

Fordham Law School

FLASH: The Fordham Law Archive of Scholarship and History

Faculty Scholarship

2000

Exploration of the Efficacy of Class-Based Approaches to Racial Justice: The Cuban Context, An LatCrit IV Symposium - Rotating Centers, Expanding Frontiers: Theory and Marginal Intersections- Forging Our Identity: Transformative Resistance in the Areas of Work, Class, and the Law

Tanya K. Hernandez

Fordham University School of Law, thernandez@law.fordham.edu

Follow this and additional works at: https://ir.lawnet.fordham.edu/faculty_scholarship



Part of the [Civil Rights and Discrimination Commons](#), and the [Comparative and Foreign Law Commons](#)

Recommended Citation

Tanya K. Hernandez, *Exploration of the Efficacy of Class-Based Approaches to Racial Justice: The Cuban Context, An LatCrit IV Symposium - Rotating Centers, Expanding Frontiers: Theory and Marginal Intersections- Forging Our Identity: Transformative Resistance in the Areas of Work, Class, and the Law*, 33 U.C. Davis L. Rev. 1135 (2000-2000)

Available at: https://ir.lawnet.fordham.edu/faculty_scholarship/20

This Article is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

An Exploration of the Efficacy of Class-Based Approaches to Racial Justice: The Cuban Context

Tanya K. Hernandez *

What guarantee do Negroes have that socialism means racial equality any more than does capitalist democracy? Would socialism mean the assimilation of the Negro into the dominant racial group In other words, the failure of American capitalist abundance to help solve the crying problems of the Negro's existence cannot be fobbed off on some future socialist heaven.¹

INTRODUCTION

The growing discord over the continuing use of race-conscious social justice programs in the United States has given rise to the consideration of replacing them with color-blind class-based affirmative action programs.² Although there are a number of theoretical investigations into the proposal for class-based affirmative action,³ the discourse is short on practical assessments.⁴ This Arti-

* Professor of Law, St. John's University School of Law. A.B., Brown University; J.D., Yale Law School. I thank Taunya Lovell Banks, Robert Cottrol, Berta Hernández-Truyol, Kevin Johnson, Peter Margulies, Miriam Jimenez Roman, Francisco Valdes, John V. White, Paulette Caldwell, and the participants in her Spring 2000 N.Y.U. Law Seminar "Race and Legal Scholarship," and the members of the "Pat Williams Writer's Group" for their helpful comments and suggestions on an earlier draft of this Article. James Q. Walker deserves his own special thanks for being my sounding board through eternity. I also thank my series of "part-time" Research Assistants: Nkosi Bradley, Veronica Guerrero, Geneva Johnson, Dawn Velez, Don Walker, Jr., and Dianne Woodburn.

¹ HAROLD CRUSE, *REBELLION OR REVOLUTION?* 93 (1968).

² See DINESH D'SOUZA, *ILLIBERAL EDUCATION: THE POLITICS OF RACE AND SEX ON CAMPUS* 251 (1991); RICHARD D. KAHLENBERG, *THE REMEDY: CLASS, RACE, AND AFFIRMATIVE ACTION* (1996); Michael Kinsley, *Class, Not Race*, *NEW REPUBLIC*, Aug. 19, 1991, at 4; *Regents in Florida Bar: Race and Sex as Admission Factors*, *N.Y. TIMES*, Feb. 18, 2000, at A18 (reporting Florida's approval of class-based approach to affirmative action for state college admissions with consideration of socioeconomic status in substitution for consideration of race).

³ See generally Frances Lee Ansley, *Classifying Race, Racializing Class*, 68 *U. COLO. L. REV.* 1001 (1997); Deborah C. Malamud, *Class-Based Affirmative Action: Lessons and Caveats*, 74 *TEX.*

cle amplifies the class-based affirmative action debate by drawing lessons from Socialist Cuba's socioeconomic redistribution measures. Inasmuch as Socialist Cuba attempts to diminish racial disparities with the use of colorblind socioeconomic redistribution programs one can classify their strategy as a class-focused rather than a race-focused attack on racism. I use the term "class-based approaches" to racial justice broadly to encompass all color-blind social reforms that are designed in part to ameliorate the economic aspects of racial inequality. The existence of the Cuban redistribution programs has allowed me to explore the general question of whether racial justice is effectively addressed when the strategy for overcoming race problems discourages a focus on race as divisive.

Although facially distinct in their contexts, comparing the Cuban and U.S. programs is particularly useful for several reasons. Like the United States, Cuba has a long history of racial subordination that continues to exercise its influence today.⁵ The present-day United States also shares Cuba's disdain for race-conscious measures because they are similarly interpreted as promoting racial divisions. Furthermore, there is a growing recognition in the United States that has long existed in Socialist Cuba, that equal opportunity platforms alone do not operationalize a mechanism for impoverished Blacks to improve their life circumstances.⁶ To the extent that the Cuban socioeconomic redistribution programs are more extensive than any class-based affirmative action plan pro-

L. REV. 1847 (1996); Frederick A. Morton, Jr., *Class-based Affirmative Action: Another Illustration of America Denying the Impact of Race*, 45 RUTGERS L. REV. 1089 (1993).

⁴ The UCLA School of Law's published account of their use of class-based admissions preferences is one of the few empirical studies which exists and is justifiably limited in its scope given its recent implementation and focus on law school admissions. See Richard H. Sander, *Experimenting with Class-Based Affirmative Action*, 47 J. LEGAL EDUC. 472 (1997); see also Deborah C. Malamud, *A Response to Professor Sander*, 47 J. LEGAL EDUC. 504 (1997); Linda F. Wightman, *The Threat to Diversity in Legal Education: An Empirical Analysis of the Consequences of Abandoning Race as a Factor in Law School Admission Decisions*, 72 N.Y.U. L. REV. 1 (1997) (examining theoretical implications of using socioeconomic status as proxy for race based on data from students that applied to law schools in 1990-1991, and concluding that it would not achieve diverse student body); Tung Yin, *A Carbolic Smoke Ball for the Nineties: Class-Based Affirmative Action*, 31 LOY. L.A. L. REV. 213, 234 (1997) (reviewing RICHARD D. KAHLENBERG, *THE REMEDY: CLASS, RACE, AND AFFIRMATIVE ACTION* (1996)) (examining income distributions and test scores by race indicating that primary beneficiaries of race-blind, class-based affirmative action program are likely to be overwhelmingly white).

⁵ See *infra* Part II.

⁶ See H. EDWARD RANSFORD, *RACE AND CLASS IN AMERICAN SOCIETY: BLACK, LATINO, ANGLO* (2d rev. ed. 1994).

posed in the United States, that substantive difference enriches the comparative analysis. For instance, if the comparison illustrates that the Cuban class-based approach has not successfully eradicated all vestiges of racial inequality, it is reasonable to cast doubt upon the efficacy of the U.S.'s much more modest proposal of class-based affirmative action. In the alternative, if the comparison illustrates that the Cuban class-based approach has been successful in diminishing racial disparities, then it can serve as an example of the kind of commitment of resources it takes to overcome racism. This Article's examination of the continuing racial disparities in Cuba demonstrates that race-blind class-based approaches to racial justice are not the complete answer to the seduction of racial hierarchy.

I begin in Part I by setting forth the details of the Cuban class-based approach to racial inequality. I examine the ways in which Afro-Cubans⁷ have benefited from the socioeconomic redistribution programs but conclude that racial disparities continue to exist because of the attraction individuals have to maintaining group status. Part II then delineates a brief account of the Cuban history of racial subordination that continues to influence Cuba's political economy. Part III analyzes the interconnections between race and class that cannot be appreciated by a race-blind class-based approach to racial inequality like class-based affirmative action. In Part IV, I draw upon the Cuban context to conclude that the Cuban and Latin American propensity for suppressing Afro-Latino/a

⁷ The term "Afro-Cubans" is used here to collectively describe all persons of African descent whether labeled Mulatto or Black to focus upon the centrality of bias against African ancestry and phenotype in Cuba. See Nadine Therese Fernandez, *Race, Romance, and Revolution: The Cultural Politics of Interracial Encounters in Cuba* 27 (1996) (unpublished Ph.D. dissertation, University of California (Berkeley)) (on file with author) (describing academic's use of term Afro-Cuban to refer to Blacks and Mulattos together when discussing race issues). The Cuban discussion on racism focuses upon Blacks and whites because the demographic numbers of other racial and ethnic groups is relatively small. For instance, Chinese Cubans who are descended from Chinese brought to Cuba in the 1800s as contract labor, now number fewer than 500 in a total population of approximately ten million. See Evelyn Hu Dehart, *Chinese Coolie Labour in Cuba in the Nineteenth Century: Free Labour or Neo-Slavery?*, in *THE WAGES OF SLAVERY* 67, 68-70 (Michael Twaddle ed., 1993). In addition, the religious diversity of the country was diminished when the vast majority of the Jewish population left after the Revolution. See Robert Levine, *Jews Under the Cuban Revolution: 1959-1995*, in *THE JEWISH DIASPORA IN LATIN AMERICA*, 265, 269, 278 (David Sheinin & Lois Baier Barr eds., 1996) ("In 1990, the number [of Jews in Cuba] had dwindled to roughly 305 families, most with non-Jewish spouses, in a total population of about ten million.").

identity may impede LatCrit theory's⁸ antisubordination goal for Latinos/as and other communities of color in the United States.

I. THE CONTEMPORARY CUBAN CONTEXT

Soon after Fidel Castro came to power he publicly denounced racial discrimination in the most direct and sweeping terms ever heard from a Cuban political leader in office.⁹

[P]eople's mentality is not yet revolutionary enough. People's mentality is still conditioned by many prejudices and beliefs from the past. . . . One of the battles which we must prioritize more and more everyday . . . is the battle to end racial discrimination at the work place . . . There are two types of racial discrimination: One is the discrimination in recreation centres or cultural centres; the other, which is the worst and the first one which we must fight, is racial discrimination in jobs . . .¹⁰

Castro declared that racial discrimination would disappear when class privilege was eradicated.¹¹ With this speech just three months after he came to power, Fidel Castro abolished by edict whites-only beaches and clubs.¹² He also purported to terminate racism by abolishing the official use of racial classifications or any reference to race because "[a] Cuban is simply someone who belongs to no race in particular!"¹³ In other words, "[t]here are no white Cubans or black Cubans, just Cubans."¹⁴

⁸ LatCrit theory is a jurisprudence dedicated to highlighting Latina/o concerns and voices in legal discourse and social policy for the attainment of social justice. See Francisco Valdes, *Foreword: Latina/o Ethnicities, Critical Race Theory, and Post-Identity Politics in Postmodern Legal Culture: From Practices to Possibilities*, 9 LA RAZA L.J. 1, 12 (1996).

⁹ See Lourdes Casal, *Race Relations in Contemporary Cuba*, in MINORITY RIGHTS GROUP, THE POSITION OF BLACKS IN BRAZILIAN AND CUBAN SOCIETY 11, 19 (Anani Dzidzienyo & Lourdes Casal eds., 1979).

¹⁰ See *id.*

¹¹ See PEDRO PEREZ SARDUY, *AFRO-CUBAN VOICES: ON RACE, REPRESENTATION, AND IDENTITY IN 1990'S CUBA* (1995).

¹² See Casal, *supra* note 9, at 19.

¹³ CARLOS MOORE, *CASTRO, THE BLACKS, AND AFRICA* 27 (1988).

