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Cover Page Footnote

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A MINORITY-MAJORITY NATION: RACING THE POPULATION IN THE TWENTY-FIRST CENTURY

*john a. powell**

INTRODUCTION

The media has devoted considerable attention to recent Census projections that predict a minority-majority nation by 2060.¹ Such projections presume that racial and ethnic categories will remain stable in the twenty-first century. Historically, however, this has not been the case. The Census has racially and ethnically classified different segments of the population based on the social, economic, and political climate of the time. This article examines the forces that impact the creation of racial categories and how these forces are reflected in Census classification. This article particularly explores the instability of the Hispanic category and how Hispanics might be ordered within the white/non-white racial structure in the future. Public discourse has also questioned how a minority-majority population might impact the nation's political power structures. This article asserts increased racial populations will not alone destabilize white racial domination. Racist policies and practices will persist, preventing minorities from turning numbers into political capital, unless minorities organize to dismantle racially oppressive structures.

I. 2000 DEMOGRAPHIC TRENDS AND PUBLIC/MEDIA PERCEPTIONS

A. Increasing Hispanic Population and Decreasing White Population in Cities

A recent *New York Times* editorial, "Whites in Minority in Largest Cities, The Census Shows,"² describes some of the dramatic

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1. Frank Pellegrini, *The Coming of the Minority-Majority*, TIME.COM, Aug. 31, 2000, at <http://www.time.com>.

2. Eric Schmitt, *Whites in Minority in Largest Cities, the Census Shows*, N.Y. TIMES, Apr. 30, 2001, at A1.

demographic shifts, particularly within the Hispanic Census category, that have fueled the debate on the likelihood of a minority-majority nation. The racial distribution data that has riled the nation is summarized in Table 1.³

Table 1: Racial Distribution Data

One Race	
White	75.1%
Black	12.3%
American Indian/Alaskan Native	0.9%
Asian	3.6%
Native Hawaiian and Other Pacific Islander	0.1%
Some other race:	5.5%
Two or more Races	2.4%
Non Hispanic/One-Race	
White	69.1%
Black	12.1%
American Indian/Alaskan Native	0.7%
Asian	3.6%
Native Hawaiian/Other Pacific Islander	0.1%
Some other race	0.2%
Non Hispanic/Two or More Races	1.6%
Hispanic (Any Race)	12.5%

The media has focused considerable attention on the increases in the Latina/o population. Between 1990 and 2000, the top 100 cities gained 3.8 million new Hispanic residents—an increase of 43% over 1990 levels.⁴ Hispanic populations in thirty-two cities more than doubled in size. Furthermore, several cities in the South had exceptionally high growth, including Charlotte, North Carolina at 614% and Nashville-Davidson, Tennessee at 456%.⁵

At the same time, many cities lost a significant number of whites. In 1990, non-Hispanic whites accounted for 52% of residents in the 100 largest cities. In 2000, they accounted only for 44% of such residents. The top 100 cities experienced a net reduction in the non-Hispanic white population of 2.3 million people, and the five

3. SHARON M. LEE, KIDS COUNT/POPULATION REFERENCE BUREAU, CENSUS 2000: USING THE NEW RACIAL CATEGORIES IN THE 2000 CENSUS 10 (2001), available at <http://www.aecf.org/kidscount/racial2000.pdf>.

4. BROOKINGS INST., CTR. ON URBAN & METRO. POLICY, RACIAL CHANGE IN THE NATION'S Largest Cities: Evidence from the 2000 Census 1-2 (2001), <http://www.brook.edu/dybdocroot/es/urban/census/citygrowth.htm>.

5. *Id.*

largest cities lost nearly one million white residents.⁶ While in 1990, whites represented more than 50% of the population in seventy of the 100 largest cities, in 2000, whites were a majority in only fifty-two of those cities.⁷

B. The Census

1. *A Subjective Measurement Tool*

These trends have contributed to the perception that minority populations are quickly overtaking the white majority. This fear is not new. After the 1990 Census, one Oregon newspaper poll reported citizens believed that 49.9% of the U.S population was white, when it was really 74%.⁸ Since the release of the 2000 demographic data, the media has reported extensively on minority growth, but the details are often lost. For example, at 69.1%, non-Hispanic whites are still a healthy majority in the U.S.

The media discourse also misconstrues the nature of racial and ethnic categories in the Census. We often start from the assumption that measurement tools, like the Census, have a kind of apolitical and objective basis. For example, we assume that definable racial minority populations exist, and we debate over how to create the most objective techniques by which to measure them. When the media reports on the booming Hispanic population, it does so as if the Hispanic population has always existed.

In this discourse on a minority-majority nation, our initial presumptions are a primary concern. Should it be presumed that definable and distinguishable populations of color exist? Have Hispanics always existed as a category of people, and will that category exist in the future? Measurement tools are not objective. Rather, they reflect the way we envision ourselves as a culture and as a nation. As Naomi Mezey contends, the Census "is both a legal and cultural mechanism for imagining the American nation, a nation that has always represented itself with racial specificity."⁹ The Census measures people based on color because Americans divide the population along color lines. If we did not view color as signifi-

6. *Id.*

7. Schmitt, *supra* note 2, at A1.

8. Lisa K. Pomeroy, *Restructuring Statistical Policy Directive No. 15: Controversy Over Race Categorization and the 2000 Census*, 32 U. TOL. L. REV. 67, 74 (2000) (citing *Immigration Facts*, PORTLAND OREGONIAN, Mar. 26, 1996, available at 1996 WL 4123093).

