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Available at: http://scholarship.law.berkeley.edu/blrlj/vol6/iss2/3

Link to publisher version (DOI)
http://dx.doi.org/https://doi.org/10.15779/Z38XQ09

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Speech

Cultural Diversity: Reality and the Ideal

Cruz Reynoso†

It is a great honor to deliver the first lecture honoring Mario Olmos, and to share my thoughts with you. I must tell you that I come with a heavy heart. While leaving Los Angeles and seeing smoke still rising from the city, I was struck by a quote in the Los Angeles Times which said that it was not Rodney King who was on trial, but America. I could not help but think of how Judge Olmos would have responded to this because of his lifelong interest in building bridges.

I bring today a great sense of urgency because in our country we have a great experiment that has drawn different people together. The experiment, having these diverse peoples live together, has been to see whether or not we can succeed when other parts of this world have not. What has happened in Los Angeles the last day or two is a reminder not of our progress, but of our failures.

I have been a judge, a lawyer, and a professor. I see what has happened recently as a reminder that not all legal systems are perfect. So far as I can tell, and I have followed the Rodney King trial with some interest, we have witnessed an occasion where the jury system has failed. But more importantly, I think these imperfections in our legal system do not happen automatically. They happen because there have been events that have been happening for some time in our lives and in our communities. So, when we look at Los Angeles, we cannot help but think of the tension that exists between the police department and the minority communities, the tension denied by many, especially by those in power. Then an incident occurred which shocked people, but for those not in power, the Rodney King beating was not much of a surprise.

In light of the Rodney King incident, I could not help but think of a

† The Honorable Cruz Reynoso delivered this speech as part of the Judge Mario G. Olmos Law and Cultural Diversity Memorial Lecture Series at the University of California School of Law (Boalt Hall). The Lecture Series serves to perpetuate Judge Mario Olmos' interest and faith in the development of law in promoting equality and justice for people of diverse national, economic, racial and cultural origins. The Honorable Cruz Reynoso is a former California Supreme Court Justice and is currently a Professor of Law at the University of California, Los Angeles.
visit I had in Moorpark, a little community within Simi Valley where the trial was held. I was called there by a group of Chicano youngsters and their parents to talk about police, Chicano, and youth relations in the little town of only a few thousand people. They were concerned because youngsters were being stopped and photographed by the police. Sometimes they were asked if they could be photographed and sometimes not. Furthermore, they were being stopped seemingly without reason. The youngsters felt harassed. A person in the audience told me she was a school board member and that the school board members had had a frantic meeting with the police department. She relayed that the police department told them how they had an increasing gang problem in Moorpark. They laid before them pictures of “gang members,” all those young Latinos they had photographed. This lady, who happened to be a Chicana herself, said, “Wait a minute, I know Jose, I know Alicia. They aren’t gang members,” and she became very disturbed. I thought of the friction in that small community between a police department of no more than a dozen, I am told, and their minority community as being symptomatic of what was happening in Los Angeles for many years.

As I watched Los Angeles burn, I could not help to think of the many warnings we have had that America is becoming an economically divided society, with Chicanos and Blacks at the bottom. We cannot have a viable political democracy if we do not have an economic democracy. Even last night on television, folks were saying, “Well, look, we still have to worry about such traditional things as jobs and education for the young African American men in South Central Los Angeles.” We have been hearing that since the Watts riots, when I was serving with the Equal Employment Opportunity Commission in California. We followed what happened there and came out with the many reports, as you know, about what the solution should be. It is not magical what the solution should be. We, as a people, I dare say, have been unwilling to put the resources and our efforts behind those solutions, and we all have to take responsibility for that.

I have a daughter who is a teacher. She told me about her experience teaching second graders—how she could already tell which youngsters were in trouble. Yet, do we have those programs we used to have a while back, such as breakfast in school for youngsters who needed a breakfast because it is hard to learn, we are told, on an empty stomach? Do we provide the nurses that we used to provide? Do we have the counselors who go visit homes to encourage those parents, even if they are not responsive, to come and work with their youngsters? I must say that all of us must take responsibility for that.