¹⁴ JOHN CLYTUS, *BLACK MAN IN RED CUBA* 76 (1970). Castro's articulation of a color blind platform is very reminiscent of Justice Scalia's denunciation of race-conscious remedies in *Adarand Constructors v. Peña*, wherein he states "In the eyes of government, we are just one race here. It is American." 515 U.S. 200, 239 (1995) (Scalia, J., concurring in part and concurring in judgment). Yet there is a meaningful difference in their purpose. Justice Scalia supports a purely mechanical approach to racial equality that would merely prohibit formal barriers to civil rights. In contrast, Castro has instituted a substantive commitment to

This was followed with legal reforms which:

- I. eliminated private schools in order to expand and improve the educational system for all residents regardless of status,¹⁵
- II. converted private rental housing into a public service to fulfill the goal of shelter for all,¹⁶
- III. codified a legal right to be employed without regard to race,¹⁷ and
- IV. developed a massive public health system and universal health care coverage.¹⁸

These legal reforms were translated into the following substantive equality measures. Basic foodstuffs and other necessities were evenly distributed to all citizens pursuant to a government rationing system allocating to every person booklets for food and clothing. Rationing was introduced in March 1962, as an attempt to provide equal distribution of scarce goods.¹⁹ The rationing system that exists today offers a limited number of foods and goods at greatly discounted costs.²⁰ The prices of basic goods are determined by the salaries of the lowest-paid workers and housing prices are set at a maximum of twenty percent of one's income.²¹ The commitment to providing a guarantee to employment was fulfilled with the expansion of public works, the nationalization of industries, and agrarian reform that created many government positions.²² In addition, the government funded child care centers in

racial equality by coupling his call for color-blindness with law reforms that have sought to go to the heart of race-based socio-economic disparities.

¹⁵ See MARJORIE S. ZATZ, *PRODUCING LEGALITY: LAW AND SOCIALISM IN CUBA* 24-25 (1994).

¹⁶ See *Ley de Reforma Urbana* [Urban Reform Law], *Gaceta Oficial*, Oct. 14, 1960; *Ley No. 48, Ley General de la Vivienda* [General Housing Law], *Gaceta Oficial*, Dec. 31, 1984; *Ley No. 65, Ley General de la Vivienda* [General Housing Law], *Gaceta Oficial*, Dec. 23, 1988.

¹⁷ See CUBAN CONST. art. 43 (amended 1992) (providing right to be employed by government without regard to race); *id.* art. 45 (amended 1992) (providing employment as right of citizenship).

¹⁸ See Sarah M. Santana, *The Cuban Health Care System: Responsiveness to Changing Needs and Demands*, in *CUBA'S SOCIALIST ECONOMY TOWARD THE 1990'S* 115, 115-18 (Andrew Zimbalist ed., 1987).

¹⁹ See DOUGLAS BUTTERWORTH, *THE PEOPLE OF BUENA VENTURA: RELOCATION OF SLUM DWELLERS IN POSTREVOLUTIONARY CUBA* 36 (1980).

²⁰ See MONA ROSENDAHL, *INSIDE THE REVOLUTION* 28-32 (1997).

²¹ See ZATZ, *supra* note 15, at 10.

²² See *id.* at 9.

order to facilitate the employment opportunities of women.²³ Prior to the decline of the Soviet economy in 1985 and its cessation of subsidies to Cuba, lunches and nutritious snacks were provided free or at a very low cost at all work sites and schools.²⁴ In the 1959-1990 period the rate of malnutrition among children declined to 0.1 percent as compared to the U.S. rate of five percent.²⁵

Before the onset of the economic austerity programs of the 1990s ("the special period") the overall Cuban population was well-nourished and had a life expectancy at birth of seventy-six years. Furthermore, the infant mortality rate was reduced from the 1958 rate of 33.4 deaths per 1000 live births²⁶ to 10.4 per 1000 live births by 1992 — one of the lowest infant mortality rates in the world²⁷ which compares positively with the overall U.S. rate for the same period of ten deaths per 1000 live births (while the U.S. African American infant mortality rate was 108.14% of the white infant mortality).²⁸ These early redistributive measures improved the status of Afro-Cubans in particular because they were over-represented in the lowest sectors of the population.²⁹ In fact, the universal health care system's eradication of many lethal Third World diseases such as malaria was a significant boost to the health status of Afro-Cubans, who historically had been disproportionately affected.³⁰

The education data is also impressive. Just prior to the revolution, only about one half of primary-school age children were enrolled in school.³¹ In poor and rural communities where the majority of the Afro-Cuban population was then located, the enrollment was even lower because of the paucity of school buildings and teachers.³² The Revolution's abolition of private schools was accompanied by the expansion of a free public educational system

²³ See Marvin Leiner, *Cuba's Schools: 25 Years Later*, in THE CUBA READER: THE MAKING OF A REVOLUTIONARY SOCIETY 445, 448 (Phillip Brenner et al. eds., 1989).

²⁴ See ZATZ, *supra* note 15, at 9.

²⁵ See John A. Kovach, *Reinventing Socialism in Cuba: The Relevance of Trotskyist Revolutionary Theory*, 42 CARIBBEAN Q., Mar. 1996, at 30, 35.

²⁶ See SUSAN SCHROEDER, CUBA: A HANDBOOK OF HISTORICAL STATISTICS 86 (1982).

²⁷ See *id.* at 7.

²⁸ Compare *id.*, with U.S. DEP'T OF HEALTH & HUMAN SERVICES, HEALTH STATUS OF MINORITIES AND LOW INCOME GROUPS 108 tbl.10 (3d ed. 1991).

²⁹ See Casal, *supra* note 9, at 21.

³⁰ See Carlos Moore, *Cuban Communism, Ethnicity and Perestroika: The Unmaking of the Castro Regime*, 42 CARIBBEAN Q., Mar. 1996, at 14, 16.

³¹ See Leiner, *supra* note 23, at 446.

³² See *id.*

whereby more schools were constructed and more people were trained as teachers,³³ and books were loaned at no cost to students at every educational level.³⁴ In addition, a massive literacy campaign raised the national educational level of the country.³⁵ Education through junior high school (or age sixteen) was made mandatory and many more post-junior high school educational options including vocational schools, specialized art or sports schools, and pre-university high schools were created.³⁶ From 1959 to 1990, the number of high school graduates increased threefold.³⁷

The desire to provide shelter to all citizens informed Socialist Cuba's reform of the housing laws. Within the first month of the revolution, the government prohibited evictions and ordered the reduction of rents by thirty to fifty percent, depending on the tenant's income level.³⁸ Presently, citizens may own a primary residence and a vacation home but may not seek to profit personally from renting out other residential properties because it can lead to homelessness for those persons unable to pay the requested rental sums.³⁹ The housing law reforms have transformed the majority of Cubans into "homeowners."⁴⁰ Initially housing was a public service where the state was the primary landlord and after a period of paying a reduced rent the tenant would be converted into an owner of the property.⁴¹ As of 1984, the remaining public service tenants

³³ See *id.* at 450.

³⁴ See ZATZ, *supra* note 15, at 24.

³⁵ See DEBRA EVENSON, *REVOLUTION IN THE BALANCE: LAW AND SOCIETY IN CONTEMPORARY CUBA* 25 (1994).

³⁶ See Fernandez, *supra* note 7, at 184.

³⁷ See Kovach, *supra* note 25, at 35.

³⁸ See EVENSON, *supra* note 35, at 179; see also Jill Hamberg, *Cuban Housing Policy, in TRANSFORMATION AND STRUGGLE: CUBA FACES THE 1990S*, at 235 (Sandor Halebsky & John M. Kirk eds., 1990).

³⁹ See EVENSON, *supra* note 35, at 178-79.

⁴⁰ See *id.* at 184. The legal meaning of Cuban homeownership must be understood within the socialist context that only permits personal property over "items intended for consumption to satisfy an individual's basic needs, which includes a household's dwelling unit." Stuart Grider, *A Proposal for the Marketization of Housing in Cuba: The Limited Equity Housing Corporation — A New Form of Property*, 27 U. MIAMI INTER-AM. L. REV. 453, 470 (1996). In contrast, the land under a dwelling unit is considered state property because it is a natural resource and the sale of a home is subject to state restrictions, which give the government the option to repurchase any property at a price previously established by the government's Urban Reform Committee. See *id.* at 470, 472. Initially, testamentary disposition rights over homes was limited to persons living with the deceased for at least a full year before death, but has since been extended to allow non-cohabiting heirs to inherit dwelling units. See *id.* at 475.

⁴¹ See EVENSON, *supra* note 35, at 179.

stopped paying rent and instead were extended government mortgages priced at twenty percent of the family income.⁴² All of these housing reforms ameliorated the condition of Afro-Cubans, who prior to 1959 primarily resided in uninhabitable structures.⁴³ In fact, because of the Urban Reform Law changes in tenancy, by 1979 more Blacks owned their homes in Cuba than in any other country in the world, albeit with a socialist form of ownership.⁴⁴ Furthermore, housing construction was directed to easing the housing shortage in rural areas where many Afro-Cubans lived in poorly constructed thatched roof shelters.

Notwithstanding the benefits that redounded to Afro-Cubans from the socialist reforms, racial disparities persist today. For instance, despite universal health care coverage, health and medical gaps continue to exist between white Cubans and Afro-Cubans in Cuba, as indicated by the higher vulnerability of Afro-Cubans to the parasitic diseases of the poor.⁴⁵ Even though much of the housing stock was desegregated when private rental housing was abolished and the state became the primary landlord,⁴⁶ "barrios marginales" (marginal communities) of poor Afro-Cuban residents still exist and are stigmatized for the residents' inability to improve their standard of living.⁴⁷ Despite the fact that educational opportunities have been available on an equal basis since the closing of private schools in 1961 and the significant investment in public education, Afro-Cubans are not proportionately represented in university programs.⁴⁸ A color hierarchy in education is apparent in the greater representation of whites in the better schools of higher education, while mixed-race Mulattos/Mestizos predominate in technical vocational schools, and Black Cubans dominate

⁴² See ZATZ, *supra* note 15, at 21.

⁴³ See Lourdes Casal, *Race Relations in Contemporary Cuba*, in THE CUBA READER: THE MAKING OF A REVOLUTIONARY SOCIETY, *supra* note 23, at 471.

⁴⁴ See EVENSON, *supra* note 35, at 179-80; *supra* note 40.

⁴⁵ See Jorge Domínguez, *Cuba Since 1959*, in CUBA: A SHORT HISTORY 119 (Leslie Bethell ed., 1993).

⁴⁶ See EVENSON, *supra* note 35, at 179 (Urban Reform Law of October 14, 1960, converted private rental housing into a public service). In 1984, the property laws were reformed to transform occupants of public housing into the owners of the units in which they resided. See ZATZ, *supra* note 15, at 21 (explaining that the 1984 *Ley de Viviendas* and its 1988 modification made Cubans the owners of their homes).

⁴⁷ See Gayle McGarrity, *Cubans in Jamaica: A Previously Neglected Segment of the Cuban Diaspora*, 42 CARIBBEAN Q., Mar. 1996, at 55, 67.