9. Naomi Mezey, *The Politics of Enumeration, Retribution, and Recognition: The Census, Race and the National Imagination 2* (2000) (unpublished article, on file with author).

cant to our politics and to our culture, we would not measure it, and we would not be debating the potential of a minority-majority nation. Color, however, has always been significant in America. Historically, we have envisioned ourselves as a nation of free white persons who have full rights to participate in civic and social society, and a nation of racial others with varying degrees of social and political rights. The Census has always mirrored this vision.

2. *The Census Has Historically Contributed to White Dominance*

The Census has been a consistent tool in defining whiteness and reenforcing its dominance. The nationwide enumeration mandated in the United States Constitution divided the population along color lines. Article I requires the government to apportion representatives and taxes based on the number of persons within each state.¹⁰ This article stated that free persons, Native Americans, and non-free persons were to be counted differently. The Census was to count the “whole number of free persons” but to exclude Native Americans and “three fifths of all other persons.” While the Constitution did not expressly refer to color or race, it did so indirectly by categorizing Native Americans and non-free persons, who were primarily people of color.

This method of counting the overall population established a tradition for distinguishing whites from non-whites.¹¹ For example, in the years leading to the Civil War, congressmen tried to push a bill that could chart the migration patterns of slaves. The bill proposed that the Census account for the age, color, and sex of slaves; the number of children females had given birth to; and the “degree of removal from pure white or pure black races.”¹² Previously, the Census had only listed slaves by number, and southern congressmen were strongly opposed to giving a more descriptive face to slaves.¹³ This opposition managed to gut the new bill of many of its proposed reforms. It seems that southern leaders realized that efforts to humanize slaves would ultimately threaten whites’ dominant position.

3. *The Census as an Inclusive Tool*

Perhaps what has changed most significantly over time is the amount of political forces operating on the Census. While the Cen-

10. U.S. CONST. art. I, § 2, cl. 3.

11. MARGO ANDERSON, *THE AMERICAN CENSUS: A SOCIAL HISTORY* 13 (1988).

12. *Id.* at 40.

13. *Id.*

sus originally served to exclude those of different races from democratic participation, minority counter-movements have begun to use the Census to demand previously denied social and political rights.¹⁴ For example, the enactment of anti-discrimination and equal opportunity laws, such as the Civil Rights Act of 1964¹⁵ and the Equal Employment Opportunity Act,¹⁶ necessitated the collection of racial and ethnic data to ensure compliance with these statutes.¹⁷ In light of these developments, in 1977 the Office of Management and Budget ("OMB") drafted Statistical Policy Directive No. 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting. This standard directed the Census to report racial data based on four mutually exclusive categories: 1) White, 2) Black, 3) American Indian and Alaskan Native, and 4) Asian and Pacific Islander.¹⁸ The policy further required the Census to report whether individuals were of Hispanic ethnicity.¹⁹ In Census 2000, the OMB included a fifth racial category. The Asian/Pacific Islander category was divided into an Asian American category and Native Hawaiian and Other Pacific Islander category. Also, the 2000 Census accounted for multiracial people by allowing respondents to mark multiple races.

II. RACIAL CATEGORIES ARE NOT STATIC: THUS WE DO NOT KNOW WHETHER WHITES WILL BE A NUMERICAL MINORITY

A. Race as a Biological Trait

Contemporary public discourse often defines race in essentialist terms. An essentialist racial theory suggests that race is an inherent and biological trait of a person. Science has shown that racial categories largely lack a scientific foundation. Variations in biological properties, such as pigment, occur in all races, and differences in physical characteristics are related to the location of population clusters on geographical gradients and not to any scientifically provable notion of race.²⁰

14. Mezey, *supra* note 10, at 32.

15. 42 U.S.C. § 2000(d) (2000).

16. 42 U.S.C. §§ 2000(e) 1-9, 13-17 (2000).

17. Michael Omi, *Racial Identity and the State: The Dilemmas of Classification*, 15 *LAW & INEQ.* 7, 10 n.23 (1997).

18. Office of Management and Budget, Race and Ethnic Standards for Federal Statistics and Administrative Reporting, Statistical Policy Directive No. 15, 43 Fed. Reg. 19,269-270; LEE, *supra* note 4, at 4.

19. *Id.*

20. CLARA RODRIGUEZ, *CHANGING RACE: LATINOS, THE CENSUS, AND THE HISTORY OF ETHNICITY IN THE UNITED STATES* 185 (2000).

Nonetheless, the dominant white majority has used false biological notions of race to categorize and subordinate populations of color. One example is the rule of hypodescence, which categorizes a child born of a white parent and a black parent as black, because one drop of "black blood" renders a person black.²¹ Legislatures originally incorporated the hypodescent rule into state laws to ensure that white slave owners could use black women's bodies to increase the number of slaves they owned despite the newborn slave's biracial lineage.²² The hypodescent rule still serves as a basis for racial categorization, as shown in a 1985 Louisiana case where a woman who was raised white sued the state when she discovered her birth certificate stated she was black due to her multiracial lineage.²³

While scientists have begun to acknowledge that biological understandings of race have little basis, essentialist views continue to dominate the public racial discourse. The current multiracial movement provides one example of persistent essentialist notions of race. Led by groups such as Project RACE (Reclassify All Children Equally), parents in interracial marriages demanded that the Census account for their multiracial children.²⁴ Accordingly, the Office of Management and Budget allowed respondents to mark multiple races on the 2000 Census.²⁵ The argument for a multiracial category, however, relies on the biological model. It suggests that biracial children are the product of distinguishable bloodlines, and thus, are of mixed-blood.²⁶

The fear that the United States will one day have a minority-majority population also stems partially from latent essentialist notions. It presumes that the method for categorizing the booming Latina/o population or the black population will not change in the future. This assumption relies on the idea that Latina/os and blacks have immutable and inherent traits that will be as easily recognizable in fifty years as they are today. In truth, no easily recognized trait has ever defined these populations, as demonstrated by

21. *Id.* at 182.

