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17. The "Caucasian Cloak"

Mexican Americans and the Politics of Whiteness in the Twentieth-Century Southwest

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> I do not think the Mexicans in this County are intelligent enough and speak English well enough and know enough about the law to make good jurors. Besides, their customs and ways are different to ours and I do not consider them, for that reason, to be well enough qualified as Jurors. . . . The court has never at any time by act or otherwise said or done anything that . . . indicated . . . discrimination with reference to races.[1]
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> Mexican people . . . are not a separate race but are white people of Spanish descent.[2]
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> [A]bout the only time that so-called Mexicans—many of them Texans for seven generations—are covered with the Caucasian cloak is when the use of that protective mantle serves the ends of those who would shamelessly deny to this large segment of the Texas population the fundamental right to serve as jury commissioners, grand jurors, or petit jurors.[3]

The history of Mexican Americans and Jim Crow in the Southwest suggests the danger of allowing state actors or private entities to discriminate on the basis of language or cultural practice. Race in the Southwest was produced through the practices of Jim Crow, which were not based explicitly on race but rather on language and culture inextricably tied to race. When one considers three sets of encounters between Mexican Americans and the state in mid-twentieth-century Texas and California—trials concerning miscegenation, school desegregation, and jury exclusion—one sees how state actors used Mexican Americans' nominal white identity under the law to create and protect Jim Crow. Whiteness operated as a "Caucasian cloak" to obscure the practices of Jim Crow and make them appear benign, whether in the jury or school setting. If Mexican Americans were white, then they were represented as long as whites were. At the same time, Mexican American civil rights leaders as well as ordinary individuals in the courtroom did not simply identify as white; some showed a more complex understanding of "Mexican" as a mestizo race, while others pointed to the idea of race

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as a status produced by racist practice. In twentieth-century Texas and California, cultural discrimination was racial discrimination, so that discrimination on the basis of language ability and other cultural attributes, even today, requires careful scrutiny under antidiscrimination law.

In 1954, two weeks before the U.S. Supreme Court handed down its famous decision in *Brown v. Board of Education*, it decided the case of *Hernandez v. Texas*, striking down Pete Hernandez's murder conviction because Mexican Americans had been systematically excluded from the Texas jury that tried him. The Court held that Mexican Americans, whether or not they were legally white, had been treated as a "separate class in Jackson County, distinct from 'whites.'" Decades later, in the 1991 case of *Hernandez v. New York*, the Supreme Court approved a prosecutor's use of peremptory challenges to strike Latinos from the jury, based on the "race-neutral" explanation that Spanish speakers would not accept the translator's version of the trial testimony. By one view, the story of these two *Hernandez* cases makes perfect sense: the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution prohibits discrimination on the basis of race or national origin but allows it on other rational bases, such as language or culture.

The history of Mexican Americans in the Southwest generally demonstrates that state officials have been describing their discriminatory practices in terms of language and culture for most of the twentieth century, even when they were engaging in fairly explicit racial discrimination. Thus, the county sheriff quoted above could, in the same breath, explain his belief that Mexican Americans were unintelligent and also assert that they were excluded from jury service on the basis of their customs, skills, and language ability rather than their race.

In the twentieth-century Southwest, employers, schools, social institutions, and government actors tied race to culture. As the appellant in *Hernandez v. Texas* argued, these private and state actors used presumed language ability as an excuse for segregation and threw a "Caucasian cloak" over discrimination, arguing that Mexican Americans were white and therefore were represented on juries as long as whites were represented.

Mexican Americans occupy a unique position in the history of race in the United States, shaped heavily by formal, positive law. When Texas and California became part of the United States as a result of the Mexican-American War, thousands of people already living there, who had been Mexican, became U.S. citizens by the terms of the Treaty of Guadalupe Hidalgo. This treaty guaranteed to them U.S. citizenship as well as rights to property unless they declared their intent to remain Mexican citizens within the year. Nevertheless, while a small elite of Mexican American landholders who could prove that they were "Spanish" maintained white status, the majority of "Mexicans" were viewed and treated by Anglos as a separate race.

Most "Mexicans" worked first on the railroads and then in agriculture. The mass of agricultural workers, like African Americans in the Southeast, were sharecroppers for white landlords and were excluded from schools, political institutions, and public accommodations. As Mexican immigrants flooded into the United States in the early twentieth century, they swelled the ranks of poor agricultural laborers isolated in segregated labor markets. Unlike European immigrants to Northern cities who were able to move up out of urban ghettoes through access to education and political patronage, Mexican Americans, like African Americans, faced a more thoroughgoing exclusion.