⁴⁸ See EVENSON, *supra* note 35, at 110.

in the junior high schools.⁴⁹ Education experts note that the quality of teaching and equipment are superior in the elite high schools where white Cubans predominate.⁵⁰

More telling, perhaps, is that despite the large demographic proportion of Blacks in Cuba, they are not represented in the ranks of government leadership.⁵¹ In fact, the proportion of Afro-Cubans in high positions has diminished from the already-low levels of the 1960s and 1970s.⁵² The decrease in Afro-Cuban leaders is particularly noteworthy given the growth of the Afro-Cuban population since the universal health care coverage decline in Black infant mortality rates, and the mass exodus of tens of thousands of white Cubans immediately after the Revolution.⁵³ After the 1991 Meeting of the Fourth Congress of the Cuban Communist Party, Afro-Cubans continued to make up less than fifteen percent of the party members elevated to the Political Bureau.⁵⁴ The underrepresentation of Afro-Cubans in leadership roles similarly extends to the military, the Ministry of the Interior, and university appointments.⁵⁵

The underrepresentation of Afro-Cubans in positions of authority may at first appear puzzling when one considers that the Cuban Constitution explicitly outlaws racial discrimination and specifies the right to ascend in the hierarchy of the armed forces and other public employment sectors without regard to race.⁵⁶ But an examination of the mechanisms for selecting leaders reveals opportunities for the exercise of conscious and unconscious racial bias. For example, in the government context the highest leadership roles are filled by a selective appointment process internally within the Communist Party of Cuba ("PCC" — Partido Comunista de Cuba).⁵⁷ It is only in the lowest ranking governing entity of the Poder Popular (People's Power mass organizations) for each mu-

⁴⁹ See Fernandez, *supra* note 7, at 176.

⁵⁰ See Leiner, *supra* note 23, at 453.

⁵¹ See Gayle McGarrity & Osvaldo Cárdenas, *Cuba*, in NO LONGER INVISIBLE: AFRO-LATIN AMERICANS TODAY 97 (Minority Rights ed., 1995).

⁵² See *id.*

⁵³ See ROBIN MOORE, NATIONALIZING BLACKNESS 224 (1997).

⁵⁴ See EVENSON, *supra* note 35, at 112-13.

⁵⁵ See MOORE, *supra* note 13, at 225; Jorge I. Domínguez, *Racial and Ethnic Relations in the Cuban Armed Forces: A Non-Topic*, 2 ARMED FORCES & SOC'Y 273, 284-85 (1976) (noting that blacks are underrepresented in top military elite and officer ranks and over-represented in lowest ranking troop level).

⁵⁶ See CUBAN CONST. arts. 42-43.

⁵⁷ See Rosendahl, *supra* note 20, at 165.

nicipality⁵⁸ that delegates are popularly elected and thus provide access for Afro-Cubans' participation. But the Poder Popular's elected leadership is constrained in its role to merely execute the orders and policies of the select membership of the PCC.⁵⁹ Furthermore it was not until 1992 that the electoral law was reformed to permit direct elections for National Assembly representatives.⁶⁰

The longstanding pattern of racially biased exclusion from the ranks of socialist government leadership positions carries far-reaching implications, given the connection between the distribution of economic privileges and services and one's status in the government. Soon after the installation of the socialist government, high-ranking government officials were allocated residences in the abandoned homes of wealthy Cuban émigrés.⁶¹ Today, government leaders have their requests for larger housing units and housing relocation more quickly granted than other members of the society.⁶² Mona Rosendahl, a Swedish Social Anthropologist who recently conducted field work in Cuba, has noted that "[w]hereas political leaders at the municipal level [who are popularly elected] have few privileges, those at the national level [who are specially appointed] live rather privileged and secluded lives."⁶³

Racial bias can also be easily exercised in the controlled system for the distribution of consumer goods entitled *Los Estímulos de La Emulación Socialista* (economic incentive award program), whereby government supervisors award consumer goods at much reduced costs to "model" workers. Conflicts often arise over who is a model worker in the disbursement of merit points. Although the model worker is presumably selected based on workplace performance, commentators equate the selection process with a political favoritism, which is itself imbued with racial bias.⁶⁴ Items that are distributed under the economic incentives program include goods

⁵⁸ *Id.* at 15 n.5 ("There are 15 provinces in Cuba and between eight and twenty municipalities in each province.")

⁵⁹ *See id.* at 6-7, 82-83, 91.

⁶⁰ *See* ANTONI KAPCIA, *CUBA AFTER THE CRISIS: REVOLUTIONISING THE REVOLUTION* 16 (1996).

⁶¹ *See* Fernandez, *supra* note 7, at 80.

⁶² *See* ROSENDAHL, *supra* note 20, at 165.

⁶³ *Id.*

⁶⁴ *See* Grider, *supra* note 40, at 474; Enid Lynette Logan, *El Apostol y el Comandante en Jefe: Dialectics of Racial Discourse and Racial Practice in Cuba, 1890-1999*, in *THE GLOBAL COLOR LINE: RACIAL AND ETHNIC INEQUALITY AND STRUGGLE FROM A GLOBAL PERSPECTIVE* 195 (Pinar Batur-VanderLippe & Joe Feagin eds., 1999).

like electric fans, refrigerators, television sets, and privileges like housing relocation permits and foreign travel permits.⁶⁵

The current economic crisis has only exacerbated the prevalence of racial disparities.⁶⁶ The most dynamic sector of the economy is the tourist industry, in which well-paying jobs with access to valued foreign currency, are reserved for persons "de buena apariencia" (good looking but commonly understood as white Cubans).⁶⁷ The impact of being employed within the tourist industry is profound because it also provides access to scarce foods and consumer goods (like soap) that are extremely difficult to locate within the strained government rationing system.⁶⁸ The ability to earn extra income with foreign currency tips from tourists enables these lucky Cubans to shop for scarce foods and consumer goods within the U.S. dollar-only shops and restaurants. Therefore, being excluded from employment in the tourist sector restricts Afro-Cubans to job positions in which they are paid in the undervalued domestic currency of the peso.⁶⁹

Furthermore, it is white Cubans that overwhelmingly benefit from the ability to receive monthly foreign currency remittances from relatives outside of Cuba, because it was white Cubans that primarily fled Socialist Cuba in the 1960s and were economically positioned to succeed in the United States.⁷⁰ In contrast, the relatives of Afro-Cubans who primarily left with the Mariel boatlift in the 1980s or on handmade rafts in the 1990s did not enter the

⁶⁵ See ROSENDAHL, *supra* note 20, at 37-38.

⁶⁶ The recent scarcity of resources has seriously hampered the ability of the Cuban government to consistently maintain the redistribution programs. For instance: 1) medical institutions often run out of medicine; 2) the ration system does not have enough food to supply a healthy diet; 3) the state guarantee of employment is provided with salaries paid in the undervalued national currency which cannot compete with the prices of non-rationed foods and consumer goods; and 4) the state guarantee to shelter is hindered by the cost of scarce housing construction materials. Despite the universality of the hardships, Afro-Cubans are not as structurally well-positioned as white Cubans to survive the economic crisis. See Fernandez, *supra* note 7, at 78.

⁶⁷ See McGarrity & Cárdenas, *supra* note 51, at 77, 98, 100.

⁶⁸ See John J. Putman, *Cuba*, NAT'L GEOGRAPHIC, June 1999, at 20.

⁶⁹ The contemporary dynamic of a racially restrictive dual currency economy replicates the multiple currency economy of nineteenth-century Cuba that harmed Afro-Cubans after the War of Independence in 1898. See ALINE HELG, *OUR RIGHTFUL SHARE: THE AFRO-CUBAN STRUGGLE FOR EQUALITY, 1886-1912*, at 101 (1995) (noting that Afro-Cuban laborers were paid prewar wages in depreciated Spanish silver that could not match cost of goods graduated to value of U.S. dollar in postwar Cuba).

⁷⁰ See Pedro Perez Sarduy, *What Do Blacks Have in Cuba?* (last modified Mar. 9, 1999) <<http://www.afrocubaweb.com/WhatDoBlacks.htm>> (on file with author) (originally published in Spanish in 11 ENCUESTRO DE LA CULTURA CUBANA (1996)).

United States with the same economic ability to accumulate enough wealth to send significant sums of cash back to their Cuban relatives.⁷¹ In fact, the 1993 depenalization of hard currency which enabled Cuban exiles abroad to send U.S. dollars to their relatives in Cuba generated considerable racial hostility.⁷² Today, approximately 500 million U.S. dollars worth of familial remittances are sent to Cuban nationals each year, and as such have become an important part of the Cuban economy.⁷³

Clearly, the economic austerity of 1990s Cuba has worsened the position of Afro-Cubans, who can no longer rely upon the government guarantee of employment, shelter, or food to subsist from day to day. As in the context of African Americans “[h]istory not only teaches, but warns that in periods of severe economic distress, the rights of Black people are eroded and their lives endangered.”⁷⁴ But it is important to remember that although the current economic crisis has worsened the condition of Afro-Cubans, they were already disproportionately situated to experience the worse effects of the crisis. In other words, the low status of Afro-Cubans preceded the economic crisis and should be assessed in its own right. Despite the redistribution programs’ progress before the economic crisis, Socialist Cuba maintained a racial hierarchy that harmed Afro-Cubans.

There are two principal reasons why the opportunities to assert racial bias are consistently exercised in a nation like Cuba that is committed to a racial equality agenda: the attraction individuals have to maintaining group status, and the legacy of a long history of white supremacy. The attraction to maintaining racial hierarchy was well explained by Law and Economics scholar Richard McAdams, who theorized that “race discrimination best reveals the degree to which group status production is a powerful and perva-

⁷¹ See Silvia Pedraza, *Cuba's Refugees: Manifold Migrations*, in ORIGINS AND DESTINIES: IMMIGRATION, RACE, AND ETHNICITY IN AMERICA 263, 273-75 (Silvia Pedraza & Ruben G. Rumbaut eds., 1996).

⁷² See GILLIAN GUNN, CUBA IN TRANSITION: OPTIONS FOR U.S. POLICY 36-37 (1993).

⁷³ See Pedro Monreal, *Las Remesas Familiares en la Economía Cubana [Familial Remittances in the Cuban Economy]*, 14 ENCUENTRO DE LA CULTURA CUBANA 49, 50 (1999).

⁷⁴ Derrick Bell, *Revocable Rights and a Peoples' Faith: Plessy's Past in Our Future*, 1 RUTGERS RACE L. REV. 347, 348 (1999) (observing that during times of economic crisis Black needs become vulnerable to compromise and sacrifice).

sive fact of social life.”⁷⁵ McAdams’s status-production theory of race discrimination asserts that individuals are driven in part by their competition for esteem and that racist behavior is a process by which one racial group seeks to produce esteem for itself by lowering the status of another group.⁷⁶ “Through allocation of intra-group status, whites induce other whites to produce inter-group status through acts of subordination.”⁷⁷ The acts of subordination can turn particularly violent when individuals want to recapture a sense of social position in the midst of social instability.⁷⁸ The status-production of race discrimination creates prestige solely because one is white. This is akin to W.E.B. Du Bois’s early articulation of a “psychological wage” that supplements the wages of low-income white workers in the United States, who receive public deference because they are white.⁷⁹

The psychological wage is such a powerful inducement that it often overrides some of the economic disadvantages of racism. For example, it has been repeatedly observed that low-income white workers frequently fail to cooperate in labor movements with other low-income workers that are nonwhite because they prefer to maintain the intangible status of whiteness even though it disserves their economic interests.⁸⁰ Cheryl Harris terms this a property interest in whiteness.⁸¹ Thus, even though racism accords tangible benefits to whites it is not purely an economic enterprise.⁸² Accordingly,

⁷⁵ Richard H. McAdams, *Cooperation and Conflict: The Economics of Group Status Production and Race Discrimination*, 108 HARV. L. REV. 1003, 1033 (1995). See generally GORDON W. ALLPORT, *THE NATURE OF PREJUDICE* (1954).