22. John A. Powell, *The "Racing" of American Society: Race Functioning as a Verb Before Signifying as a Noun*, 15 *LAW & INEQ.* 99, 108 n.39-40 (1997) (citing Cheryl Harris, *Whiteness as Property*, 106 *HARV. L. REV.* 1709, 1719 (1993)).

23. Omi, *supra* note 18, at 8-9 n.17 (citing *Doe v. Dep't. of Health and Human Res.*, 479 So. 2d 369 (La. Ct. App. 1985)).

24. John A. Powell, *The Colorblind Multiracial Dilemma: Racial Categories Reconsidered*, 31 *U.S.F. L. REV.* 789, 794 (1997).

25. LEE, *supra* note 4, at 8.

26. Powell, *supra* note 24, at 789, 797.

the various methods the Census has used to categorize them in the last century. The Census categorized mulattos as a race between 1850 and 1870, in 1890, and between 1910 and 1920; but not in 1880, 1900, or after 1920.²⁷ Mexicans were categorized as a race only in 1930.²⁸ The Hispanic origin question did not arise until 1970.²⁹

B. Racial Formation in the United States

Contrary to essentialist notions, Michael Omi and Howard Winant argue that race is a social construct. They contend racial formation "is a process of historically situated projects in which human bodies and social structures are represented and organized."³⁰ This argument reflects the notion that race is not an objective reality that can be scientifically categorized and reported on. Rather, race represents a set of human-created social constructs that are formulated and re-formulated over time through institutional and individual processes. These processes, or projects, both order and reflect the order of individuals in a society.

I. *Racial Domination: Racial Categories Mutate Over Time to Maintain Privilege and Subordination*

While the concept of race and racial formation does not necessarily imply the formation of dominant and subordinate groups, race in the United States has served primarily as a tool for accomplishing these ends.³¹ The enduring and overarching American racial project has been the normalization of the white dominant body.³² By systematically conferring benefits and advantages on individuals based on their affiliation to the white population, whiteness has become the norm in American society. Those who meet the norm may participate fully in society, while civic and social participation is limited for those who are constructed as different. This sameness/difference axis is predicated on white supremacy. Thus, maintaining white supremacy is the central aim of American racial projects.

27. RODRIGUEZ, *supra* note 21, at 42.

28. *Id.*

29. PETER SKERRY, COUNTING ON THE CENSUS?: RACE, GROUP IDENTITY, AND THE EVASION OF POLITICS 37 (2000).

30. MICHAEL OMI & HOWARD WINANT, RACIAL FORMATION IN THE UNITED STATES: FROM THE 1960S TO THE 1990S, at 55-56 (2d ed. 1994).

31. powell, *supra* note 23, at 104.

32. john a. powell, *Whites Will Be Whites: The Failure to Interrogate Racial Privilege*, 34 U.S.F. L. REV. 419, 422-23 (2000).

If anti-subordination movements are to succeed in de-centering white privilege, they must first move beyond essentialist discourse. Essentialist principles rest on the presumption that race is solely a means of signifying a person's affiliation with a particular group. Because racial attributes are biological, racial terms are simply the means of recognizing or describing those traits. While I agree that race does signify group affiliation, I have previously noted that race also functions as a verb. "Racing" is a practice of separating people out from the general population with the specific purpose of fortifying the dominance of the remaining majority. Thus, race is not a passive recognition of natural qualities, but rather the sum of intentional actions taken to stratify the population in order to maintain white privilege and non-white subordination. Race becomes a signifier of a person's attachment to a segregated group only after this racialization process has occurred. Further, the dominant group then relies on essentialist justifications for its newly formed racial category. Essentialism becomes the veil for the systematic racial ordering of society.

2. *Racialization of European Immigrants*

The racialization of European immigrants at the turn of the century provides a stark example of the racing process in the United States. Partially due to industrialization and the need for cheap labor, huge populations of European immigrants migrated to the United States in the mid-1850s.³³ Between 1846 and 1855, around 3 million immigrants came to this country. During that time, 977,000 Germans and 1,288,000 Irish arrived, and by 1860 the foreign born population was 4 million.³⁴ These foreigners formed identifiable ethnic communities and maintained a strong cultural identity.³⁵ By 1870, twenty-eight percent of the population was black or immigrant.³⁶ The majority of the population was living in urban areas, rural population was decreasing, and white birthrates were declining.³⁷ The rapidly changing demographics frightened the Anglo population, as newspapers reported the "dangerous" population trends.³⁸

33. MATTHEW JACOBSON, *WHITENESS OF A DIFFERENT COLOR: EUROPEAN IMMIGRANTS AND THE ALCHEMY OF RACE* 41 (1998).

34. *Id.* at 42-43.

35. ANDERSON, *supra* note 12, at 90.

36. *Id.* at 92.

37. *Id.* at 117.

38. *Id.* at 134.