However, despite the institutional similarities between the forms of discrimination experienced by Mexican Americans and African Americans under Jim Crow, the two groups' legal statuses were significantly different. State segregation statutes did not specifically target Mexican Americans; much of the discrimination they faced was de facto. Yet they were also in a different position from early twentieth-century Asian immigrants, whose right to naturalize as formal citizens depended on the 1790 Immigration and Naturalization Act reserving citizenship for "free white person[s]." Because the Treaty of Guadalupe Hidalgo had guaranteed citizenship to Mexicans in Texas in 1848, federal courts interpreted the treaty to make all future Mexican immigrants eligible for naturalization. Thus, unlike the Japanese and South Asian Indians who argued before federal courts that they should be citizens because they were white, Mexican Americans were held by federal and state courts to be white because they were citizens—"white by treaty."[4]

This unique legal status meant that the far-reaching exclusion of Mexican Americans from full social and political citizenship had to be justified on cultural, rather than racial, grounds. State officials in Texas and California—county attorneys, sheriffs, school board presidents—who viewed Mexican Americans as an inferior race and treated them that way learned over the course of the mid-twentieth century to explain their exclusion of Mexican Americans on the basis of language and culture rather than race.

In the decades before *Hernandez* and *Brown*, Mexican American as well as African American civil rights litigators had been attempting to use the Fourteenth Amendment guarantee of equal protection to gain access to full citizenship and achieving only limited gains. Yet despite Mexican Americans' repeated defeats in the courts, the constitutional prohibition on overt racial discrimination by the state meant that the parties in trials were much more circumspect about what they said regarding race and status. State officials—like Cecil Walston, the Menard County sheriff—were often extraordinarily unselfconscious about admitting their beliefs that Mexican Americans were an inferior race or, at the very least, an inferior group of people. But they made certain to couch their bias in cultural terms.

Twentieth-century Americans were struggling just as much as their nineteenth-century counterparts to determine how race would shape citizenship. It may be tempting to imagine that this equation between race and culture—so familiar in our own time to the readers of Dinesh D'Souza and Thomas Sowell (both neoconservative writers)—was readily available to the actors in these cases and that white officials could simply invoke it freely to deny access to a group they perceived as nonwhite. On the contrary, this notion of cultural racism and the ways it might be used to segregate and disenfranchise a group of people were actually being worked out via these very trials and others like them elsewhere in the United States (as well as in the writings of academics, the debates of legislators, and so on). Just as it had taken work to create the antebellum binary system of black and white (not at all obvious in a society that was in fact multiracial and diverse) and just as it had taken work to create the Jim Crow system of absolute racial segregation (not at all obvious in a society that was in fact created of a wide variety of interracial relationships), so did it take work to establish this contemporary view of race, in which racial inequality is justified on the grounds of not biology but culture. While the trials I explore may not lay bare the psychology of the participants, they do reveal state officials working out their strategies of cultural racism, even as Mexican American civil rights litigators adjusted their own strategies in response.

Particularly hard to answer is the question of how Mexican Americans viewed themselves. Only perhaps in the miscegenation cases do we see relatively untutored witnesses describing the racial identity of neighbors and struggling to explain what they mean by "Mexican." In civil rights cases, as well as in letters, petitions, and other forms of advocacy, Mexican Americans used a spectrum of languages to identify their racial and national identity, so that it is difficult to know which statements they really meant and which ones were attempts to score points with white lawmakers, judges, or juries. It is also quite possible that individuals who articulated more than one version of self-identification might have asserted different notions of their own identity, depending on the setting. It need not be that these divergences were all rational and strategically planned.

Groundbreaking new work in the last several years, in particular by the historian Neil Foley and the legal scholar Ian Haney López, has focused attention on Mexican Americans' fraught relation to white identity. Often this new scholarship has indicted civil rights leaders for their "Faustian pact with whiteness." According to this narrative, mid-twentieth-century Mexican American organizations and their lawyers claimed whiteness as a political and legal strategy—culminating in *Hernandez v. Texas*—until they finally abandoned it in the 1970 case of *Cisneros v. Corpus Christi Independent School District*. Some scholars portray whiteness claims as primarily strategic, while others see them as a deeper impulse toward assimilation and rejection of other people of color. In either case, the critics have to some extent adopted the perspective of the 1970s Chicano movement, taking the previous generation to task for its lack of racial pride and refusal to join coalitions with African Americans.

I urge shifting the perspective away from apportioning blame to Mexican American civil rights litigators and political advocates for their strategic choices and away from the unanswerable question of whether Mexican Americans were or are "really" white. Instead, I suggest focusing on the way state actors used Mexican American whiteness to create and protect Jim Crow practices. As a strategy, whiteness was used against Mexican Americans far more often than on their behalf.