We have the power as a people, it seems to me, to do something, but an unwillingness to do anything from those in office in Washington and Sacramento who respond only when citizens respond and say, “Look,
we’ve got to do something about this and we’re willing to do something about it, whether in terms of time, in terms of effort or in terms of, forgive the word, taxes.” These services are paid for by taxes, our dollars that go into the common fund so that our government can do something noble for us.

But let me finish these introductory remarks by just mentioning the following. It is not just those bad people in the Labor Department that do not have job programs, or those bad people in the California Department of Education that do not have the resources to help the youngsters. I see problems in colleges and universities. The problems with our universities and colleges is that they are not graduating, recruiting, and encouraging a sufficient number of folk of color. I would like to mention figures I read about a year ago that indicated that the number of Black Ph.D.s graduating from all of the institutions in the United States was actually less than the number of Black Ph.D.s who graduated ten years ago. Now, I ask you, what sort of commitment does that show from each and every professor in our institutions of higher education. So much of education comes from individual nurturing, from a professor saying, “Hey, I think you can do it. Why don’t you sign up for a Ph.D. program?” Much of it also comes from institutional nurturing. As such, you would think the schools of education would be brimming with Latinos, Blacks, Asians and other minorities since the need for them is so great. However, they are few in number. When you talk to folk, even some who have signed up and quit, they say they found an unencouraging environment in these schools. So, I think that we in higher education have our own thinking to do.

I mention all this to you not because we can do anything today or tomorrow, but because we had the Watts riots decades ago. Now we have another reminder, and if we do not do better, we will have the same thing in another 20 years. We will again say, “Woe are we, what should we have done?” And I say we know what we need to do. We need the will, and we need to put that force behind those who have the resources in Sacramento and Washington and those who run high schools, universities and other institutions of higher education.

If Mario were here, he would say exactly the same thing because he grew up in a time that was not easy. He devoted so much of his life’s energy to that unfulfilled dream of a world of racial and ethnic equality. He was proud of the work he did along those lines, and he would have been proud to have this lecture series beginning here at Boalt Hall. Like most students, he liked some parts of law school and disliked others, but he always had a great affinity for Boalt Hall.

I met Mario during some difficult days in the late 1960s and early 1970s when he was a student here at Boalt Hall and I was the director of the California Rural Legal Assistance. I had joined CRLA in 1968, the
same year that Mario started law school. A great deal of the work we were doing in CRLA dealt with the issues of cultural diversity. I remember the very first case I handled at CRLA was a case that arose in Livingston, California, a little town in the Central Valley. I was called in the middle of the night, if I remember correctly, because a group of students were boycotting and picketing their high school. They were picketing and boycotting the school because they felt that their textbooks had portions that demeaned their culture and ethnicity. Further, they felt that the school was not being responsive to the Chicano kids and other minority youngsters and that their interests and language was not being respected. They wanted to strike until the school respected them. So Fred Easton, a young lawyer with CRLA, and I met with the parents and students, and we filed a lawsuit on their behalf.

With the suit, we brought to the court’s attention all the things the school was not doing, which in our view, really discriminated against those youngsters. The school had said, “You are bad boys and girls for boycotting. We want you to come back immediately, and we want to let you know as soon as you come back we’re going to suspend you for being bad boys and girls.” I don’t know how it happened (sometimes the law does smile at you), but we got a temporary restraining order preventing the school from suspending the students, from a very conservative federal judge. The clerks later told me they were astonished because it was the only time he had issued such a temporary restraining order. The students triumphantly returned to class, and we continued with the lawsuit, which dealt directly with the issues that we are discussing today, two decades later.

In the same vein was the Diana case, involving a community near Salinas. In those days, California had a program called the EMR, or Educationally Mentally Retarded program. This school would put youngsters who it felt were educationally mentally retarded in that program. It turned out that all the students in the program were Chicanos. The parents protested to us, and we had the students tested by a bilingual psychologist. He found that the young girl whose mother had protested was actually in the genius category and that none of the youngsters were educationally retarded with the possible exception of one. The case was eventually settled.