Anglo-Americans saw these new immigrant laborers as a threat to the Republic. The media described the Irish as “low-browed” and “brutish,” and the Irish were widely perceived to be incapable of civil participation.³⁹ The term “Irishism” was created to refer to the “condition of depravity and degradation habitual to immigrants.”⁴⁰ While disagreeing with their alleged inferior position, the Irish strongly believed that they were different from the Anglo-Americans. The Irish were primarily Catholic, as opposed to Protestant, and felt a strong national tie to Ireland and the Irish/Anglo struggle in Europe.⁴¹

Capitalizing on these perceptions, the Legislature passed the Immigration Restriction Act of 1924 (the Johnson Act), which restricted annual immigration from each European nation to two percent of the foreign born population from each nation in 1890.⁴² After the Johnson Act took effect, sentiments toward the Irish and other immigrant populations began to change. The number of new immigrants significantly declined, and the Anglo leaders saw these populations as less of a threat. Additionally, the second and third generations of Irish and Germans no longer identified with their mother country. Consequently, as the nation moved into the new century, national origin lost salience as a racial determinant. In the meantime, the dominant class utilized the large migration of blacks to the Northeast and the Midwest between 1910 and 1940 to pit European and black laborers against one another. By the time the Civil Rights movement evolved in the 1960s, color was reaffirmed as the ultimate determinant of race.⁴³

C. Anti-Subordination Movements Also Shape Race

The racing of European immigrants illustrates how both the dominant and subordinate group can impact racial formation. The Anglo Americans distinguished Irish Americans by physical traits such as a “low brow” and associated the Irish with “depravity and degradation.” At the same time, the Irish distinguished themselves from Anglo Americans based on their religion and patriotism to their homeland. While the Irish did not acquiesce to oppressive treatment, their religious and national affiliations did contribute to a collective identity in the United States. In the same way, their

39. JACOBSON, *supra* note 33, at 48.

40. *Id.*

41. *Id.*

42. Immigration Restriction Act of 1924, ch. 190, 43 Stat. 153 (repealed 1952).

43. *Id.* at 95.

later rejection of homeland ties partially led to their assimilation into the white majority.⁴⁴

Anthony Marx argues that both subordinate and dominant groups participate in racial projects and that we must consider the actions and beliefs of both populations when analyzing racial formation. He suggests that subjugated populations shape the processes and mechanism of racial domination, and racial domination shapes the beliefs and actions of subjugated groups.⁴⁵ For example, black Americans have contributed significantly to the formation and definition of the black race. The northern-based Black Power movement during the mid-twentieth century defined a collective black identity through cultural signifiers like dashikis and Afro hair styles and through the replacement of the term "negro" with the term "black."⁴⁶ The movement intended the new name to encourage "unity based on physical traits and shared experience."⁴⁷ In addition to feeling ties to the black community based on similar cultural experiences, blacks now identified with a shared commitment to a collective movement determined to confront the nation's racially oppressive power structures.⁴⁸ This national mobilization of the black population and the consolidating of a black identity ultimately led to the passage of important civil rights legislation.

D. Current Census Racial Definitions

The OMB has tried to acknowledge the various forces that impact racial formation by broadly and vaguely drawing the borders between the racial and ethnic categories. It has stated that "The racial and ethnic categories set forth in the standards should not be interpreted as being primarily biological or genetic in reference. Race and ethnicity may be thought of in terms of social and cultural characteristics as well as ancestry."⁴⁹ As might be expected, the indicators and definitions of the categories are quite different.

44. 1 THEODORE ALLEN, *THE INVENTION OF THE WHITE RACE: RACIAL OPPRESSION AND SOCIAL CONTROL* 186 (1994).

45. ANTHONY MARX, *MAKING RACE AND NATION: A COMPARISON OF THE UNITED STATES, SOUTH AFRICA, AND BRAZIL* 191 (1998).

46. *Id.* at 242.

47. *Id.*

48. OMI & WINANT, *supra* note 30, at 99.

49. Office of Management and Budget, *Recommendations from the Interagency Committee for the Review of the Racial and Ethnic Standards to the Office of Management and Budget Concerning Changed to the Standards for the Classification of Federal Data on Race and Ethnicity*, 62 Fed. Reg. 36,881 (1997).

The OMB defines black as individuals having "origins in any of the black racial groups of Africa"; it does not define whites, however, by reference to racial groups of Europe.⁵⁰ The American Indian category relies on tribal affiliation or community recognition and the Hispanic category relies on a cultural identity irrespective of race.⁵¹

In attempting to understand the basis of these definitions, it is important to remember that the non-white racial categories represent groups that have been excluded from civil and social participation as a result of a variety of racial projects. The different definitions are a result of the political and social forces that have worked to subordinate and to remedy the subordination of these groups. Perhaps the only common thread between the different categories is that each group shares the common experience of existing outside the norm. The OMB has the overwhelming task of trying to count these "others," while accommodating the racial projects that have oppressed them and the social movements that are still fighting for their liberation.

III. HISPANICS: WHITE OR NON-WHITE?

A. A Hispanic Race

The racial demographics in 2060 will largely depend on how Hispanics are racially ordered in relation to whites and non-whites. John Calmore warns that "dominant America will attempt to situate . . . Latina/os squarely within its effort to determine who will be white in America in the 21st century."⁵² History certainly suggests that the white majority may try to absorb the Latina/o population as it did the Irish and the Germans at the turn of the century. Like the early European immigrant populations, Latina/os come from a diverse background of nations and cultures. The early generations came from Mexico, Puerto Rico, and Cuba. New Latina/os come from Central and South America. The culture, economy, and politics of these regions and nations are extraordinarily different and thus Latina/os come to the United States with very different histo-

50. Office of Management and Budget, Race and Ethnic Standards for Federal Statistics and Administrative Reporting, Statistical Directive No. 15, 43 Fed. Reg. 19,269-270.