It would certainly be a mistake, however, to assume that all Mexican Americans identified as white or even that whiteness was the chief strategy they employed in seeking rights. From the early twentieth century onward, many ordinary Mexican Americans—as well as litigators in their private correspondence—exhibited a more complex understanding of racial identity as produced by racist practice: Because we are treated as a race, we are a race.

The notion of *mestizaje*, or racial mixture, also created a sense of the fluidity among groups and reinforced the importance of culture in defining identity: Mexican Americans often saw themselves and their culture as stronger because they were a mixed-race, or mestizo, people. Beginning in the 1930s, Mexican American activists began to assert whiteness to government agencies but often referred to the "Mexican race" and to their whiteness in the same breath; people who would never identify as "Mexican" in English continued to call themselves "mexicano" in Spanish. Texas Mexican plaintiffs brought *racial* discrimination lawsuits throughout the 1930s and 1940s at the same time they sought to be redefined as "white" on the U.S. census and all state classification forms. While some Mexican American organizations sought to distance themselves from African Americans and from Mexican nationals, others cooperated with African American

activists. During the 1950s and 1960s, civil rights litigators sought to make use of the limited gains they had achieved with a definition of Mexican whiteness before abandoning it for minority status. In short, even strategic uses of whiteness were self-conscious and contested among civil rights lawyers and activists. And even in the cases in which Mexican American advocates most strongly pushed a strategy of whiteness, they also argued, even more strongly, that whether Mexican Americans were really white, they were treated as a separate race, and therefore, in practice, were one.

Early Mexican American Whiteness

Before the 1930s no Mexican American advocacy organization self-consciously strategized about whiteness in court. But that does not mean that state officials and even courts did not address the question of whether Mexican Americans were white. Indeed, the era can be divided into three stages relating to the conceptualization of Mexican American whiteness: In the first, during most of the nineteenth century, whether Mexican Americans were white was largely a matter of local practice; in the second, beginning in 1897, *In re Rodriguez* decreed Mexican Americans to be white for the purposes of naturalization; and in the third, during the first decades of the twentieth century, a series of miscegenation cases extended this presumption of whiteness to the marital setting. But while Mexican American identity was established as formally white, it emerged as considerably more ambiguous in courtroom testimony.

The Nineteenth Century

In Spanish Texas and California, whether Mexican Americans were white or a distinct race depended on class and geography. In the debates over the annexation of Texas in the 1840s, Anglo politicians often referred to the inferiority of the "Mexican race," using metaphors of dirt as well as the epithet "greaser," which probably derives from the work some Mexicans performed greasing the axles of mule carts. Yet during the years of the Texas Republic, although only white heads of household could buy land, some Texas Mexicans were able to do so by claiming whiteness through pure "Spanish blood." Anglos who married Mexican women "whitened" their spouses by calling them Spanish, and many Mexican immigrants "learned whiteness and 'whitening' . . . before coming to the United States."[5] Racial distinctions to some extent tracked class and landholding. In Texas, patterns of Mexican-white segregation map onto the divisions between "ranch counties," where Mexicans continued to be landholders, and "farm counties," where commercial farming took over in the first decades of the twentieth century and Mexicans were sharecroppers for white landholders. Simply put, where Mexicans held land, they were far less likely to be excluded from schools and other public accommodations and "Mexican" was less likely to be a racialized identity.

The 1848 Treaty of Guadalupe Hidalgo guaranteed U.S. citizenship to all Mexican citizens in the Mexican Cession without reference to racial identity. Before the federal courts considered the matter, U.S.-Mexico border officials made their own racial determinations, placing some Mexicans in the category "Spanish race," and others—usually darker skinned people—in the category "Mexican race." As Neil Foley explains, "It was

understood that 'Spanish' was a marker of whiteness and that 'Mexican' meant 'mixed-blood' or Indian."[6] It was fifty years before a U.S. court considered whether Mexicans could be eligible for naturalization on the basis of identification as "white" or some other basis.

White by Treaty—In Re Rodriguez

When the District Court for the Western District of Texas finally considered the matter of Mexican American citizenship in the case of *In re Rodriguez*, it decided to treat Mexican Americans as white, avoiding the issues raised at trial and in the briefs on appeal about Mexicans' "mixed blood."

