the importance of its cultural dimension, such as language, amounts to advancing shallow notions of discrimination that fail to link cultural and economic marginalization. Another instance of a parochial vision.

Let us examine some examples. Enter the concept of equality. In both the Convention on the Elimination of Discrimination Against Women and in the Race Convention (ratified by the United States), equality is approached from a broader perspective than the one that U.S. courts are willing to accept. At the international level, the formal equality embedded in the concept of equality of opportunity, gives way to *de facto* equality or equality of outcome.

The generations framework, a descriptive mechanism accounting for the development of international human rights legislation and implementation, traces expansive maps which can guide a critique of domestic acontextual legal interpretations entrenching our social marginality. Coupled with an active and strong nongovernmental organization (NGO) movement advocating the interpretation of conventions as living documents, revised notions of state responsibility have emerged.

In the context of violence against women, the International Covenant on Civil and Political Rights is an illustration of a broad construction, which includes human rights violations perpetrated by private actors. The erosion of the nation-state, coupled with the realities of women who suffer violence at the hands of both private and public actors, has exposed the need to incorporate the structural relationship of power, domination, and privilege in the construction of state responsibility. In a similar vein, the Women's Convention Committee reacted to women's lobbying and, in a General Declaration, explicitly characterized violence against women as a form of gender discrimination.

The second generation of economic, social, and cultural rights is another illustration of a scheme of rights and interpretations that ventures into the waters of distributive justice and which acknowledges the interdependence of civil/political and economic/social/cultural rights. The latter are particularly important in our efforts to redefine political citizenship along the lines of identity politics and revised social contracts which incorporate the connections between cultural disrespect and social/political marginality.

The so-called third generation of human rights travels the roads of communitarian values, privileging the welfare of groups and elaborating notions of the human rights subject which transcend the individual. The evolution of these rights also offer significant frameworks for our critiques of individualistic legal paradigms, which fail to acknowledge group identity as a source of rights. Discussions about the contours of the right to development and self-determination should be incorporated domestically in the formulation of critiques, which address equal protection concerns and relate to the multiple faces of discrimination.

The reluctance to deal with a global understanding of the movement of labor and its relationship to structural adjustment

policies renders an analysis of economic divestment and affirmative action in this country severely confined. A human rights perspective, which engages the extraterritorial potential of Title VII and transcends the privileging of a U.S. based racial perspective, can offer a more nuanced discussion of the legal and political strategies to be pursued in the affirmative action context. Likewise, the emergence of a "knowledge sector" and the class gaps, brought about by a high-tech global economy, must be at the forefront of our critiques of labor laws and policies. It is within our communities where the bulk of displacement, generated by an information elite that manages such economy, will be felt.

Theoretical and doctrinal reconceptualizations only constitute a piece in developing a stronger domestic human rights agenda. The expansion of implementation and enforcement strategies is equally significant in the domestic human rights approach. We can expand the range of accountability. The existence of treaty-based bodies, which allow for the presentation of state reports and international and regional complaint mechanisms as well as the potential litigation around violations of customary norms of international law, broadens the range of necessary dialogues. Regional and international mechanisms such as the Inter-American Commission of Human Rights as well as treaty bodies which deal with race discrimination issues, offer opportunities for filing complaints that take human rights violations committed in the United States to international levels. The Optional Protocols of the Covenants on Civil/Political Rights and on Race Discrimination provide a forum for filing complaints or narratives upon which significant case law can emerge. There are current efforts advocating for the existence of similar protocols for the Women's Convention and for the Covenant on Economic, Social, and Cultural Rights.

We cannot forget the classroom. The incorporation of an international human rights perspective can erode a compartmentalized domestic and international legal pedagogy. Workers' rights and employment issues in the face of global markets must be discussed in light of their human rights dimension. To teach labor law without acknowledging the limitations of a U.S. based advocacy framework is to blind our students to the realities facing workers in the twenty-first century. Self-determination issues, which transcend traditional territorial definitions such as

those which arise among minority groups, are not the exclusive province of the former Yugoslavia. Students must often learn how to suspend disbelief when revised self-determination frameworks are used as a backdrop for the discussion of issues of discrimination in the United States.