⁷⁶ See McAdams, *supra* note 75, at 1044.

⁷⁷ *Id.* at 1050.

⁷⁸ See *id.* at 1052.

⁷⁹ See W.E.B. DU BOIS, *BLACK RECONSTRUCTION IN AMERICA* 700 (1935).

⁸⁰ See DAVID R. ROEDIGER, *TOWARDS THE ABOLITION OF WHITENESS: ESSAYS ON RACE, POLITICS, AND WORKING CLASS HISTORY* 29, 63, 191-92 (1994); DAVID R. ROEDIGER, *THE WAGES OF WHITENESS* 13 (1991) (discussing how racial privileges conferred by whiteness can motivate subordinated and exploited whites to overlook their exploitation by other whites).

⁸¹ See Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1709, 1760 (1993); see also Derrick Bell, *Property Rights in Whiteness: Their Legacy, Their Economic Costs*, in *CRITICAL RACE THEORY: THE CUTTING EDGE* 75, 81 (Richard Delgado ed., 1995) (discussing historical argument for property right in whiteness).

⁸² See MANNING MARABLE, *BEYOND BLACK AND WHITE: TRANSFORMING AFRICAN-AMERICAN POLITICS* 89 (1995) (“The impetus for racism is not narrowly ‘economic’ in origin.”); see also GEORGE LIPSITZ, *THE POSSESSIVE INVESTMENT IN WHITENESS: HOW WHITE PEOPLE PROFIT FROM IDENTITY POLITICS* vii (1998). Lipsitz noted that:

Whiteness has a cash value: it accounts for advantages that come to individuals through profits made from housing secured in discriminatory markets, through

McAdams's explanation of the status-production theory notes that "[p]eople have a loyalty to groups that goes beyond what serves their narrow pecuniary self-interest."⁸³

An application of the status-production theory to the Cuban context elucidates part of the power of racial privilege in a society that has seemingly abolished class-based hierarchy.⁸⁴ With Socialist Cuba's official eradication of the ability to garner esteem through the group-based status of socioeconomic class, racial privilege is one of the most accessible mechanisms for garnering esteem. Racial privilege is accessible because no talent or merit is needed before becoming a member of the favored group. It is as Sartre said of anti-Semitism, "a poor man's snobbery."⁸⁵

Race-based status production also perfectly suits the longstanding Cuban and Latin American ideology of "adelantando la raza a través de blanqueamiento" (improving the race through whitening). In this ideology nonwhites can aspire to racial privilege by seeking partners that are lighter than they are and producing children that might also be light enough to move up the race and color hierarchy from Black to Mulatto, and then to white.⁸⁶ Whereas the Horatio Alger ideology informs Blacks in the U.S. that they can achieve economic and social parity with whites by working hard and being thrifty, Cuban racial ideology informs Afro-Cubans

the unequal educations allocated to children of different races, through insider networks that channel employment opportunities to the relatives and friends of those who have profited most from present and past discrimination, and especially through intergenerational transfers of inherited wealth that pass on the spoils of discrimination to succeeding generations.

Id.

⁸³ See McAdams, *supra* note 75, at 1084.

⁸⁴ The Cuban context also undermines Richard Epstein's critique of the status-production of race theory for under-appreciating the ability of a free market to overcome racial bias. See generally Richard A. Epstein, *The Status-Production Sideshow: Why the Antidiscrimination Laws Are Still a Mistake*, 108 HARV. L. REV. 1085 (1995). After Cuba's totalitarian control of the economy relaxed to permit foreign investment, privately owned restaurants, and the promotion of the tourism industry, the introduction of these free-market reforms were accompanied by "white-only" hiring preferences that were not imposed by the government. See KAPCIA, *supra* note 60, at 6-8 (describing Cuba's recent economic reforms). In short, racism has a force of its own that asserts itself in both controlled markets and free markets.

⁸⁵ JEAN-PAUL SARTRE, *ANTI-SEMITE AND JEW* 26 (1960).

⁸⁶ See Sabrina Gledhill, *The Latin Model of Race Relations*, in MOORE, *supra* note 13, at 355. Skin color-based hierarchies have also existed in regions besides Latin America such as British, French, and Dutch Guyana, Curaçao, Guadeloupe, Haiti, Jamaica, Martinique, and Trinidad among others. See HARMANNUS HOETINK, *SLAVERY AND RACE RELATIONS IN THE AMERICAS* 41-47 (1973).

to patiently await the moment that they can be “blanco o casi blanco” (white or almost white) themselves.⁸⁷ Thus, despite the fact that many are purposely excluded by a system of racial privilege the possibility of ascending the color hierarchy ensnares Afro-Cubans to endorse white privilege.⁸⁸

Exacerbating the appeal of using a race-based method of status-production is the Cuban legacy of racial bias which is a dynamic part of contemporary Cuban socialization. For example, in a 1994 ethnographic study, seventy-five percent of white Cubans and seventy-five percent of Mulattos surveyed embraced the importance of status enhancement through ascendancy in a color hierarchy.⁸⁹ As a result, these same persons surveyed indicated that they would disapprove of their children participating in intimate relationships with persons that were darker than themselves.⁹⁰ The study also revealed that seventy percent of whites and Mulattos interviewed felt that Black Cubans engaged in delinquent behavior and rarely worked.⁹¹ A cultural anthropologist conducting research in Cuba in the early 1980s also noted that whites view “Black culture” as the causation of Black Cuban poverty.⁹² The white Cubans questioned described the problematic aspects of Black culture as lack of importance placed on education, propensity for violence and crime, and lack of discipline.⁹³ Of course such dispersions of Black culture are belied by the extraordinary numbers of Afro-Cubans that pursued higher education when the socialist government abolished private schooling and committed its resources to expanding access to quality public education.⁹⁴ Furthermore, those that seek to rely upon Black culture as an explanation of Afro-Cuban social status,

⁸⁷ See Gledhill, *supra* note 86, at 355.

⁸⁸ See McGarrity, *supra* note 47, at 75 (providing anecdotal evidence of racist attitude of light-skinned mulatto Cubans); see also ABBY L. FERBER, *WHITE MAN FALLING: RACE, GENDER, AND WHITE SUPREMACY* 7 (1998) (“The power of ideology comes from its power to define what it does and does not make sense to say, the power to define knowledge and reality.”).

⁸⁹ See McGarrity, *supra* note 47, at 64-65.

⁹⁰ See *id.*; see also Fernandez, *supra* note 7, at 190-227 (detailing parental and peer pressure targeted against interracial couples in Cuba); Kevin R. Johnson, *Racial Mixture, Identity Choice, and Civil Rights*, *CIVIL RIGHTS J.* 44, 45 (1998) (observing sociopolitical aspects of choosing intimate partner).

⁹¹ See McGarrity, *supra* note 47, at 64-65.

⁹² See *id.* at 67.

⁹³ See *id.*

⁹⁴ See EVENSON, *supra* note 35, at 110 (“The closing of private schools in 1961 and the public investment in public education were extremely important to the process of rectifying racial inequality.”).

often fail to consider the documented relevance of racially selective criminal prosecution and enforcement.⁹⁵ Yet Cubans persist in relying upon racially biased explanations of poverty to such a large extent, that even after Afro-Cuban slum dwellers are relocated to markedly improved low-cost housing, they continue to be stigmatized as slum dwellers.⁹⁶

It should be noted, though, that the ideology of “blanqueamiento” which denigrates connections to African ancestry is not a philosophy that the socialist government in Cuba constructed, but has been a part of much of Latin America’s historical approach to race relations.⁹⁷ In fact, a brief review of Cuba’s historical construction of racial ideology is also useful in demonstrating how racial disparities continue to exist in a nation that has actively pursued substantive economic equality. History shows that the Cuban nation-state like many Latin American countries pursuing a nation-building project, has consistently framed considerations of race to be socially divisive, while simultaneously subordinating persons of African ancestry through the use of the “blanqueamiento” ideology and otherwise.⁹⁸ Indeed, the “blanqueamiento” — whitening ideology has been an implicit and sometimes explicit part of Latin American nationalism that has perceived race-consciousness as a threat to nationalist sovereignty.⁹⁹ Examining Cuba’s historical context dispels the notion that the socialist government chose a class-based approach to remedy exist-

⁹⁵ See McGarrity & Cárdenas, *supra* note 51, at 101 (concluding that greater level of police repression targeted against Afro-Cubans accounts for estimated 70% of Cuban prison population that is Black); Jody Benjamin, *Police Racism Flourishes in Castro’s ‘Workers Paradise,’* L.A. DAILY J., May 21, 1992, at 6 (describing consistent harassment by Cuban police experienced by African American journalist and other Afro-Cuban residents he interviewed).

⁹⁶ See BUTTERWORTH, *supra* note 19, at 29, 67.

⁹⁷ See VERENA MARTÍNEZ ALIER, MARRIAGE, CLASS AND COLOR IN NINETEENTH-CENTURY CUBA: A STUDY OF RACIAL ATTITUDES AND SEXUAL VALUES IN A SLAVE SOCIETY 91-99 (1974); *Blackness in Latin America and the Caribbean: Social Dynamics and Cultural Transformations*, in 2 EASTERN SOUTH AMERICA AND THE CARIBBEAN 7-9 (Arlene Torres & Norman E. Whitten, Jr., eds., 1998). During Spanish colonial rule of Cuba the “blanqueamiento” ideology was institutionalized into Spanish law, permitting upper-class Mulattos to purchase the rights of whiteness. See James F. King, *The Case of Jose Ponciano de Ayarza: A Document on Gracias al Sacar*, 32 HISPANIC AM. HIST. REV. 640, 643 (1951).

⁹⁸ See ARTHUR P. WHITAKER & DAVID C. JORDAN, NATIONALISM IN CONTEMPORARY LATIN AMERICA 166 (1966).

⁹⁹ See *Blackness in Latin America and the Caribbean: Social Dynamics and Cultural Transformations*, *supra* note 97, at 7-8.

ing racial disparities solely because of its socialist ideology.¹⁰⁰ In actuality the de-emphasis of race has long been a part of Cuba's national ideology.¹⁰¹

II. CUBA'S HISTORY OF RACE SUBORDINATION AND COLORBLIND NATIONALISM

Cuban legal scholar Alejandro de la Fuente has observed that the view of race-based analysis as inherently divisive dates at least as far back to nineteenth century Cuba's struggle for independence from Spain, and continued into the Republican government initiated after Cuba obtained its independence from Spain in 1898.¹⁰² For instance, in the nineteenth century Cuban campaign for independence from Spain, race was viewed as a divisive issue that had to be discouraged at all costs.¹⁰³ None other than Independence hero José Martí wrote in 1893:

To insist on the divisions into race, on the difference of race . . . is to make difficult both public and individual enterprises [T]he Negro who proclaims his racial character . . . authorizes and brings forth the white racist . . . Two racists would be equally guilty, the white racist and the Negro¹⁰⁴

In other words, the independence movement viewed national unity as incompatible with racial identity. In fact, any desire for Afro-Cubans to voice race-based grievances was rejected outright as un-Cuban and thus unpatriotic.¹⁰⁵ Yet, white Cubans were overtly racially prejudiced against Afro-Cuban troops,¹⁰⁶ who made up almost half of the enlisted ranks of the Liberation Army and an estimated forty percent of the senior commissioned ranks.¹⁰⁷ Furthermore, a

¹⁰⁰ At the same time it is important to note that Marxist theory has long been criticized for its de-emphasis of race in its analysis of class oppression. See CRUSE, *supra* note 1, at 151.