In 1896 Ricardo Rodriguez filed an application for naturalization papers in San Antonio, Texas. According to the district court's statement of the case, "[a]s to color, he may be classed with the copper-colored or red men. He has dark eyes, straight black hair, and high cheek bones." The lawyers at trial tried to elicit testimony from Rodriguez to place him in either a "Spanish"—white—or "Indian" racial category, but Rodriguez resisted this dichotomy. When asked, "Do you not believe that you belong to the original Aztec race in Mexico?" Rodriguez answered, "No, sir." Counsel then asked, "Do you belong to the aborigines or original races of Mexico?" Again Rodriguez answered, "No, sir." "Where did your race come from? Spain?" asked the lawyer. Answer: "No, sir." Finally: "Where did your race come from?" Answer: "I do not know where they came from." Rodriguez insisted that he was a "pureblooded Mexican" and neither Indian nor Spanish. He resisted the idea that "Spanish" and "Indian" represented two distinct streams of blood in a Mexican's veins.

Several San Antonio politicians submitted amicus briefs to the court regarding Rodriguez's racial identity and eligibility for naturalization on the basis of whiteness. One based his discussion on Rodriguez's "appearance," as well as on scientific experts who, he claimed, placed the "aborigines of this continent" outside the white race. He concluded that Rodriguez was not white, whether "by the scientific classification" or "in the sense in which these words are commonly used and understood in the everyday life of our people," and therefore believed that Rodriguez should be denied the right of citizenship. Another amicus brief also relied on scientific expertise, quoting Dana's American Encyclopedia regarding the population of Mexico, more than half of which it said were "Indians of un-mixed blood"; since Rodriguez was obviously one of these, he was neither white nor eligible for citizenship.

Despite the focus in both the trial testimony and briefs on Rodriguez's whiteness, the district court decided the question based primarily on the Treaty of Guadalupe Hidalgo. Although the court agreed with the amicus briefs that Rodriguez was probably not white according to ethnologists, nor perhaps even to laypeople, it concluded that the treaty required the United States to bestow citizenship on Mexicans regardless of their race. The court avoided reaching a conclusion about whether Mexicans *were* white but treated them legally *as though* they were white. Because U.S. law reserved naturalization for free white persons and people of African descent, becoming naturalized in effect meant Mexicans received a presumption of whiteness. Whether this is what the *Rodriguez* court intended, that is what the precedent came to stand for.

Sex Across Racial Borders: Popular and Legal Ideas of the "Mexican Race"

Rodriguez provided the backdrop for all future litigation involving Mexican Americans in state courts. Later courts treated *Rodriguez*'s court-declared racial identity as a presumption that Mexicans were Spanish—white—unless proven otherwise; in court, this presumption led to an effort to tease out an individual's Spanish and Indian ancestry, an effort most Mexicans stubbornly resisted. In miscegenation cases, state courts began with the presumption that Mexican Americans were white when enforcing statutes criminalizing white-black marriage.

In 1910, Francisco Flores was convicted of "unlawfully marrying a negro . . . within the third degree" and sentenced to two years in the penitentiary. According to the appellate court, Flores was "Mexican, or at least of Spanish extraction," whereas his wife, Ellen Dukes, was identified as having "negro blood in her veins," a Mexican mother and a father with "some negro blood."[7] Likewise, the testimony at trial revolved around the physical appearance, reputation, and social associations of both husband and wife. For example, the deputy constable at Nacogdoches testified that he had warned Flores that he could not marry a Negro woman. The constable reported that Flores had denied having "a drop of negro blood in [him]" but explained that Dukes's mother was Mexican. Flores apparently considered his fiancée to be Mexican because of her mother's identity.

When the lawyer for the state asked the constable to testify about Dukes's race, Flores's lawyer objected: "Unless he knows her antecedents, he can't say unless he qualifies himself." In other words, Flores's lawyer argued that the basis for testimony about racial identity had to be either personal knowledge of an individual's ancestry or scientific expertise. The court, however, ruled that the witness could "describe her physical features." He answered, "She has the physical appearance of a negro, she is kinky headed and very dark, what we would call a dark yellow color." The constable was then asked, "Any other physical appearances of a negro?" and answered, "Well just a plain old fat negro woman is all," which was stricken from the testimony at Flores's objection. On cross-examination the constable elaborated:

> It is not a fact that she favors a Mexican greazer more so than she does a negro; her skin is a different color from that of a black negro; I suppose her skin is more of the color of a Mexican than it is a negro of that peculiar hue or type, it is a copper color, Mexicans most of them have a copper color. . . . I would determine the quantity of negro blood in her by her kinky hair.[8]

Similarly, another state witness judged Dukes "from her personal appearance . . . [as] at least half negro" but could not say "what extent of negro blood she has in her" because she was "not a negro geologist [*sic*]."