Then we were involved in a successful Supreme Court appeal, one of my favorite cases, Castro v. California. At that time, the California Constitution said that citizens could not vote if they could not read and write the English language. A group of Spanish speaking citizens filed a lawsuit, and the case went up to the California Supreme Court. The Supreme Court opinion points to the many Spanish language newspapers:

1. 466 P.2d 244 (1970).
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and magazines, and how, indeed, Spanish speaking citizens could cast an educated vote. The Court pointed out how the history of that provision in California's Constitution was overtly presented by the author as a way of keeping Mexicans, Chinese, and other people from voting. The Court said, "We just cannot uphold this California constitutional provision under the United States Constitution." They went on to add, near the end of the opinion, one of my favorite paragraphs in terms of educational, cultural, and voting diversity. "We have one final word," said the court. "We cannot refrain from observing that if a contrary conclusion were compelled it would indeed be ironic that petitioners, who are the heirs of a great and gracious culture, identified with the birth of California and contributing in no small measure to its growth, should be disenfranchised in their ancestral land, despite their capacity to cast an informed vote." The court said, "Citizens can indeed speak a language other than English and yet not be deprived of that vote."

It was these types of legal battles with which I was involved, and Mario at law school was involved with very much the same efforts. When I started teaching here, they were not easy days. Sometimes I would come to school, and the school would be surrounded by riot police. There were not only protests of the war in Vietnam, but also protests in terms of the university and the law school being more responsive to minorities. There was so much tension that on one occasion I was called to a meeting between Chicano students, the dean and some associate deans. They said, "Cruz, because the different sides respect you, we want you to come and sit in the room." That was my whole role as a mediator. I was not supposed to say anything; I was just to come and sit. I said, "If it will help, I'll come and sit." So I went and sat. The students and the dean discussed the Latino students' problems. During the discussions, the administration and the Latino students sculpted a better approach for the law school to take in responding to the needs of the Chicano students.

Before Mario was born, up and down the Central Valley and in Orange County, where I was born, we had segregated schools by law (de jure segregation), where youngsters of Mexican American ancestry were sent to the "Mexican" schools. We really were segregated, not just physically, but in terms of hopes. Few of us graduated from high school. Even fewer went on to college. Youngsters in the Central Valley, as in Orange County, were punished for speaking Spanish on the school ground. The concept was that we would improve or learn English. It was not a bad concept. But I have got to tell you that we viewed it as a denigration of our language, our parents, and our culture. That was not a conducive atmosphere for our education.

2. Id at 259.
Indeed, it was only a few years after Judge Olmos was born that the United States Supreme Court decided the *Oyama* case, declaring unconstitutional the rules in this state that prohibited certain Asians from owning or enjoying the land. And it was only 1953 when the United States Supreme Court in *Hernandez v. Texas* ruled that the Fourteenth Amendment indeed protected Mexican Americans. The great state of Texas argued that the Fourteenth Amendment only protected former slaves or Black citizens, but the United States Supreme Court said, "No, no, no." Those developments were going on during the early part of Mario's life. He got through all that, made it to Berkeley, and made it to law school.

At the law school, he found even more of the same problems of which I spoke. But that article in 1970 showed what was happening to Latinos in law school. In one of the footnotes, we point out that in 1969 there was only one Chicano who graduated from Boalt Hall and that in 1970 in the entire third year class there were only two Chicanos. I do not think that magically Chicanos became qualified, but I think the law school decided that it needed to do better in terms of bringing in a mixture of students. Later there were seven Chicano students in the second year class, nineteen in the first year, and it was predicted that about thirty would be in the incoming class. To me this is a reminder of how an institution can, in fact, respond. As you might guess, in 1958 when I graduated, I was the only Latino graduating in that class. You would be amazed how much things have changed in the last twenty or twenty-two years.