¹⁰¹ See Richard R. Fagen, *Continuities in Cuban Revolutionary Politics*, in THE CUBA READER: THE MAKING OF A REVOLUTIONARY SOCIETY, *supra* note 23, at 51, 56-57.

¹⁰² See Alejandro de la Fuente, *Race, National Discourse, and Politics in Cuba: An Overview*, LAT. AM. PERSP., May 1998, at 43, 44.

¹⁰³ See *id.* at 44-45.

¹⁰⁴ *Id.* at 44 (quoting Martí). Martí thought that Afro-Cubans would "rise" to the level of whites through intermarriage with whites and by rejecting their African heritage in favor of Western culture. See HELG, *supra* note 69, at 45.

¹⁰⁵ See de la Fuente, *supra* note 102, at 45.

¹⁰⁶ See generally LESLIE B. ROUT, JR., THE AFRICAN EXPERIENCE IN SPANISH AMERICA (1976).

¹⁰⁷ See Louis A. Pérez, Jr., *Politics, Peasants, and People of Color: The 1912 "Race War" in Cuba Reconsidered*, 66 HISPANIC AM. HIST. REV. 509, 511 (1986).

number of separatist leaders planned to maintain a white hierarchy of privilege after independence was achieved because their interest was to end Spanish rule, not to destroy the colonial order.¹⁰⁸ For instance, after war hero José Maceo rose to the rank of brigadier general, he seriously considered retiring because of his white subordinates' negative focus upon his African ancestry. In a letter to the provisional president, Maceo stated that he understood "that a small circle exists who . . . did not wish to serve under the orders of the speaker [Maceo] . . . because they are opposed to, and have their sights on men of color above white men."¹⁰⁹ Even though Afro-Cubans were instrumental in the Cuban independence movement against Spain, the Cuban elite continued to view them as inferior and subordinate to whites. One Cuban scholar notes that the "main reason for the political immobility of a class that shouldered years of accumulated grievances against colonial rule was its fear of blacks."¹¹⁰

Once Cuba formally achieved independence in 1898, not only did race continue to be silenced to construct a national unity, but whiteness was explicitly promoted as a method for advancing the country and sabotaging the economic mobility of Afro-Cubans.¹¹¹ Influential intellectuals advocated for the physical elimination of the Black population as a mechanism for advancing the status of the new republic.¹¹² Census figures were distorted to report a decreasing population of Afro-Cubans,¹¹³ and new legislation appropriated one million dollars for the sole purpose of promoting European immigration.¹¹⁴ The Republican government facilitated the massive immigration of white workers and their families as an

¹⁰⁸ See HELG, *supra* note 69, at 71-72.

¹⁰⁹ Rafael Duharte Jiménez, *The 19th Century Black Fear*, in *AFROCUBA: AN ANTHOLOGY OF CUBAN WRITING ON RACE, POLITICS AND CULTURE* 37, 43 (Pedro Perez Sarduy & Jean Stubbs eds., 1993).

¹¹⁰ *Id.* at 39.

¹¹¹ See Alejandro de la Fuente, "With All and for All," *Race, Inequality and Politics in Cuba: 1900-1930*, at 44-112 (1996) (unpublished Ph.D. dissertation, University of Pittsburgh) (on file with author).

¹¹² See Aline Helg, *Race in Argentina and Cuba, 1880-1930: Theory, Policies, and Popular Reaction*, in *THE IDEA OF RACE IN LATIN AMERICA, 1870-1940*, at 37, 47 (1990).

¹¹³ See ROUT, *supra* note 106, at 306. It is interesting to note that Cuba employed an overt white immigrant preference in its immigration system long before the United States did the same with the National Origins Quota Act of 1924. See Immigration Act of 1924, ch. 190, 43 Stat. 153 (1924) (restricting immigration based on national origin and quotas to favor white European immigrants).

¹¹⁴ See ROUT, *supra* note 106, at 303.

other facet of the blanqueamiento ideology.¹¹⁵ Land and resources were specifically offered to white immigrants to encourage their permanence.¹¹⁶ Indeed, between 1902 and 1931, forty percent of all immigrants were white Spaniards,¹¹⁷ and between 1902 and 1912 an estimated 250,000 Spaniards emigrated to Cuba despite Spain's former position as colonial oppressor.¹¹⁸ Immigrants from Haiti and Jamaica, in contrast, were viewed as guest workers, who should return to their countries of origin after each sugar harvest,¹¹⁹ and accordingly many of the Black contract workers that remained in the country were forcibly expelled during the Great Depression in the 1930s.¹²⁰

Census data from the periods 1899-1943 reflects the overrepresentation of Blacks in the lowest and worst paid sectors of the economy, such as agriculture and personal services.¹²¹ During this time, Afro-Cubans were also systematically excluded from the academic and electoral processes.¹²² When disaffected Afro-Cubans attempted to form their own political party, entitled "el Partido Independiente de Color," its leaders were arrested and prosecuted for allegedly conspiring to impose a "Black dictatorship."¹²³ The Cuban senate then passed legislation known as the Morúa law, prohibiting the formation of political parties along racial lines.¹²⁴ When the Black party organized a political protest to repeal the Morúa law, the government suppression, in what came to be called the "Race War of 1912," was violent and massive.¹²⁵ Afro-Cuban protesters demonstrated their frustration with their poor economic status by damaging property, including sugar mills and company stores. Although the protest focused on damaging property and not harming individuals, the Cuban armed forces retaliated by kill-

¹¹⁵ See de la Fuente, *supra* note 111, at 44-112.

¹¹⁶ See MOORE, *supra* note 13, at 30.

¹¹⁷ See Alejandro de la Fuente, *Race and Inequality in Cuba, 1899-1981*, 30 J. CONTEMP. HIST. 131, 144 (1995).

¹¹⁸ See Pérez, *supra* note 107, at 527.

¹¹⁹ See *id.* at 524.

¹²⁰ See de la Fuente, *supra* note 117, at 144.

¹²¹ See *id.* at 155.

¹²² See Helg, *supra* note 112, at 53.

¹²³ Aline Helg, *Race and Black Mobilization in Colonial and Early Independent Cuba: A Comparative Perspective*, 44 ETHNOGRAPHY 53, 63 (1997).

¹²⁴ See Luis E. Aguilar, *Cuba, c. 1860 - c. 1930*, in CUBA: A SHORT HISTORY, *supra* note 45, at 21, 44.

¹²⁵ See HELG, *supra* note 69, at 193.

ing Afro-Cubans and Haitian contract workers indiscriminately.¹²⁶
One Afro-Cuban scholar recalled:

I still remember how I listened, wide-eyed and nauseated, to the stories — always whispered, always told as when one is revealing unspeakable secrets — about the horrors committed against my family and other blacks during the racial war of 1912. . . . Chills went down my spine when I heard stories about blacks being hunted day and night; and black men being hung by their genitals from the lamp posts in the central plazas of small Cuban towns.¹²⁷

A direct observer has also noted that the army “was cutting off heads, pretty much without discrimination, of all Negroes found outside the town limits.”¹²⁸ The government repression was violent and extensive because the creation of an all-Black political party threatened the race-less paradigm on which Cuban nationalism was constructed.¹²⁹ This may also account for the onslaught of white civilian volunteers, who formed militias and offered their services “to defend the government” against Afro-Cuban political protesters.¹³⁰ Thus, a decade after independence found Afro-Cubans in worsened economic conditions and with no improvements in political participation for which they had fought the Spaniards.

The remainder of this century has witnessed a further entrenchment of white supremacy within Cuban society along with the continued promotion of a race-less nationalism. By the 1930s Afro-Cubans were prevented from joining the navy or air force officer corps, and were formally excluded from such trades as baking and pastry making.¹³¹ Public beaches, parks, restaurants, cabarets and yacht clubs remained racially segregated by custom.¹³² The Cuban media praised lynchings of Afro-Cubans as “progressive manifestation of Cubans’ North Americanization,” in what was interpreted as an imitative tribute to United States Jim Crow tactics designed to garner favor with the United States, rather than being

¹²⁶ See Pérez, *supra* note 107, at 537.

¹²⁷ Casal, *supra* note 9, at 12.

¹²⁸ Pérez, *supra* note 107, at 537.

¹²⁹ See de la Fuente, *supra* note 102, at 55.

¹³⁰ See HELG, *supra* note 69, at 203.

¹³¹ See ROUT, *supra* note 106, at 305.

¹³² See *id.* at 305.

an example of Cuba's native white supremacy.¹³³ Meanwhile, Cuban leaders began to characterize the country as a mulatto and mestizo nation in order to provide an explanation abroad for the presence of Cuba's many dark-skinned residents and obviate the classification of a "Black nation." The mulatto nation characterization necessitated the continued rejection of Afro-Cuban identity movements because the construction of the mulatto-culture characterization of Cuba makes Afro-Cubanness a socially contested site of identification. A self-proclaimed Afro-Cuban is a menace to the national paradigm of all Cubans being the same because they all share the same mixed-race cultural heritage. So while simultaneously taking public pride in the mixed-race cultural heritage of the country, Cuba discouraged Black identity in order to promote one homogeneous national identity. But the nationalism movement left unaddressed the existing racially determined social, economic and political hierarchies.¹³⁴ The race-deflection dynamic continued through Batista's rule of Cuba in the 1950s. Afro-Cuban scholar Lourdes Casal noted:

One of the most pervasive features which I found in the dominant pre-revolutionary racial ideology was the unwillingness to discuss racial issues. This taboo was linked to a tendency — among whites — to minimize Cuban racism and among blacks to accept racism as a fact of life which you simply tried to circum-

¹³³ Helg, *supra* note 112, at 56. Although some commentators attribute Cuban segregation policies to the work of the United States occupation forces and the continuing influence of the United States, Cuba had a long history of racism that complemented the race-based intervention of the United States. See NANCY LEYS STEPAN, "THE HOUR OF EUGENICS: RACE, GENDER, AND NATION IN LATIN AMERICA 174 (1991). Post-slavery 19th-century Spanish-ruled Cuba had an entrenched de facto system of segregation that did not require legal enforcement. See HELG, *supra* note 69, at 25. Prisons and hospitals, for example, had one section for whites that included Chinese and another for Blacks and Mulattos, and all theater seats except for that of the gallery were whites-only. See *id.* Further, exclusive hotels were whites-only, and many other places of public accommodation often refused to serve Blacks and Mulattos. See *id.* In fact, when U.S. planters and the U.S. Chamber of Commerce in Havana wanted to increase the numbers of immigrants from Haiti, Jamaica, Barbados, and other Caribbean islands to work the sugar plantations of Cuba in the 1910s, the native Cuban government was in opposition and accused the United States of being more concerned with the cost of sugar than with the racial and cultural future of Cuba. See de la Fuente, *supra* note 102, at 51-52.