The state also called as a witness a woman, who probably identified as a "negro," who testified that Dukes "married a Mexican" at her house and that Dukes stayed over at her house "with negroes" and that "she [would] eat at [her] table." On cross-examination she admitted, "I don't know of my own knowledge whether she is a negro or not but she looks like one to me; she is a little brighter color than I is." The sheriff of Angelina County testified, "[D]uring the years I have known [Dukes] I have never known her

to associate with white people in a social way, she has always associated with negroes." Yet on cross-examination he admitted that association with "negroes" did not necessarily mean nonwhiteness if Mexicans were defined as white, and he said, "Mexicans, such as this defendant here, that we commonly term as greasers generally associate with negroes. I would not undertake to say whether these greasers have any negro blood in them or not, I was not there at the beginning."

In her own testimony, Dukes not only evinced the fluidity of her own identity but uncertainty about her husband's as well:

> My mother was a Mexican; my father had some negro blood in him; I do not know just how much . . . my father's color was very bright, he was a great deal brighter color than I am; my father's hair was not kinky or nappy like the ordinary negro, his hair was not as bad as my hair, it was straighter. . . . Flores always associated with negroes and not with white people. . . . When I was at home I always associated with the Mexicans; since I have been in Angelina or Nacogdoches Counties I have not associated with the white people or white race.[9]

Dukes appeared to consider Mexicans to be white but considered her own identity to be somewhere in between, associating at times with Mexicans and at times with Negroes. Likewise, her husband, who was Mexican, associated only with Negro people.

The trial judge charged the jury to determine only the definitions of "negro" and "white person" under the state miscegenation statute, including whether "Mexicans . . . shall be deemed a 'white person' within the meaning of this law." Flores moved for a new trial, arguing that the state had failed to prove both that Flores was white and that Dukes was black. Flores's motion complained that

> at best, the witnesses stated that 'he (defendant) looked like a Mexican,' . . . on the other hand, the testimony disclosed that the defendant associated with and commingled with negroes all the time, and did not associate with the white people at all, which was a circumstance of his being part negro.[10]

Furthermore, Flores argued that "none of the witnesses in this case testified as to knowing of the antecedents of the woman, and knew none of her ancestors, and testified only to 'her appearances as being of mixed blood and appearing to have negro blood.'"[11] On appeal, the judge accepted this argument, reversing the lower court decision and remanding for a new trial.

Flores v. State reveals something about popular and legal understandings of Mexican and Negro identity in Texas. On the one hand, it was fairly clear from the testimony that some Mexicans and blacks associated with one another socially and that some intermarried. On the other hand, the law defined Mexicans as "white" and proscribed Mexican-black marriage. While the state attempted to demonstrate Dukes's Negro identity by her associations, this proved difficult because of the evidence that Mexicans associated at times with both whites and blacks. And although the trial judge allowed, as in most racial identity trials, testimony about appearance, associations, reputation, and performance, the Court of Criminal Appeals accepted the defendant's argument that the state had not met its burden of proof in establishing the couple's ancestry.

The Politics of Whiteness in the 1930s and 1940s

In the 1930s and 1940s, Mexican Americans in the Southwest began to organize in response to the increasing antagonism they experienced from their Anglo neighbors. During this period, exclusionary practices—from deportation to segregation—spread, and Mexican Americans responded through political advocacy. One of the strategies they employed was to claim the rights of white citizens. But this was never the only strategy, and it often coexisted with appeals to race pride and solidarity with other victims of racism.

Jim Crow in the Southwest

We tend to think of segregation as a Southern problem, associating Jim Crow with the exclusion of African Americans from private and public institutions in the southeastern United States. But segregation was limited neither to African Americans nor to the Southeast. Mexican Americans also suffered under a Jim Crow regime not only in Texas but across the entire Southwest. In California, Mexican Americans as well as Asian Americans, Indians, and blacks were excluded from white schools. Additionally, thousands of all-white "sundown" towns and suburbs across the West and North kept out not only African Americans but also Asian Americans and Mexican Americans. They were known as "sundown" towns because people of color were warned not to let the sun set on them within the town limits.

In California and Texas, discrimination against Mexicans in the second half of the nineteenth century varied according to class and geography. But massive immigration from Mexico, as well as the economic effects of the Great Depression, led to the expansion of Jim Crow beyond the agricultural regions that had been its core in earlier years.