Let me mention more some figures. In 1970, when the article was written by Mario Vieros, the population of California was seventy-nine percent Anglo, eleven percent Latino, seven percent black and three percent Asian. Incidentally, when Mario was born, the census indicated that only six percent of the population in 1940 was Latino. But compare 1970 to 1990: Anglo, fifty-six percent, down from seventy-nine; Latino twenty-six percent, up from eleven percent; Blacks seven percent, the same; and Asian ten percent, up from three. By the year 2000 these are the predictions: Anglo, forty eight percent; Latino, thirty three percent; Blacks, seven percent; Asian, thirteen percent. By the year 2000, indeed just around the corner, we will no longer have a majority ethnic group, if you will, in California. So the issues of ethnic diversity and how we can live together and enjoy and appreciate one another, indeed, are very, very important.

Let us look at what is happening right now in 1992, with respect to the Latino community. I speak of the Latino community because that is

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my own background. I am sure in the future we will deal with cultural
diversity not just with respect to Latinos and Anglos, but to Blacks,
Asians, East Europeans and all kinds of other folk because it is that mix
that makes this state great. In terms of the Latino community, there are
very recent reports, so recent that they are going to be published in a few
days, that indicate that the Latino community has great, great strengths.
I mention this because so often in popular literature we read only about
the problems. The Latino community has a great and abiding strength in
terms of its own belief in itself and its own belief in the future of Califor-
nia. All this was surveyed before the last two days of the Los Angeles
disturbances, you understand, but I do not think that that optimism is
going to change. At the same time, the Latino community does suffer
from two weaknesses, and I will speak about one of them, the lack of
educational achievement, shortly. The other is that the economy has
been unrewarding to Latinos.

In terms of strengths, this is what the reports indicate. Regarding
family, the incidence of the nuclear family in the Latino community is
among the highest of any group in California. Every expression of opin-
ion is one that values the strength of family. The strength of the family
in the Latino community has continued from one generation to the next.
Interestingly, within the family, there is a strong egalitarianism in how
the family is run. You can put that up against the popular belief that the
family is not supportive of women and women’s rights.

With regard to health, the Latino community has the healthiest ba-
bies when they are born. Latino babies have the lowest rate of insuffi-
cient birth weight of any group; the lowest infant mortality; the lowest
cancer rate. The life expectancy of Latinos is 4.3 years greater than
Anglos.

As for employment, Latinos have the highest level of participation
in the work force, being employed in far greater numbers percentage-wise
than Anglos, Blacks, or Asians. Yet, and this is a weakness, the income
of Black and Latino families is considerably less than that of Anglo and
Asian families. On the other hand fewer Latinos are on welfare, and
most of them work in the public sector. This shows the economic
strength of the community, despite the fact that economic rewards are
not there.

Latino families have the following goals: to preserve their heritage
and their language, while at the same time wanting, particularly for their
children, to learn the English language, and to identify themselves as
Californians and Americans. But they want their children not only to
retain their native language, but also their culture. Latino families are
not very excited about assimilation if it means that they must give up the
strengths of the Latino community. Latino families see no contradiction
between being Latino and being Californian or American. They view it as a oneness. And finally, Latino families want to be politically active.

Now, interestingly, the surveys indicate that about half the Anglo population appreciates, understands, and supports these Latino aspirations. About half disagree, believing in complete assimilation of ethnic groups and these groups' discarding their cultural and linguistic distinctiveness; that is, they want only English spoken. I think it is interesting that in terms of the political debate we have heard only from that fifty percent of the Anglo community that have set up English-only organizations and have been active politically. Yet, the data indicates that half the Anglo population truly appreciates the importance of diversity, the importance of people being able to exercise their right to language and ethnicity.

What does this mean for education? It seems to me that by the year 2000, if these attitudes hold, perhaps seventy-five percent of the people in California will be supportive of those goals and ideals which Latino families have for themselves, and that ideal includes having an education. But the figures tell us we have a long way to go. In California in 1987, forty-nine percent of Latinos graduated from high school, seventy-eight percent of all others. By generation, twenty-five percent of first generation; fifty-nine percent of second generation; and seventy percent of third generation Latinos graduated from high school. Three percent of the first generation go to college, eight percent of the second, and ten percent of the third. All of these figures are dramatically lower than they should be. Although I am not an expert in education, I just want to share a few thoughts that come to mind. I see little work being done to investigate what could be done in the lower grades K through 12, where youngsters end up graduating in disparately lower figures on the basis of ethnicity or race. We should press the researchers and others to ask why this is happening and what can be done about it. It seems rather manifest to me.