51. *Id.*

52. John O. Calmore, *Exploring Michael Omi's "Messy" Real World of Race: An essay for "Naked People Longing to Swing Free,"* 15 LAW & INEQ. 25, 63 (1997).

ries.⁵³ Once in the United States, Latina/os do face similar structures of oppression, but even their experiences with those oppressive forces are distinguishable. Based on Current Population Surveys from 1998 and 2000, Mexicans have a median income of \$8500 while Cubans have a median income over \$13,500. Among the new Latina/os from Central and South America, the Dominicans make less than the Mexicans, and the South Americans make more than the Cubans.⁵⁴ Unemployment is highest among new Latina/os from the Dominican Republic and lowest among South Americans. With respect to education, Salvadorans and Guatemalans complete less than ten years of school, while South Americans complete over twelve.⁵⁵

This diversity of experience could result in some Latina/os assimilating into the white majority. Like the German immigrants, Latina/os have not strongly pushed for a racial identity in the United States. During the hearings to reform Directive Number 15 in the early 1990s, a proposal to make Latina/os a race received only a luke-warm reception from Latina/o lobbyists. Like the Irish, as Latina/os intermarry and give birth to new generations, they lose their language and connection to their nation of origin. Further, unlike blacks, Latina/os are perceived as hardworking and a source of consistent good labor. As our discourse on race remains largely fixed around white privilege and black subordination, Latina/os may be lured into the security of white privilege and ultimately assimilate into the white majority.

On the other hand, the Hispanic experience is exceedingly different from that of European immigrants. Some Hispanic groups have a much older history in the United States than European immigrants and have suffered from various forms of discrimination in this country for as long as blacks. For example, Mexicans suffered severe residential and educational discrimination in the 1800s that was similar to that suffered by blacks.⁵⁶ Additionally, Puerto Ricans were not granted citizenship when the United States acquired Puerto Rico.⁵⁷ More recently, states have implemented “English

53. Lorenzo Albacete, *America's Hispanic Future*, N.Y. TIMES, June 19, 2001, at A23.

54. LEWIS MUMFORD CTR. FOR COMPARATIVE URBAN & REG'L RES., THE NEW LATINOS: WHO THEY ARE, WHERE THEY ARE (2001), <http://mumford1.dyndns.org/cen2000/report.html>.

55. *Id.*

56. Enid Trucios-Haynes, *Why "Race Matters:" Latcrit Theory and Latina/o Racial Identity*, 12 LA RAZA L.J. 1, 19 (2001).

57. *Id.* at 19.

Only” statutes. The recent Title VI Supreme Court case, *Alexander v. Sandoval*,⁵⁸ arose out of Alabama’s policy of administering driver’s license examinations solely in English. Today, twenty-six states have some form of an official English law.⁵⁹ Thus, Latina/os have a history of discrimination and disfranchisement dissimilar from the turn-of-the-century Europeans.

Perhaps Latina/o racial formation will follow a similar path as the formation of the Asian-American race. Like Latina/os, Asian Americans come from very diverse backgrounds and have a diverse experience in the United States. After the Civil Rights movement, however, Asians began to assert a common identity based on their common discriminatory treatment in the United States. This “panethnic formation” was largely shaped by national and world events of the time. The treatment of the Japanese during World War II and the subjection of Asians to exclusionary immigration and restrictive naturalization laws all influenced the political push for an Asian racial identity.⁶⁰ As of yet, the Latina/o population has not mobilized around a panethnic identity.

Ultimately, we cannot know what will become of the Latina/os. We have no model that fits their experience and we cannot predict the events that will shape racial relations in the next fifty years. Some of their experiences resemble the black experience, and some of their experiences resemble the Irish and German experience. Further, just as World War I and industrialization fueled European migration, and World War II and the Civil Rights movement nurtured their assimilation, such social, political, and economic events will impact the Latina/o experience.

B. Hispanics on the Census

The ambiguous state of a Latina/o racial identity is reflected in the Census. The Census presently categorizes Hispanics as an ethnic group, as opposed to a racial group, and defines Hispanics as “person[s] of Mexican, Puerto Rican, Cuban, Central or Southern American or other Spanish culture or origin, regardless of race.”⁶¹ Because the Hispanic category is not a racial category, persons who identify with the Hispanic ethnicity must also identify with one of the five racial categories. Historically, the Census categorized peo-

58. *Alexander v. Sandoval*, 532 U.S. 275 (2001).

59. See U.S. English Inc., Official English: About The Issue, at <http://www.us-english.org/inc/official/about/> (last visited Mar. 15, 2001).

60. Omi, *supra* note 18, at 17.

61. Office of Management and Budget, *supra* note 50.

ple of Latina/o descent as white. The 1940 Census required interviewers to report all Mexicans as white, unless the interviewer determined the person was definitely Indian or another non-white race.⁶² This methodology was later extended to the categorization of other Central and South Americans. When the Census implemented self-identification, many Hispanics identified themselves as white and others began to select the “some other race” option. In 1990, ninety-seven percent of those who picked the “some other race option” were Hispanic.⁶³ In 2000, forty-eight percent of Hispanics, almost half, classified themselves as white.⁶⁴

Studies have revealed several explanations for Latina/os’ racial identifications. Some Latina/os selected the some other race option because they had a broader understanding of race than that conceptualized by the Census. Race to these Latina/os encompassed one’s culture, national origin, and ethnicity; thus, they did not identify with any of the defined racial categories.⁶⁵ Others, who identified as white, did so because they were white within the system of racial stratification in their home country. Still others identified themselves as white because they recognized the stigma attached to being categorized as non-white in the United States.