From 1890 to 1930, between 1 million and 1.5 million Mexicans immigrated to the United States, especially in the aftermath of the Mexican Revolution in 1910. In the 1920s alone, the Mexican population of California tripled from 121,000 to 368,000. This massive influx fed an enormous expansion of agriculture that transformed the Southwest. In 1880, only 7,436 miles of railroad track crisscrossed the Southwest; by 1920, that mileage had increased nearly fivefold, to 36,000. In 1890, there were over 1.5 million acres of irrigated land in California, Nevada, Utah, and Arizona combined; by 1909, that acreage stood at 14 million. The expansion of railroads and irrigation enabled massive increases in agricultural production.

Despite (and perhaps because of) the dependence of Southwestern agriculture on Mexican workers, immigration stirred little opposition before the 1920s. The first national immigration restriction to affect Mexicans was the imposition of a literacy test in 1917. In 1924, the year that Congress passed an immigration act setting quotas limiting immigration from Europe, attention turned to Mexicans, especially the "wetbacks" who crossed the Rio Grande River without documentation. As one congressman from Indiana complained in April 1924, "What is the use of closing the front door to keep out undesirables from Europe when you permit Mexicans to come in here by the back door by the thousands and thousands?" In response, the Bureau of Immigration established the Border Patrol that year to monitor illegal immigration. Until the Depression, authorities had expended little effort to restrict Mexican immigration, but the rising anti-Mexican

sentiment expressed itself in a tightening of Jim Crow. Beginning in the 1930s, nearly half a million Mexican immigrants were repatriated to Mexico, some voluntarily, but the majority against their will. Those who remained found themselves second-class citizens.

In Texas in the 1930s and 1940s, as in much of the Southwest and California, most Mexican American children attended separate schools; 90 percent of south Texas schools were segregated by 1930. In agricultural areas, many Mexican Americans lived in company towns like Taft Ranch with separate institutions. Mexican Americans were discriminated against in jury selection and in voting and in many places were shut out of public accommodations like swimming pools, theaters, and restaurants or segregated into the colored section together with African Americans. For example, Manuel C. Gonzales, lawyer for the leading Mexican American advocacy group in the 1940s, the League of United Latin American Citizens (LULAC), compiled a "list of segregatory incidents" from 1939 to 1942. These incidents included a real estate covenant in Corpus Christi, Texas, with a clause requiring that "'[n]o lot or any part thereof shall be sold to any *Mexican*, Ethiopian, Malayan or Mongolian or any person having an appreciable admixture of *Mexican*, Ethiopian, Malayan or Mongolian blood'"; refusal of service to Mexicans at the Hitchcock Grill, in Galveston, Texas; "imprisonment of Mexicans with persons belonging to the colored race" in Dallas, Texas; "exclusion of all persons of 'Mexican Indian descent' from serving on grand juries" in Galveston, Texas; and taking "Mexican school children . . . to eat in the dining room for Negro school children" in Kennedy, Texas.

In California a similar situation prevailed. In 1945 Manuel Ruiz, secretary of the Coordinating Council for Latin American Youth, reported to the Los Angeles authorities that a police officer in Watts had been "shouting that he was going to 'kill any son of a bitch Mexican.'" He complained to the Office of War Information that local newspapers "stirr[ed] up feelings against juvenile delinquency of Mexican extraction." Ruiz monitored and protested police brutality against Latin American victims as well as judicial discrimination against Latin American defendants.

Texans who supported segregation of Texas Mexicans reported in a 1950 survey that they viewed Mexicans as a different race. According to the *American-Statesman*, "Most of those who approve segregation make no attempt to cover up their prejudice against Latin-Americans. They say Latin-Americans are 'a different race,' 'socially inferior,' 'not clean,' 'we don't believe in mixing races.'" One-third of all Texans favored separate schools explicitly because of the fear of race mixing. Nearly half cited other reasons relating to culture or social performance for preferring separation, including language differences and not "act[ing] like whites."

The Good Neighbor Commission (a state agency) also collected letters expressing virulent racism aimed at Texas Mexicans. One Texan wrote to Governor Shivers in 1953 that most "all white AMERICAN GOD FEARING CITIZENS . . . are strongly in favor of a continuation of racial discrimination in order to protect the sanctity of our homes, safeguard our children . . . keep Texas and the U.S. HOLY, sacred and pure, and keep AMERICA AMERICAN." He backed up his argument for racism with a theory of polygenesis, that God created "the Negro, the Indian and THE WHITE MAN," just as he made "deer, antelope, goat and sheep," and ended with a warning that LULAC and the American GI Forum, founded by a Mexican American World War II veteran, "should be *carefully watched*."[12]