¹³⁴ The failings of Cuba's nationalism project to overcome the problem of racism contravenes U.S. proposals to solve racism by submerging racial identities to a more forceful "American" vision. See generally JIM SLEEPER, LIBERAL RACISM (1997) (discussing inclusion of Blacks by imploding notions of "Blackness" and of "whiteness").

vent or avoid [by marrying the right/white person pursuant to the ideology of blanqueamiento.]¹³⁵

The race discourse taboo which persisted through Batista's rule coexisted with extreme racial stratification and de facto racial segregation.¹³⁶ In short, a Black racial identity has been historically subverted in Cuba to promote a uniform national identity that has masked racial privilege while simultaneously thwarting the mobilization of racial justice movements that could improve the status of Afro-Cubans. When the Cuban Revolutionary Party ascended to government in 1959, it inherited the race-deflection ideology along with the legacy of racial prejudice.

Even though Fidel Castro often stated that racial discrimination would disappear with egalitarian class reforms because racial inequality was merely a byproduct of class divisions, he has begun to slowly move away from that position. In the 1997 Meeting of the Fifth Congress of the Cuban Communist Party, Castro acknowledged that Blacks and women (of all races one presumes) were underrepresented in the leadership of the government and the state.¹³⁷ Similarly, Afro-Cubans believe that employment discrimination is pervasive and that they are not welcome in all social spaces.¹³⁸

There is increasing recognition that historic economic factors have left black Cubans among the poorest sectors, even today when opportunities are opened to all regardless of race. Because of these factors, blacks have had less chance of gaining the privi-

¹³⁵ See Casal, *supra* note 9, at 13.

¹³⁶ See LOUIS A. PÉREZ, JR., CUBA BETWEEN REFORM AND REVOLUTION 307 (2d ed. 1995). Pérez noted that:

In the main Afro-Cubans occupied the lower end of the socio-economic order. Almost 30 percent of the population of color over twenty years of age was illiterate. Blacks tended to constitute a majority in the crowded tenement dwellings of Havana. They suffered greater job insecurity, more unemployment/underemployment, poorer health care, and constituted a proportionally larger part of the prison population. They generally earned lower wages than whites, even in the same industries. Afro-Cubans were subjected to systematic discrimination, barred from hotels, resorts, clubs, and restaurants.

Id.

¹³⁷ See de la Fuente, *supra* note 102, at 63.

¹³⁸ See McGarrity, *supra* note 47, at 64-65 (noting that 84% of Black Cubans surveyed in 1994 ethnographic study indicated that discrimination in employment was endemic and increasing).

leges of the professional class or of the higher-level bureaucrats (who have access to travel and other perks, even if minimal by U.S. standards).¹³⁹

The growing recognition of the continued existence of racial disparity prompted government discussion during the 1997 Meeting of the Fifth Congress of the Cuban Communist Party of an affirmative action program in which Blacks and women across race could be more directly involved in leadership positions.¹⁴⁰ The proposal for a method of numerical participation for Blacks and women dates back to the 1986 Meeting of the Third Congress of the Cuban Communist Party.¹⁴¹

But these discussions have not resulted in any direct action. The resistance to a proposal for numerical participation can be explained in part by the wariness with which some Cubans approach policies created in the United States¹⁴² given the U.S.'s longstanding antagonism to the socialist government and its economy as commenced with the embargo under the Foreign Assistance Act of 1961.¹⁴³ But more importantly, there is a concern that such measures are contrary to the egalitarian goals of the Revolution insofar as they make race an issue.¹⁴⁴ In fact, one commentator has noted that Fidel Castro may be the lone voice promoting racial advancement amidst a more conservative party leadership¹⁴⁵ and that Castro's concern with a possible backlash and exodus by disgruntled white Cuban residents has slowed down his implementation of a more forceful racial justice program.¹⁴⁶ The public denials of racism in Cuba by government officials certainly indicate that there is

¹³⁹ EVENSON, *supra* note 35, at 113.

¹⁴⁰ See de la Fuente, *supra* note 102, at 63.

¹⁴¹ See *id.* at 62.

¹⁴² See Gisela Arandia Covarrubias, *Strengthening Nationality: Blacks in Cuba*, 12 CONTRIBUTIONS IN BLACK STUD. 62, 68 (1994) ("I believe that the problems of the Blacks in Cuba can be resolved only within the space of their own nation, and not outside.").

¹⁴³ See 22 U.S.C. § 2370(a)(1) (1994); see also Cuban Democracy Act of 1992, 22 U.S.C. §§ 6001-10 (1994) (prohibiting foreign subsidiaries of U.S. companies from trading with Cuba and empowering President to sanction nations granting aid to Cuba); Cuban Liberty and Democratic Solidarity Act of 1996, 22 U.S.C. §§ 6021-24 (Supp. II 1996) (permitting U.S. nationals to file claims in U.S. federal court against persons "trafficking" in Cuban socialist government seized property); Cuban Assets Control Regulations of 1962, 31 C.F.R. §§ 515.10-515.901 (1994).

¹⁴⁴ See Casal, *supra* note 9, at 21; de la Fuente, *supra* note 102, at 62-63.

¹⁴⁵ See James Early, *Talking Race in the Revolution* (last modified Mar. 4, 1999) <http://www.afrocubaweb.com/JamesEarly.htm> (on file with author).

¹⁴⁶ See Moore, *supra* note 30, at 19.

no official consensus regarding Cuban race issues.¹⁴⁷ Rather, there continues to be a reluctance to address the racial disparities as a racial bias problem because of the perception that the discussion of race is divisive and destructive to the Cuban national identity. In other words, overt considerations of race are still viewed as divisive, and thus taboo. Gisela Arandia Covarrubia, a highly regarded Afro-Cuban scholar, promoted the strengthening of "nationality" as a solution to the continuing racial disparities because a method of numerical participation could produce adverse reactions in the population.¹⁴⁸ No adverse reactions, however, have been evident in the Cuban use of affirmative action for women in employment.¹⁴⁹ Cuban legal specialist Debra Evenson noted that despite the existence of parallel systems for redressing complaints of discrimination of gender and race, it is only gender bias claims which are publicly brought.¹⁵⁰ The contrast between the existence of gender-bias claims and the absence of race-bias claims is especially stark when one considers that the socialist government's abolition of the private practice of law for the creation of a system of law collectives for lawyers has made public access to legal counsel relatively easy and inexpensive.¹⁵¹ Furthermore, a large number of the law collective attorneys are white women and a large percentage of law students are white women.¹⁵² Thus, despite the hardships that white women have encountered in making the socialist revolution responsive to gender issues, as a group they have fared better than Afro-Cuban women and men alike.¹⁵³ In short, despite the pervasive use of redistribution programs designed to ameliorate the poor socioeconomic status of Afro-Cubans in particular, racial dis-

¹⁴⁷ See Radio Havana Cuba, *Carlos Lage Delivers Speech at the Geneva-Based United Nations Human Rights Commission* (visited Mar. 13, 2000) <<http://www.radiohc.org>> (on file with author) (speaking before 55th session of United Nations Human Rights Commission in Geneva, Cuban ambassador Carlos Lage asserted that, in contrast to United States, racial discrimination does not exist in Cuba).

¹⁴⁸ See Gisela Arandia Covarrubia, *One Way to Strengthen Nationality — A Panorama of Afro-Cuban Culture and History* (last modified Jan. 31, 1999) <<http://www.afrocubaweb.com/Arandia-art.htm>> (on file with author).

¹⁴⁹ See EVENSON, *supra* note 35, at 99.

¹⁵⁰ See *id.* at 98, 112.

¹⁵¹ See Raymond J. Michalowski, *Between Citizens and the Socialist State: The Negotiation of Legal Practice in Socialist Cuba*, 29 L. & SOC'Y REV. 65, 74-75 (1995) (describing 1973 abolition of private practice of law and its replacement with "bufetes colectivos" system of self-financed law collectives for purpose of ensuring universal public access to legal services).

¹⁵² See *id.* at 81.

¹⁵³ See Debra Evenson, *Women's Equality in Cuba: What Difference Does a Revolution Make?*, 4 L. & INEQ. J. 295 (1986).

parities continue to exist in part because the class-based approach chosen continues the colorblind historical subordination and makes Afro-Cuban identity and identity movements socially contested.

III. THE INTERCONNECTIONS BETWEEN RACE AND CLASS

This Article's exploration of the Cuban context demonstrates that addressing race problems solely as class problems does not entirely confront the complexities of racial subordination.¹⁵⁴ This is because a class-based approach to racial disparities cannot appreciate the investment that favored individuals have in the norm of race-based privilege. If racial disparities continue to exist in a nation like Cuba that has committed extensive resources to ensuring substantive economic equality for its residents, it is unlikely that a more modest program of class-based affirmative action could alleviate racial disparity in the United States. Like Cuba, the United States has a long legacy of racial bias and discrimination, and is no less subject to the lure of race-based esteem acquisition. In both contexts, race and class are linked, and one aspect cannot be addressed without acknowledging the other.

Indeed, some scholars assert that the public discourse which pits race against class as a mode of analysis presents a false debate.¹⁵⁵ For instance, those that do focus on class as the culprit of racial disparity often refer to the existence of a U.S. Black middle class as a justification for their colorblind perspective.¹⁵⁶ The analysis connects the ability of a Black middle class to exist with the power of

¹⁵⁴ See Frances Lee Ansley, *Stirring the Ashes: Race, Class and the Future of Civil Rights Scholarship*, 74 CORNELL L. REV. 993, 1073 (1989) (urging civil rights scholars to commit themselves to dealing interrelatedly with race and class in order to fully understand white supremacy); Richard Delgado, *The Ethereal Scholar: Does Critical Legal Studies Have What Minorities Want?*, 22 HARV. C.R.-C.L. L. REV. 301, 320 (1987) ("It is not enough to subsume racism under some other category, such as class struggle, that fails to understand racism's subtlety and complexity.").

¹⁵⁵ See MARABLE, *supra* note 82, at 89.

¹⁵⁶ See WILLIAM JULIUS WILSON, *THE DECLINING SIGNIFICANCE OF RACE: BLACKS AND CHANGING AMERICAN INSTITUTIONS* 150 (1978) ("[C]lass has become more important than race in determining black life chances in the modern industrial period" because middle class Blacks with skills are better able to be successful than low-income non-skilled Black workers). *But see* STEPHEN STEINBERG, *TURNING BACK: THE RETREAT FROM RACIAL JUSTICE IN AMERICAN THOUGHT AND POLICY* 148 (1995) ("Wilson falls into the familiar trap of assuming that the postindustrial economy is based primarily on an educated and skilled work force. While this holds true for some jobs in a few fast-growing areas of technology, most jobs in the service sector are notable for *not* requiring much education and skills.").

class status to be more determinative of one's life chances than is race. But the very growth of a Black middle class is due in no small part to the race-conscious affirmative action programs institutionalized in the 1970s.

Furthermore, the Black middle class's continued exposure to racial discrimination despite their economic success illustrates the way in which economic status alone does not transcend the problems of race. For example, racially comparative studies of the middle class demonstrate that the Black middle class is less financially secure than the white middle class.¹⁵⁷ At the same time it is accurate to state that the Black middle class is better off than low-income Blacks just as the white middle class is better off than low-income whites.¹⁵⁸ More pertinent, though, is the fact that the race-conscious social programs that facilitated the expansion of a Black middle class from its historically small proportions,¹⁵⁹ also improved the status of low-income Blacks. Many blue-collar industries were not racially integrated until race-based affirmative action programs were implemented.¹⁶⁰ For example, the representation of Blacks more than doubled from 1960 through 1990 in the blue-collar occupations of telephone operators, aircraft mechanics, firefighters, and electricians.¹⁶¹ It is a misapprehension to view race-conscious affirmative action programs as misplaced because they only benefit middle class Blacks when in point of fact they also have benefited low-income Blacks. Furthermore, it is inappropriate to fault race-based affirmative action programs for not achieving what they were

¹⁵⁷ See Deborah C. Malamud, *Affirmative Action, Diversity, and the Black Middle Class*, 68 U. COLO. L. REV. 939, 967-87 (1997) (noting that Black middle class is less secure than white middle class when these social factors are considered: housing segregation, prestige of job classification, income security, educational bias, wealth accumulation, and intergenerational status transmission).