IV. IF THE CATEGORIES DO NOT CHANGE: CONFRONTING RACIAL PROJECTS AND RETHINKING THE BLACK/WHITE PARADIGM

A. Before Demographic Changes Are Relevant, Structural Biases Must Be Confronted

The idea of a minority-majority nation invokes notions of a country that is politically and socially accountable to its diverse population. For those who hold power, it invokes fear that their power and their privilege will be lost. For those who are disenfranchised, it gives hope that their voices will soon be heard. Demographics, however, have never been an indicator of a nation moving towards racial justice. The United States has always been a nation of immigrants, and increases in the foreign-born populations have historically not resulted in racial equity. For example, while ethnic and racial minorities already make-up more than fifty percent of California’s population, that state has approved initiatives

62. RODRIGUEZ, *supra* note 21, at 102.

63. *Id.* at 12.

64. Orlando Patterson, Editorial, *Race by the Numbers*, N.Y. TIMES, May 8, 2001, at A27.

65. RODRIGUEZ, *supra* note 21, at 134.

that seek to “deny public services to undocumented immigrants, dismantle affirmative action and eliminate bilingual education.”⁶⁶ Demographic changes will be most relevant as a part of anti-subordination strategies that focuses on destabilizing and reversing racialization processes. An increased minority population will only result in an increased subordinated population, unless we change the policies and practices that cause subordination.

In particular, mechanisms that racialize metropolitan space hinder minority's ability to participate socially, politically, and economically in American society. Several government housing policies and practices have isolated people of color from employment and education opportunities. For example, in the mid-twentieth century the federal government ensured that blacks did not become homeowners by redlining their neighborhoods out of favorable, low-rate mortgage opportunities that the government extended to whites. The federal government established the Home Owners' Loan Corporation (“HOLC”) after the Great Depression to refinance mortgages in danger of default and to provide low-interest loans to those who lost their homes in foreclosure.⁶⁷ In creating their uniform appraisal standards, HOLC officials implemented redlining, which systematically undervalued racially and ethnically diverse central city neighborhoods.⁶⁸ The impact of redlining was magnified because the HOLC standards greatly influenced the underwriting practices of other government programs and private financial institutions. At the same time, under the Housing Act of 1949,⁶⁹ the federal government institutionalized the concentration of poor people in small geographic areas by destroying entire neighborhoods of tenements and row-houses and building high-density public housing projects.⁷⁰ Such policies reduced opportunities for minorities to become homeowners and thus to create home equity wealth. Because home equity has been the main source of financing for families, many non-whites have been

66. Newsmax.Com Wires, California Becomes Minority Majority as Tensions Sit Below Surface, (Dec. 28, 2000), at <http://www.newsmax.com/archives/articles/2000/12/28/72002.html>.

67. Michael H. Schill & Susan M. Wachter, *The Spatial Bias of Federal Housing Law and Policy: Concentrated Poverty in Urban America*, 143 U. PENN. L. REV. 1285, 1308 (1995).

68. DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* 51 (1993).

69. 42 U.S.C. § 1471 (2001).

70. Douglas S. Massey & Shawn Kanainveni, *Public Housing and Concentration of Poverty*, 74 SOC. SCI. Q. 109, 120 (1993).

effectively denied access to the financing of college, new businesses, and other opportunities.⁷¹

Also, state abuse of the zoning power has further concentrated minorities in central cities and isolated them from opportunities for employment and education. Through zoning laws, individual municipalities establish land use requirements that prevent the development of housing for low- and-moderate-income individuals and families. For example, municipalities will zone most of the community for single-family, detached dwellings, which effectively prohibits less expensive, multi-unit housing.⁷² Such practices isolate minorities and people of low income in the central cities. Furthermore, due in part to stagnant and depreciating housing markets, urban communities do not have the tax base to support their high social needs. Most urban infrastructures, including transit systems and sewage treatment, are outdated.⁷³ The lack of resources prevents central cities from enticing new investment that could lead to new jobs, and schools lack the funds to educate their youth. Such concentration of race and poverty "also concentrates conditions such as drug use, joblessness, welfare dependency, teenage childbearing and unwed parenthood, producing a social context where these conditions are not only common, but the norm."⁷⁴ These norms lead to the perpetuation of multi-generational poverty.

The Census reflects the consequences of such discriminatory practices. Black/White segregation data shows that one quarter of the Metropolitan Statistical Areas ("MSAs") were hypersegregated in 2000, including central urban areas like Milwaukee, Chicago, New York, and Atlanta.⁷⁵ Between 1980 and 2000, researchers detected little net change in these hypersegregated areas. In 1980, 53.9% of African Americans lived in areas with a dissimilarity measure over seventy five and in 2000, 50.6% of Afri-

71. James E. Long & Steve B. Caudill, *Racial Differences in Homeownership and Housing Wealth, 1970-1986*, 30 *ECO. INQUIRY* 83, 99 (1992).

72. *Southern Burlington County NAACP v. Township of Mt. Laurel (Mount Laurel I)*, 336 A.2d 713, 739 (N.J. 1975) (Passman, J., concurring).