Most segregation of Mexican Americans was de facto rather than de jure, set in place by custom and local administration rather than state law. In Texas, school segregation was left up to the discretion of local officials, who insisted that all separation was for educational purposes. In California, section 8003 of the state school code provided that separate schools be established for "Indians under certain conditions and children of Chinese, Japanese or Mongolian parentage." The California state legislature proposed a bill to add the phrase "whether born in the United States or not" immediately after the words "Indian children" in that statute. As the *New York Times* noted, this addition "could only apply to Mexican children, for there are in California no other youngsters of Indian blood in sufficient numbers to be segregated, and not born in this country."[13]

Although this effort to enshrine segregation of Mexican Americans in a state statute failed, most California school districts simply interpreted the existing statute to include them already in the category "Indian." In 1945 Manuel Ruiz "declared that many school districts have used this section to segregate Latin American pupils 'on the ground that they may have some Indian blood.'"[14]

Both state and national government agencies explicitly counted Mexican Americans as a separate racial category. The first efforts to count Mexicans in the U.S. census, in 1930, listed individuals as "Mexicans (Mex)" if they or their parents were born in Mexico and if they were not "definitely White, Negro, Indian, Chinese or Japanese."[15] Thus, whereas the 1930 census counted 686,260 "people of other races" in Texas, it counted only 3,692 "white people born in Mexico." Because of the vigorous opposition to this racialization of "Mexican" by LULAC, as well as by the Mexican government, the census in 1940 categorized Mexicans as white unless "definitely Indian or some race other than white" (although they did begin asking for the "language spoken at home in earliest childhood"). In subsequent decades the census used a variety of methods to count people of Mexican origin in the five southwestern states, including lists of Spanish surnames and the categories "Spanish Mother Tongue," "Spanish Language," "Spanish Heritage," and "Spanish Origin." Beginning in 1980 the general term "Hispanic" appeared as an ethnicity category following the "race" question on the census form. Yet state officials continued to classify "Mexicans" or "Latin Americans" as a nonwhite race well after 1940. Thus, in Texas and California, Mexican Americans suffered many of the same Jim Crow practices as African Americans. They were excluded not only from many public accommodations, like swimming pools, theaters, and restaurants, but more importantly, from the key institutions of public life: schools and political offices. Like African Americans, they responded to racial injustice by organizing, petitioning, and litigating.

Mexican American Organizations and Politics

In the 1930s and 1940s, Mexican Americans formed organizations to battle Jim Crow. These groups often enlisted claims of whiteness in the battle for civil rights and urged fellow Mexicans toward cultural assimilation and "100% Americanism," drawing a connection between whiteness and citizenship that would have been familiar to most Americans. Yet at the same time, these organizations also emphasized racial pride and Mexican cultural heritage.

The most important organization advocating on behalf of Mexican Americans was LULAC. Formed in 1927 to unite a number of Mexican American fraternal organizations

in Texas, the organization aimed to promote both racial pride and Americanization. Among the "Objects and Aims of the United Latin American Citizens" were

> [t]o assume complete responsibility of educating our children in the knowledge of all their duties and rights, language and customs of this country as far as there is good in them. We declare for once and forever that we will main[tain] a respectful and sincere worship for our racial origin and be proud of it.
>
> . . . Secretly and openly, by all right means, we will aid the culture and orientation of Mexican-Americans and we will govern our life as a citizen to protect and defend their life and interests in so far as is necessary.

These aims included pride both in racial and cultural origins as well as in Americanization. Early LULAC leader Alonso Perales described the goals of LULAC to be the development among "the members of our race [of] the better, more pure and perfect type of true and loyal citizens of the United States of America," the attack on all discrimination based on "race, religion, or social position," and the emphasis of "the acquisition of the English language."[16] The application for membership asked the applicant, "Are you a native born American citizen? Are you a naturalized American Citizen? If so, when and where were you naturalized? Are you legally qualified to vote in this County and State?"

LULAC officials generally referred to "the Mexican Race . . . as a Race" and talked about the need for an organization to promote understanding "[w]here two races are brought together under one flag."[17] At the same time, LULAC used claims of whiteness to push for Mexican American civil rights: in 1941, 1943, and again in 1945, LULAC pushed unsuccessfully for a bill in the Texas legislature guaranteeing "equal . . . privileges" to "all persons of the Caucasian race."[18] While the bill failed, a toothless resolution declaring that "all persons of the Caucasian Race . . . are entitled to the full and equal accommodations, advantages, facilities, and privileges of all public places of business or amusement" did go through the Texas state legislature in 1941; LULAC leaders M. C. Gonzales, George Sánchez, Alonso Perales, and the Mexican government all lobbied for it.