In the few instances that U.S.-based NGOs have documented human rights violations, the use of an international lens to address domestic issues has proven to be quite successful in capturing the attention of policymakers. Informed by a human rights perspective, the Human Rights Watch report on sexual offenses against women in U.S. prisons captured the congressional attention that previous domestic reports on this politically marginalized issue did not.

A transnational approach to our scholarship and activism can inform the dual roads of vision and reform. Our critiques of the racialization maneuvers existing in a society informed by white supremacist values must have both visionary and reformist ingredients. The critique of diverse identities, in particular of ethnicity, race, and gender, must follow the footsteps of capital and go global. A narrow focus on federal-state based legal protections, which dwell on national boundaries, must be transcended in order to better address the current moves and flows of people, the phenomenon of diaspora.

On the international front, our insertion in the international debate plays horizontal and vertical roles. Horizontally, our presence serves to forge the political alliances that move international human rights law in the direction of serving the needs of oppressed people. Vertically, we refine the advocacy and lobbying skills necessary to formulate the critiques of exclusionary constructions and practices in international human rights law.

In an arena which requires constant flow of information and the development of sophisticated advocacy and lobbying skills, it is imperative to build networks that work to solve problems and to challenge human rights interpretations privileging the views of the developed world. We must insert ourselves in a global network of nongovernmental organizations that deal with similar and equivalent issues confronting our communities. At economic and social levels, the plight of underdeveloped countries resemble those facing our communities in the inner cities. The problems facing minority communities in developed countries of

Europe reveal the entrenched colonized and racist practices with which we are familiar.

At the 1995 Beijing World Conference, I had the opportunity to work in putting together a delegation of U.S. Latina civil rights advocates. In fact, it was the first time that U.S. Latinas had an official presence in an international gathering of this nature. The significance of our international presence was immediately felt. We had the opportunity to join ranks with other women of color from the United States, who, as a group, were initiating themselves in those settings. We managed to lobby and to advocate the U.S. governmental delegation to the conference, which allowed us to have a voice in critiquing the U.S. position, as well as those other potentially supportive delegations. We held meetings and caucuses, where we discussed our reactions to the proposed Beijing Platform for Action. All these efforts, instances of the vertical approach, allowed us to lobby for the concrete ramifications of the intersection of ethnicity, race, and gender analysis. Horizontally, we also gained an invaluable experience, since we reached out to networks of Latin American women, women who are minorities and immigrants in Europe, and Third-World women in general. The connections with Latin American women began important dialogues in advancing mutual understandings of our realities in the *here and there*.

Vertically, our presence can further elaborate the concept of "minorities" and "minoritization processes," a conceptual springboard for the elaboration of equality and antisubordination protections such as the right to development. Our realities can serve to demonstrate the need to liberate the right to self-determination from its rigid ties with traditional notions of statehood, particularly when the latter—in a systematic fashion—can be actively pursuing or perpetuating (or both) gender, racial, ethnic, and cultural subordination. In challenging the problem of the often homogenous portrayal of the "North," our presence voices the need for a more nuanced institutional approach to data collection. It is extremely important that international institutions and NGOs begin to properly document the realities of our communities in this country and the ways our legal system addresses them.

Our presence breaks current patterns that make non-representative U.S.-based NGOs the sole international spokespersons of this country's realities, thus reinforcing our invisibil-

ity. Likewise, our presence challenges the control of Northern coalitions of NGOs that, in advancing progressive agendas, reenact the Orientalist script which Edward Said so aptly captured. Such NGOs, if the missionary approach is to be avoided, must further refine the necessary self-restraint skills.

The South within the North must enter the international dialogue. The South within the North must, at the domestic level, play a central role in moving the agenda from civil rights to human rights. Although daunting, we cannot forget, as Terry Eagleton notes, that we are "spontaneous semioticians," the "natural hermeneuticists, skilled by hard schooling in the necessity of interpreting [the] oppressors' language."

An edge that should inspire our moving forward.