73. ANTHONY DOWNS, *NEW VISIONS FOR METROPOLITAN AMERICA* 48 (1994).

74. John Charles Boger, *The Urban Crisis: The Kerner Commission Report Revisited*, 71 *N.C. L. REV.* 1289, 1317-18 (1993).

75. Brooking data researchers label MSAs with dissimilarity measures above 0.6 as areas of hyper-segregation. EDWARD GLAESER & JACOB VIGDOR, *BROOKINGS INST. CTR. ON URBAN & METRO. POLICY, RACIAL SEGREGATION IN THE 2000 CENSUS: PROMISING NEWS* 3 (2001).

can Americans lived in the same areas.⁷⁶ Between 1990 and 2000, the number of Census tracts with a black share of the population exceeding eighty percent remained consistent nationwide.⁷⁷ While Latina/os and Asians are less segregated than African Americans, the Census has not shown any net change in the Latina/os level of segregation in the last twenty years. In 2000, Asians and Latina/os lived in more isolated settings than they did in 1980, with a smaller proportion of white residents in their neighborhoods. This trend is the same in both cities and the suburbs.

Further, among suburban communities with the largest racial minority representation, segregation is high, and minority population growth is indicative of the creation and intensification of ethnic enclaves. Where blacks are more than 10% of the suburban population, there was virtually no change in the decade in segregation (56.9%–56.1%).⁷⁸ Where Latina/os representation is 10%, segregation levels slightly increased from 44–48.4%. Approximately three quarters of Latina/os live in these metropolitan areas. In metropolitan areas where Asians are more than 4% of the suburban population, the average Asian now lives in a neighborhood that is 16% Asian, up from 12% in 1990.⁷⁹

Minorities' ability to turn numbers into political capital will greatly depend on their ability to address and confront the structural barriers that isolate them in central cities. Civic and social participation depend on a quality education and access to stable housing and employment. Structural biases have denied people of color access to such opportunity structures in the past and are likely to continue to do so in the future. Until we break down these structural barriers, minorities will not be able to fully participate in American democracy, regardless of their numbers.

76. The Mumford Center's data compares Black/Whites, unlike the Brookings Institute, which compares Blacks/non-Blacks. Also, the Mumford Center has turned its numbers into integers as opposed to decimals. Lewis Mumford Ctr. for Comparative Urban & Reg'l Res., *Ethnic Diversity Grows, Neighborhood Integration Lags Behind* (Apr. 3, 2001, revised Dec. 18, 2001), at <http://mumford1.dyndns.org/cen2000/report.html>.

77. GLAESER & VIGDOR, *supra* note 76, at 5.

78. "Blacks are more than twenty percent of the suburban population in regions such as Atlanta, Washington DC, Richmond, New Orleans, Fort Lauderdale and Miami." LEWIS MUMFORD CTR. FOR COMPARATIVE URBAN & REG'L RES., *THE NEW ETHNIC ENCLAVES IN AMERICA'S SUBURBS*, <http://mumford1.dyndns.org/cen2000/report.html>.

79. *Id.*

B. Minority Groups Must Work Together to Dismantle White Privilege

Even if racial and ethnic groups constitute a majority in fifty years, we cannot presume that minorities will come together to confront racial subordination. Relationships among subordinated populations often are strained and hostile. For example, many blacks have the perception that Latina/os and other racial minorities are attempting to ride on the coat tails of the black Civil Rights movement.⁸⁰ The inclusion of various racial/ethnic groups in affirmative action programs increases the number of minorities in leadership positions and thus lessens the need for affirmative action programs in the public's eye. Some blacks blame the Latina/o and Asian communities for this problem. Conversely, under current civil rights remedies, Latina/os are forced to prove national origin discrimination, which is factually harder to prove than racial discrimination. As Latina/os perceive some blacks as utilizing political clout to exclude other minorities from racial remedies and other protections, Latina/os blame blacks for their own inability to utilize the existing civil rights protections.⁸¹

Also, tensions arise when some minority groups perceive other minorities to claim or enjoy a degree of white privilege. For example, the dominant culture has bestowed a degree of white privilege on Asians due to their successful integration into white culture. Commonly referred to as the "model minority," Asians' perceived economic success and work ethic has been rewarded with social and economic privileges.⁸² As a result, frustrated blacks have come to perceive Asians as the "racial bourgeoisie." By accepting this privilege and still claiming minority status, some blacks feel that Asians reinforce white supremacy and slow black advancement.⁸³ This perception of Asians exists despite the fact that they also have a long history of racial discrimination in the United States, and many, if not most, do not benefit from their supposed elevated standing in the racial order.⁸⁴

In attempting to address the hostile relationships that exist among minorities, some scholars have begun to reexamine the lan-

80. BILL PIATT, *BLACK AND BROWN IN AMERICA: THE CASE FOR COOPERATION* 5 (1997).

81. ERIC K. YAMAMOTO, *INTERRACIAL JUSTICE: CONFLICT & RECONCILIATION IN POST-CIVIL RIGHTS AMERICA* 29 (1999).

82. NEIL GOTANDA, *MULTICULTURAL & RACIAL STRATIFICATION*, IN *MAPPING MULTICULTURALISM* 243 (1996).

83. YAMAMOTO, *supra* note 82, at 43.

84. *Id.*

guage in which we talk about race.⁸⁵ Presently, we frame much of our racial discourse in terms of black and white, and this discourse often is referred to as the black/white paradigm. As the United States becomes increasingly multiracial, advocates have expressed concern that the black/white paradigm fails to describe accurately, or otherwise account for, the discriminatory experiences of people of color. Rather, the current depiction of race relations within the black/white paradigm divides and stratifies racial minorities in a racial hierarchy with black and white poles. Consequently, some scholars contend the black/white paradigm forces groups to define themselves as either black or white. Concern has arisen that this racial stratification pits racial minorities against one another, as they fight for white privilege or minority class protection under civil rights statutes. Thus, some of the recent race literature has contended that we must move beyond the black/white paradigm.