I have talked about the student strike a few decades ago, dealing with textbooks and all that. Sadly, we still see these issues in schools, where youngsters go to school and do not see that their day-to-day educational experience really relates to their own culture and ethnicity. If we really accept the notion that multilingualism is a good thing for our state, or even if we just accept that it is a reality, surely we must think about how to teach Spanish to native Spanish speakers.

I can tell you that it is not happening in the high school that my children have attended, and that the Latino children there are having the same experience I had when I went to high school. In my high school Latino kids would go to a Spanish class, get terrible grades, and say, "My goodness, I can't even get a good grade in Spanish, and Spanish was my first language." But, of course, the reason was manifest: Spanish was always taught grammatically as it compared with English. If you did not
know English grammar very well you would never do well in Spanish. Then the teacher felt it was unfair to give Latino kids credit for the fact that they could already read Spanish or had a proper accent. That was seen as unfair to those who did not know Spanish, so they all had to be tested on the same basis, on how it was written. The fact that the other kids knew English, and wrote it better than the Chicano kids was considered incidental. So many kids flunked out, and a great many never graduated from high school. Again, it was not a conducive atmosphere to those youngsters who felt that they could not really learn and profit from their experience in high school. I must say that in some ways those experiences are transferred to universities.

Yet we had a great start in the late 1960's and 1970's in bringing more people of color to the universities, in increasing diversity. But I have seen less of an interest in the last twenty years. Had the interest of the late 1960s and '70s continued, we would be doing far better now. Today you hear people say, "Well, you know, we have rules and regulations. Everybody has to go through the same rules and we can't change it for anybody." I do not disagree with that. But I must tell you, I ran into a young African-American instructor at the community college in Fresno. We were talking about how he became an instructor. He said, "Well, you know, I was a student here in the late '60s and they had no African Americans teaching at all in Fresno City College. I did well, so I was taken aside and the folks in charge here said, 'If you go out and get your BA and some courses in teaching, we'll hire you as an instructor at the community college when you graduate, and we'll help you get your MA and so on thereafter.'" That offer did not sound bad to him so he accepted it as his goal. Eventually he started teaching. I think they did the right thing. I think a community college with a large number of Latino and African American students should have a faculty reflective of its student population. I think it would be an encouragement, and it would be a better institution in terms of teaching. They were willing to be imaginative, and they were willing to act. Since those early days, I think that all too often we have not been willing to act. We have not been willing to nurture those that we need to get into higher education. Right now in California, with dozens of institutions of higher education, we have a grand total of one Chicano president of an educational institution. He is the president of California State University at Bakersfield.

In fact, this president was hoping to go on to another presidency, but it did not work out. I was chatting with a friend of his about what he thought had gone wrong. I was told that this president had lost whoever he had in the central office that was his nurturer, the person who was making sure that he got the right experiences. That is the way we all travel up these higher elevations professionally, and when we end up with only one Chicano president, I must say that for the last ten or
twenty years folks in higher education have not been doing the job they should.

As you may know, there is a group of Latino law professors that annually publish a "dirty dozen" list. The dirty dozen list includes every law school that has a substantial number of Latino students but not one tenured Latino professor, and apparently the list has had some success. Many schools that were on the dirty dozen list are now off it. Of course, there are so many schools as candidates for the list, I think it will to be published for a long, long time.