¹⁵⁸ See Alex M. Johnson, Jr., *How Race and Poverty Intersect to Prevent Integration: Destabilizing Race as a Vehicle to Integrate Neighborhoods*, 143 U. PA. L. REV. 1595, 1602 (1995). Johnson further posited that there are circumstances under which an elevated socio-economic class assists Blacks circumvent some of the harsh effects of racism, as when real estate agents distinguish wealthy Blacks from the stereotypes of Blacks when facilitating their ability to integrate a white neighborhood. See *id.* at 1616.

¹⁵⁹ See MANNING MARABLE, *HOW CAPITALISM UNDERDEVELOPED BLACK AMERICA: PROBLEMS IN RACE, POLITICAL ECONOMY AND SOCIETY* 140 (1983) (noting that Black propertied elite emerged before Civil War). Census figures show that the size of the Black middle class more than doubled between 1965 and 1974. See DERRICK BELL, *RACE, RACISM AND AMERICAN LAW* 902 (3d ed. 1992).

¹⁶⁰ See STEINBERG, *supra* note 156, at 147-48.

¹⁶¹ See ANDREW HACKER, *TWO NATIONS: BLACK AND WHITE, SEPARATE, HOSTILE, UNEQUAL* 113 (1992); STEINBERG, *supra* note 156, at 166.

never designed to do — in effect, obliterate socioeconomic distinctions.¹⁶² Rather, race-based affirmative action programs have only sought to diminish the racial disparity within each socioeconomic class.

Some scholars have critiqued the existing race-based affirmative action programs for being too narrowly drawn to actually change the unequal class and power dynamics that exist across race.¹⁶³ But the inquiry I have pursued in my examination of the Cuban context is more modest, although no less complex — that is, what are the race and class connections that disproportionately place Blacks in poverty, and secondarily what accounts for the perpetual subordination of Blacks within each economic class.¹⁶⁴ Socialist Cuba sought to obviate the need for such questions by obliterating all economic class differentials and still racial disparity persists. Indeed, Marxist theory has been criticized for discounting the significance of race as a factor in subordination and for alternatively viewing racial oppressors as a classless monolith of whites.¹⁶⁵

Derrick Bell offers a more racially centered explanation of capitalist economic exploitation. He posits that the capitalistic class structure has maintained itself by placating low-wage whites with the subordination of Blacks.¹⁶⁶ Similarly, Herbert Hill notes that “through the rationalization of labor costs, the greater rate of exploitation of the black worker subsidizes the higher wages of the

¹⁶² See MARABLE, *supra* note 82, at 88 (“Affirmative action has always had a distinct and separate function from antipoverty programs.”).

¹⁶³ See *id.*

¹⁶⁴ See BELL, *supra* note 159, at 807 (stating that Blacks in United States are over three times as likely than whites to live in poverty); Thomas F. Pettigrew, *The Changing, but Not Declining, Significance of Race*, 77 MICH. L. REV. 917, 920 (1979) (book review) (“[T]he black poor are far worse than the white poor, and the black middle class still has a long way to catch up with the white middle class in wealth and economic security.”). But Frances Ansley observes that ultimately a vision of racially equal economic stratification should give way to a more expansive notion of economic justice that seeks to diminish all economic disparities. See Ansley, *supra* note 154, at 1048-50. Unfortunately, the more expansive notion of economic parity that Frances Ansley advocates is particularly utopian given the entrenched nature of capitalism and this nation’s historical resistance to radical economic reforms for the poor. See HOWARD ZINN, A PEOPLE’S HISTORY OF THE UNITED STATES: 1492-PRESENT 383, 433 (rev. ed. 1995).

¹⁶⁵ See Alan D. Freeman, *Race and Class: The Dilemma of Liberal Reform*, 90 YALE L.J. 1880, 1891-1894 (1981) (book review).

¹⁶⁶ See BELL, *supra* note 159, at 895-96, 901-906.

white worker. Employers also gain from such practices through the benefits of a labor policy that results in lower average costs."¹⁶⁷

But these are descriptions of how racism intersects with a capitalistic structure; they are not explanations of the cause of racism. Racism predates capitalism,¹⁶⁸ and as stated earlier is not always economically motivated.¹⁶⁹ Accordingly, economic reductionist explanations of racial subordination that posit a resolution to racism with the implementation of class-based reform are overly simplistic. In other words, any concerted effort to address racial subordination should examine racism's connection to class but simultaneously appreciate the way in which racial ideology adapts itself to changing economic contexts.¹⁷⁰ The Cuba-U.S. comparison illustrates this premise.

U.S. class-based reforms of the past have also demonstrated the fallacy of presuming that colorblind economic reforms overwhelmingly assist impoverished people of color. For instance, Roosevelt's New Deal legislation, which sought to stabilize the U.S. economy after the Great Depression, did succeed in reducing unemployment from 13 million to 9 million.¹⁷¹ Most Blacks, however, were purposefully ignored by New Deal programs in that they predominated in work sectors that were omitted from the government mandates for unemployment insurance, the minimum wage, social security and farm subsidies.¹⁷² In contrast, Black inclusion in Lyndon B. Johnson's war on poverty and New Society programs was used to racialize the concept of poverty.¹⁷³ Sociologist Jill Quadagno traces the demise of the War on Poverty to its links to

¹⁶⁷ Herbert Hill, *Comments on Race and Class*, NATION, Apr. 11, 1981, at 436; see also MARABLE, *supra* note 159, at 2 (elaborating on connection between capitalism and economic exploitation of Blacks).

¹⁶⁸ See GEORGE M. FREDRICKSON, *WHITE SUPREMACY* 199 (1981).

¹⁶⁹ See *supra* notes 49-57 and accompanying text (discussing under-representation of Afro-Cubans in positions of governmental authority); see also FREDRICKSON, *supra* note 168, at 209-212 (discussing consistent U.S. pattern of Black exclusion from industrialized jobs to placate low-wage white workers along with exclusion from unions); MARABLE, *supra* note 159, at 35-39 (documenting virulent racism of United States unions).

¹⁷⁰ See Ansley, *supra* note 154, at 1036 ("White supremacist regimes are, in fact, not confined to any particular political economy. They can be shown to exist in non-capitalist economies as well as in socialist ones.").

¹⁷¹ See ZINN, *supra* note 164, at 393.

¹⁷² During the New Deal reforms of the 1930s most Blacks worked as farmers, farm laborers, migrants and domestic workers. See *id.* at 394.

¹⁷³ See JILL QUADAGNO, *THE COLOR OF WELFARE: HOW RACISM UNDERMINED THE WAR ON POVERTY* 197 (1994) (interpreting war on poverty as effort to eliminate racial barriers of New Deal programs and to integrate Blacks into national political economy).

Black civil rights with programs that used federal funds to: empower community action groups run by local Black activists; provide affirmative action and job-training programs to break longstanding racial barriers to union jobs; and to provide housing subsidies to those otherwise locked into substandard housing.¹⁷⁴ The connection to Black civil rights rebounded with a backlash against the poverty programs because “[w]hites opposed them as an infringement of their economic right to discriminate against Blacks and a threat to white political power.”¹⁷⁵ In short, the War on Poverty sought to remedy the complexities of poverty with colorblind social welfare programs that included Blacks but failed to consider the racially stratified operation and justification of poverty.¹⁷⁶

One of the primary difficulties with relying upon universal race-neutral economic strategies for achieving racial justice is that such strategies fail to appreciate the way in which the very inclusion of Blacks marginalizes Blacks as “the poor” and thereby estranges whites from prioritizing the elimination of poverty. In turn, the identification of poverty with Blacks undermines public concern with poverty because Black “culture” is deemed the cause of their low economic status.¹⁷⁷ Indeed, today’s circumscribed assessments of poverty relief efforts in the U.S. have encoded Blackness as synonymous with undeserving welfare recipients.¹⁷⁸ Similarly, Afro-

¹⁷⁴ See *id.* at 28-31.

¹⁷⁵ Dorothy E. Roberts, *Welfare and the Problem of Black Citizenship*, 105 YALE L.J. 1563, 1572-73 (1996) (book review) (“Privileged racial identity gives whites a powerful incentive to leave the existing social order intact. White Americans therefore have been unwilling to create social programs that will facilitate Blacks’ full citizenship, even when those programs would benefit whites.”).

¹⁷⁶ Similarly, contemporary color-blind educational programs in Florida and Texas which select the top performers in every high school for enrollment in a state university, are superimposed upon a system of racially segregated high schools that ignores the difference in college preparation resulting from under-funded high schools. See Peter T. Kilborn, *Jeb Bush Roils Florida on Affirmative Action*, N.Y. TIMES, Feb. 4, 2000, at A1. I have N.Y.U. Law Professor Paulette Caldwell to thank for this observation.

¹⁷⁷ See STEINBERG, *supra* note 156, at 119-26 (detailing U.S. legacy of 1965 Moynihan Report which associated Blacks and more specifically the Black family with pathological and self-inflicted “culture of poverty”); McGarrity & Cárdenas, *supra* note 51, at 66-67 (describing anthropological studies of white Cuban views of “low Black culture”).

¹⁷⁸ See Roberts, *supra* note 175, at 1563. The public discourse surrounding the enactment of The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 promoted an erroneous stereotype of Blacks as the typical welfare recipients. See April L. Cherry, *Social Contract Theory, Welfare Reform, Race and the Male Sex-Right*, 75 OR. L. REV. 1037, 1040 (1996) (“Underlying the welfare reform movement generally, and the statute in particular, is the image of the typical welfare recipient as a promiscuous African American teenage girl with little or no self-control or respect for the values of the white middle class.”); Kathleen A. Kost & Frank W. Munger, *Fooling All of the People Some of the Time: 1990’s Welfare*

Cuban "low-culture" is blamed for Afro-Cubans disproportionate experience of poverty.¹⁷⁹ The increasing stratification between rich and poor in both the United States and Cuba will only further isolate Blacks as both the image and reality of poverty.¹⁸⁰ Simply put, the racialization of poverty justifies the demonization of poverty.¹⁸¹ The ideological power in racializing poverty in order to deflect attention from its systemic causes is demonstrated by the widespread usage of the tactic.¹⁸²

The concept of a pathological under-class has become the rationale for continued racism and economic injustice; in attempting to separate racial from economic inequality and in blaming family pathology for black people's condition, current ideology obscures the system's inability to provide jobs, decent wages, and adequate public services for the black poor.¹⁸³

The racialization of poverty also breeds complacency about its existence because poor whites are encouraged to view their poverty as a temporary set-back compared to what is constructed as the permanent underclass of poor Blacks.¹⁸⁴ In addition, Blacks themselves can internalize the vision of Blackness as a culture of poverty so that they dissociate from mobilizing around the concerns of the poor.