While we must broaden the discourse beyond the black/white experience, I am skeptical of abandoning the black/white paradigm. While the current way of thinking about and doing race in the United States exists on a black/white binary, a black/white binary is not the same as a black/white paradigm. The former is an either/or dichotomy, while the latter is a continuum that reflects a particular hierarchy. The black/white binary masks the role of power, while the black/white paradigm highlights the importance of power. Further, the black/white paradigm does not describe individual experience, but describes how power functions. Indeed, what is called the black/white paradigm is better thought of as a white/non-white and black/non-black paradigm. This conception of the paradigm is better able to name and challenge white supremacy while the binary is not.

A need exists to theorize about the relationship between groups of color and methods of giving their lived experience voice. In a world, however, where white supremacy is so foundational, it is doubtful that one can adequately understand the relationship between non-whites without the backdrop of whiteness. It is also important to note that the white/non-white paradigm is largely about who can be imagined as part of the political and cultural community. This needs to be done in a way that acknowledges both the heterogeneity of all racialized communities, including those now called white and black, as well as the productive power of this para-

85. Trucios-Haynes, *supra* note 57, at 10; Francisco Valdes, *Latina/o Ethnicities, Critical Race Theory, and Post-Identity Politics in Postmodern Legal Culture: From Practices to Possibilities*, 9 LA RAZA L.J. 1, 5 n.19 (1998).

digm. Additionally, whiteness is not just about persons, but also about structure. As described above, racialized policies and practices privilege some individuals at the expense of others. In so doing, these institutionalized practices determine who is white and who is non-white in this country. The paradigm serves to describe such racist power structures.

We can only confront white supremacy by keeping it visible. Abandoning the black/white paradigm would be problematic in the same way that abandoning racial categories would be problematic. While racial categories fail to accurately account for the nation's diverse racial population, the categories are still relevant in that they illuminate institutional patterns of discrimination with respect to income, wealth, and residential segregation.⁸⁶ In the same way, the black/white paradigm accurately portrays the reality of white supremacy and non-white subordination, though the paradigm fails to accurately account for the diverse experiences of racial minorities.⁸⁷ Through the black/white paradigm, we can explore how historical oppression has operated to define whiteness such that our laws and institutions subordinate non-whites and confer privilege on those named as white.

Michael Omi has called for communities of color to reconsider their relationships with one another to pursue collective anti-racist actions.⁸⁸ Such collective action, however, does not depend on abandoning racial categories or the black/white paradigm. Both are real social constructs that have served to subordinate and stratify our population and thus we cannot ignore them. Rather than focus on how these tools have pitted racial minorities against one another, we must recognize how racial categories and the black/white paradigm have subordinated all of us in opposition to whites. It is in relation to this common experience that we must come together.

Important in this pursuit is the recognition that race is a fluid term that takes many forms. While Asians united under a pan-ethnic identity to combat discriminatory policies in the mid-twentieth century, new experiences and new relationships with other communities of color may require Asians to redefine themselves in the

86. Michael Omi, *Rethinking the Language of Race and Racism*, 8 *ASIAN L.J.* 161, 166 (2001).

87. Chris Iijima, *The Era of We-Construction: Reclaiming the Politics of Asian Pacific American Identity and Reflections on the Critique of the Black/White Paradigm*, 29 *COLUM. HUM. RTS. L. REV.* 47, 69 (1997).

88. Omi, *supra* note 87, at 166.

early twenty-first century. Race is the vehicle through which we can include or exclude; stratify or equalize; divide or combine. As I have said before, race is a verb. Historically, those with power have raced society to stratify people based on color, nationality, and ethnicity. People of color must now come together and re-race society to remedy the divisive effects of past actions.

Such efforts do not require the abandonment of racial categorization, but rather a broader and more fluid understanding of the categories than now exist. Though Latina/os come from very different places, some Latina/os advocate for a pan-ethnic Latina/o racial identity, arguing it is necessary to reflect their distinct experience and to ensure they are not folded into the black/white racial structure.⁸⁹ A pan-ethnic identity may be absolutely necessary. If this should come to pass, however, we need be mindful that Latina/os are a diverse population with diverse experiences. At times, some Latina/os' racial experiences may more closely parallel some blacks' racial experiences than other Latina/os' experiences. Where it does so, our understanding of racial categories must be broad enough such that those Latina/os and those blacks can come together to promote anti-racist actions.

CONCLUSION

I have no doubt that Census 2060 will reflect a nation of immigrants just as it has for over two hundred years. I am skeptical, however, that we will categorize those immigrants such that the majority is non-white. When we talk about changing demographics we must remember that we are in control of how we categorize our population. Racial ordering is not a natural phenomenon. Further, foreign migration cannot alone destabilize white dominance. Social and political accountability to our racial minorities can only follow from the dismantling of America's current racist practices and policies.

89. Trucios-Haynes, *supra* note 57, at 22.

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