One of the earliest actions of a LULAC chapter took place in 1936, when El Paso city officials began classifying Mexican Americans as "colored" rather than "white" in birth and death registries, which conveniently lowered the "white" infant mortality rate for the city. When the local LULAC chapter filed an injunction against the city, its local leader argued that Mexicans "as a race are red if they are Indians and white if they are not Indians." Alonso Perales wrote to

> congratulate him for his "virile stance" on the classification issue, [and he] explained that he never protested the fact that Mexicans had their own category in San Antonio because "we are very proud of our racial origins and we do not wish to give the impression that we are ashamed of being called Mexicans."[19]

"Nevertheless," he continued, "we have always resented the inference that we are not whites."

A few years after World War II, Hector Garcia, a physician and military veteran, founded another important Mexican American organization, the American GI Forum

(AGIF). Despite the fact that AGIF, like LULAC, worked to combat discrimination and segregation, in 1954 Garcia insisted that "we are not and have never been a civil rights organization," presumably to avoid any association with black groups. "Making any distinction between Latin Americans and whites, he wrote, was a 'slur,' an insult to all Latin Americans of Spanish descent."[20] AGIF also connected its whiteness claims to aggressively Americanist anti-immigrationism. In 1951 AGIF passed resolutions urging restriction of the "wetback tide," although by 1954, Operation Wetback had led to such egregious violations of Mexicans' civil rights that even AGIF and LULAC protested.

NOTES

1. Statement of Facts at 11, Ramirez v. State, 40 S.W.2d 138, 139 (Tex. Crim. App. 1931) (No. 13,789) (testimony of Cecil Walston, sheriff and tax collector, Menard County, Texas).

2. Sanchez v. State, 243 S.W.2d 700, 701 (Tex. Crim. App. 1951) (holding that the exclusion of Mexican Americans from a jury in a murder prosecution was not race discrimination).

3. Appellant's Brief at 17, Hernandez v. Texas, 251 S.W.2d 531 (Tex. Crim. App. 1952) (No. 24,816).

4. See Ian Haney López, WHITE BY LAW (rev. ed. 2006), for a discussion of the naturalization cases concerning Asian immigrants' claims to whiteness.

5. Neil Foley, THE WHITE SCOURGE: MEXICANS, BLACKS, AND POOR WHITES IN TEXAS COTTON CULTURE 19 (1997).

6. Neil Foley, *Straddling the Color Line: The Legal Construction of Hispanic Identity in Texas*, in NOT JUST BLACK AND WHITE: HISTORICAL AND CONTEMPORARY PERSPECTIVES ON IMMIGRATION, RACE, AND ETHNICITY IN THE UNITED STATES 344 (Nancy Foner & George M. Fredrickson eds., 2004).

7. Flores v. State, No. 727, slip op. at 1 (Tex. Crim. App. June 22, 1910).

8. Transcript of Testimony at 3–4, State v. Flores, No. 3020 (Dist. Ct. Tex. Dec. 5, 1909).

9. *Id.* at 11.

10. Defendant's Original Motion for a New Trial, Flores, No. 3020 (Dist. Ct. Tex. Nov. 24, 1909).

11. *Id.*

12. See, e.g., Letter from J. G. Riser, Sec'y-Treasurer, Nat'l Farm Loan Ass'n of Beeville, to Allan Shivers, Governor of Tex. (Aug. 24, 1953).

13. *Hegira of Mexicans Bothers California*, N.Y. TIMES, Apr. 19, 1931, at 6E.

14. Manuel Ruiz, *Untitled News Report from Los Angeles*, ASSOCIATED PRESS, Apr. 30, 1945.

15. U.S. DEPT OF COMMERCE, BUREAU OF THE CENSUS, 200 YEARS OF U.S. CENSUS TAKING: POPULATION AND HOUSING QUESTIONS, 1790–1990, at 60 (Heritage Quest 2000) (1989).

16. Alonso S. Perales, *The Unification of the Mexican-Americans*, LA PRENSA, Sept. 4, 1929.

17. *Latin-U.S. Group Form Service Body; Organization's Purpose Is to Gain Equal Rights for All Citizens Here*, BROWNSVILLE HERALD, Sept. 22, 1929.

18. Thomas A. Guglielmo, *Fighting for Caucasian Rights: Mexicans, Mexican Americans and the Transnational World War II Texas*, 92 J. AMER. HIST. 1212 (2006).

19. Neil Foley, *Partly Colored or Other White: Mexican Americans and Their Problems with the Color Line*, in BEYOND BLACK AND WHITE: RACE, ETHNICITY, AND GENDER IN THE U.S. SOUTH AND SOUTHWEST 131 (Stephanie Cole & Alison M. Parker eds., 2004).

20. *Id.* at 136.