But institutions need more than just critics, they also need help. I was pleased to learn that here at Boalt Hall the Chicano/Latino Alumni Association has been established to help the school gather resources, to be supportive of the faculty and administration here, and to do what needs to be done in terms of bringing in more minorities and responding to their needs. Additionally, those institutions that gather and nurture writers are very important in deepening the intellectual basis for the notions that we are talking about today. To this end, I have been working with the Chicano Latino Law Review at UCLA, a law review similar to the La Raza Law Journal here at Boalt. Any group needs its intelligentsia, whether it be Anglo, Italian, Chicano, Black, or Asian. You need those folk to take the time to think about the concepts and theories that make sense, so social activists can take advantage of those theories. Those writers who publish in books and publications like law reviews can do that. For these reasons we need greater support from the Latino, Black, and Asian communities for those publications originating in law schools.

Finally, we need greater sensitivity. I was reading the speech delivered by Emma Jordan, currently the president of the American Association of Law Schools. She is a black professor in Washington, D.C. I first met her when she was teaching at Davis. She spoke about how we travel from step to step to reach different plateaus. Now, in law schools we have reached the plateau where we need to be more sensitive to one another about issues pertaining to race and ethnicity. Issues arise pertaining to the feeling of some white males that they are under siege, and we have to be sensitive to those feelings for law schools to continue to be the intellectual and moral support for society and legal communities. I tell you all this because behind it all is the purpose I indicated at the beginning: in a state like California, it is not just that the Supreme Court has declared that we have a due process right to ethnicity and language. It is that this right needs to be part of us; we need to learn how to respect one another and, indeed, how to enjoy and love one another.

I think that in terms of language and ethnicity we can pick up valuable insights from models. My own model would be the Catalanian model, not the Quebec model; that is, I would not think that in Califor-
nia we want areas where only Chinese or Spanish is spoken. I think we should model ourselves after the folk who come from Catalan in Spain, who are very proud of their ancient language, not Spanish, and have a literature and so on. They, however, belong to a larger country called Spain. That should mean that all of them should be literate not only in Spanish, but also in their own native language. I think that is really what fifty percent of the Anglo-American population believes, and that is what the Latino family believes. It ought to be a public belief as well. Youngsters should be praised and encouraged to utilize their resource called the Spanish language when they are in grammar school and not punished for it. We must look at those diversities as something that will help all of us lead better lives here in California. I think that we can have a land with racial diversity but where we all consider ourselves one.

I was chatting with a friend of mine who has been active in these issues for many years. "You know what?" he said, "Folk at the universities are talking about calling me a European American. I don't know whether I like that or not. It seems to make me not quite a full American." And this from a person who has been very active in supporting the notion of multiculturalism in California. And you know what? I do not disagree with him. He was saying that somehow when somebody calls him a European American, because we now have African Americans, Mexican Americans, and Asian Americans, somehow he is not a real part of America. But I have to ask, if that is the way you feel, imagine how all those Latino folk have felt for years, when they are and have been a part of California, even before it was the state of California, and are always referred to by identifications, so as to say, "You are not quite a Californian." I do not think we need to call him a European American. What we need is a sense of who we are as Californians. As indeed, those who came from Southeast Asia through suffering and sacrifice, although having ethnic backgrounds and languages that are different, are also Californians. We can all live together. I believe that at a time when the dangers of economic divisiveness are so great, we cannot afford the luxury of ethnic and linguistic divisiveness.

As I mentioned, what has happened in Los Angeles reminds me that we have so much farther to go. I often think of the words Abraham Lincoln used in those days before the Civil War, when the debate was whether the Constitution calls for all Americans to be treated equally. The central government said no because when the Constitution was written there were slaves, so when the Constitution said all men are created equal, it did not mean slaves. Lincoln replied (this was before the Fourteenth Amendment) that the Constitution was meant to establish the standard maxim, the ideal. The drafters of the Constitution meant to declare the ideal of equality. Of course, they understood that politically they could not obtain equality immediately. But it was the challenge for
each American to work year after year to make sure that the ideals and reality of America came close to that ideal of the Constitution. Despite of what is happening, I think if we stick to that ideal, in ten, twenty, or thirty years from now we indeed will be closer to the reality of a California that is diverse in race, ethnicity, and language, as we enjoy, appreciate, and respect one another, not despite of diversity, but because of it. This will make us a much stronger state, stronger economically and certainly stronger culturally. Thank you very much.