Like the Latin American racial ideology of blanqueamiento, the racialization of poverty can become so ingrained that it just seems

Reform and the Exploitation of American Values, 4 VA. J. SOC. POL'Y & L. 3, 7 (1996) ("[O]nly a tiny fraction of AFDC recipients actually match the reformers' stereotype of an adolescent, unmarried, African-American female.").

¹⁷⁹ See de la Fuente, *supra* note 111, at 13-14, 24.

¹⁸⁰ See David Gergen, *To Have and Have Less*, U.S. NEWS & WORLD REP., July 26, 1999, at 64 (stating that gap between rich and poor is widening in United States, and poverty rates have dropped very little despite current economic boom).

¹⁸¹ See John A. Powell, *Welfare Reform for Real People: Engaging the Moral and Economic Debate*, 17 LAW & INEQ. J. 211, 211-12 (1999) ("We have changed the focus on welfare from addressing the needs of the recipient and structural impediments to focusing on the apparent defects of the recipients.").

¹⁸² See Larry Catá Backer, *The Many Faces of Hegemony: Patriarchy and Welfare as a Woman's Issue*, 92 NW. U. L. REV. 327, 352 (1997) (noting that number of Asian countries have racialized concept of poverty).

¹⁸³ Margaret B. Wilkerson & Jewell Handy Gresham, *Sexual Politics of Welfare: The Racialization of Poverty*, NATION, July 24, 1989, at 126 (quoting Barbara Ommolade, single-mother college counselor).

¹⁸⁴ See PATRICIA J. WILLIAMS, *THE ROOSTER'S EGG: ON THE PERSISTENCE OF PREJUDICE 3* (1995) (noting that typical woman on welfare is young white woman with children, who is convinced she is not typical but just temporarily down on her luck).

like common sense to blame Blacks as a group for their economically subordinated status and to esteem whites as individuals for their "ability" to be successful.¹⁸⁵ The theories are also similar in their hegemonic power to value whiteness while veiling the privilege that is accorded to whiteness. That is the failing of class-based approaches to racial justice. Class-based approaches to racial justice are misplaced because they do not pierce the veil of white invisibility that shields whites from appreciating their institutionalized skin-privilege.¹⁸⁶ Hiding from whites the way in which they are complicit in the operation of racial hierarchy disinclines them from becoming agents of change.

The lack of engagement with white privilege is a fatal omission because it permits racial stratification to continue unabated, and worse still obscures white privilege in such a way that it could very well sabotage the ability to eradicate racial discrimination.¹⁸⁷ When class-based remedies are not complete correctives of racial problems, their cloak over racial hierarchy relegates Blacks to explaining their continued subjugation as a consequence of their "culture of poverty," and thereby interferes with the ability to mobilize protest against continuing racial hierarchy.¹⁸⁸ A race-blind class-based approach to racial inequality is unable to effectively address racial bias or economic stratification because it is ill equipped to unpack the interconnection between race and class that rhetorically defines poverty as Black.

¹⁸⁵ See MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES: FROM THE 1960'S TO THE 1990'S*, at 66-67 (1986) (stating that in order to consolidate hegemony, ruling groups produce ideology to pervade popular thought that comes to be considered common sense).

¹⁸⁶ See STEPHANIE M. WILDMAN, *PRIVILEGE REVEALED: HOW INVISIBLE PREFERENCE UNDERMINES AMERICA* 180 (1996).

¹⁸⁷ See Rachel F. Moran, *Neither Black nor White*, 2 HARV. LATINO L. REV. 61, 89 (1997) ("In substituting class for race, officials could obscure the ongoing significance of race in the everyday lives of Americans and the ways in which it interacts with class to exacerbate the condition of the underclass.").

¹⁸⁸ Black comedian Chris Rock unintentionally illustrates the perversity of the "culture of poverty" ideology with his stand-up routine on the subject of "why Black people hate niggers" in which he juxtaposes Black middle class values as being in opposition to low-class "nigger" culture. See CHRIS ROCK, *ROCK THIS* (1997); see also Leslie Espinoza & Angela P. Harris, *Afterword: Embracing the Tar-Baby - LatCrit Theory and the Sticky Mess of Race*, 85 CAL. L. REV. 1585, 1603 (1997), 10 LA RAZA L.J. 499, 517 (1998) ("Many of us who grew up in middle class, 'respectable' African-American homes can recall being told by parents or other relatives to stop 'acting colored.' The image we were all fleeing was the image of the nigger, the lower-class black person who talked too loudly in 'Black English,' laughed too heartily, and was vulgar in appearance, word, and deed.").

My exploration of the socialist Cuban context leads me to conclude that even though race-conscious affirmative action has not eradicated racism in the United States, class-based affirmative action would be a poor replacement. Racial justice reformers should instead confront racism directly as race-based while addressing its interconnections with class.¹⁸⁹ Using a race lens in conjunction with a class lens could be more fruitful in devising solutions to racism.¹⁹⁰ For instance, maintaining a race-conscious approach to racial equality in the U.S. while simultaneously adopting a version of the Cuban redistribution initiative could provide a broad-based mechanism for communities of color to realize substantive equality rather than mere formal equality.¹⁹¹ The Cuban reduction in Black illiteracy, infant and maternal mortality, and the increase in Black educational attainment and average life span are all indicators which suggest that actual redistribution of wealth is material in ensuring the substantive equality of people of color. In contrast, the U.S. formal equality focus has maintained racial disparities in mortality rates and in educational attainment. Furthermore, current debates in the United States regarding under-funded public schools and the need for health care reform would be well served by considerations of the Cuban successes after abolishing private schools and instituting a system of universal health care. LatCrit theory, a jurisprudence dedicated to highlighting Latino/a concerns and voices in legal discourse and social policy for the attain-

¹⁸⁹ The closest parallel to the race and class perspective favored in this Article is the anti-caste principle used in the distinct context of India's reservation program for disadvantaged groups because it connects economic and political disadvantage to social structure. See Clark D. Cunningham & N.R. Madhava Menon, *Race, Class, Caste . . . ? Rethinking Affirmative Action*, 97 MICH. L. REV. 1296, 1302 (1999); see also Cass R. Sunstein, *Affirmative Action, Caste, and Cultural Comparisons*, 97 MICH. L. REV. 1311-12, 1316-18 (1999).

¹⁹⁰ For instance a race-class mode of analysis can more completely explain why white women as a group benefit the most from current affirmative action programs rather than the racial minority groups they were originally designed for, and similarly why white Cuban women have fared better than Afro-Cuban women and men under the socialist redistribution programs. See Evelyn Hu-DeHart, *Affirmative Action—Some Concluding Thoughts*, 68 U. COLO. L. REV. 1209, 1212 (1997) (explaining that white women are best positioned to take advantage of affirmative action programs because their social, economic and educational backgrounds more closely parallels that of white men).

¹⁹¹ See Marian E. Gornick et al., *Effects of Race and Income on Mortality and Use of Services Among Medicare Beneficiaries*, 335 NEW ENG. J. MED. 791 (1996) (demonstrating that among those covered by Medicare health insurance, Black mortality rates exceed those of whites, after controlling for income).

ment of social justice, supports such multilayered intersectional approaches to subordination.¹⁹²

IV. CONCLUSION: LESSONS FOR LATCRIT THEORY

In addition to serving as an assessment of class-based approaches to racial justice, this cross-cultural analysis of the interconnections implicates the continued development of LatCrit theory. Specifically, this Article implicitly questions whether its antisubordination goal can be achieved if its scholars inadvertently neglect to challenge the Latin American model of discounting racial diversity in assessments of Latin American identity and group needs in the United States. For inasmuch as LatCrit jurisprudence has focused upon critiquing what it terms the Black-white binary of civil rights discourse,¹⁹³ it has done so while, for the most part, sidestepping the particularities of Afro-Latinos.¹⁹⁴ LatCrit inclusion of the Afro-Latino/a perspective would reveal the Black-white binary aspects of the Latin American racial constructs that can manifest themselves in Latino/a identities in the United States.¹⁹⁵ To the extent that many Latin American countries have promoted themselves as “mestizo” nations for the very purpose of downplaying their connections to Blackness, the presumed absence of a Black-white binary within the Latin American racial construct is often false, and indeed more indicative of Latin American binary preoccupation

¹⁹² See Valdes, *supra* note 8, at 12.

¹⁹³ See, e.g., Juan Perea, *Latino/a Identity and Pan-Ethnicity: Toward LatCrit Subjectivities: Five Axioms in Search of Equality*, 2 HARV. LATINO L. REV. 231, 233-34 (1997).

¹⁹⁴ It has been noted that one of the challenges of LatCrit is that the search for a Latino/a perspective on the law can result in essentializing Latino/a identity. See Stephanie M. Wildman, *Reflections on Whiteness and Latino/a Critical Theory*, in CRITICAL WHITE STUDIES (Richard Delgado & Jean Stefancic eds., 1997) (“I will say first that there is a downside to this lens, to naming Latinas/os as a group, because this act of naming essentializes a very diverse group, making it appear to be a homogeneous whole.”). But see Elizabeth M. Iglesias & Francisco Valdes, *Afterword: Religion, Gender, Sexuality, Race and Class in Coalitional Theory: A Critical and Self-Critical Analysis of LatCrit Social Justice Agendas*, 19 CHICANO-LATINO L. REV. 503, 583 (1998) (“To rise above crude or self-defeating identity politics, the LatCrit community, like many others, therefore must recognize and come to terms with the complex effects that multilayered identity issues visit on the production, as well as the contents, of our work.”).

¹⁹⁵ See Raquel Z. Rivera, *Boricuas From the Hip Hop Zone: Notes on Race and Ethnic Relations in New York City*, 8 CENTRO J. OF CENTER FOR PUERTO RICAN STUD. 202, 209 (1996) (concluding that reason many Puerto Ricans in United States refuse to identify as Black is because of anti-Black sentiment “brought on the trip from Puerto Rico”).

with fleeing Blackness and valuing whiteness.¹⁹⁶ The Latin American concern with whiteness is only exacerbated when transplanted in the United States by Latino/a immigrants and migrants, who struggle against being racialized themselves and lumped together with poorly treated African Americans. Many Latinos/as quickly learn that part of the price of the promise of assimilation is denigration of Blacks.¹⁹⁷ Indeed, the poverty rates of those Latinos/as identified as Black are worse than of other Latinos/as.¹⁹⁸ The Cuban dissociation from Blackness resonates with the frustrations of Afro-Latinos/as in the United States that feel pressure to disclaim a Black identity. For instance, in a recent issue of Hispanic magazine a reader wrote in to say:

My Latino friends see my race as a liability. "You're not black, like the African Americans in the US" one told me recently. It bothers me that to accept me, they want to distance me from being black, which carries negative connotations in the Americas.¹⁹⁹

In addition to problematizing the LatCrit critique of the Black-white binary, an acknowledgement of Afro-Latinas/os would also bring added complexity to the LatCrit assessment of whether Latinas/os are best understood as a race or as an ethnicity.²⁰⁰ Ian Haney López astutely addresses the way in which Latinas/os as a group are often racialized in the United States in ways that do not comport with national understandings of ethnicity.²⁰¹ But if Latinas/os are a race, what are Afro-Latinas/os? This is not a question of mere semantics within the confines of theoretical analysis. The disposition that Latina/o communities choose to take with respect to the race/ethnicity divide will be indicative of their stance towards coalition building. Eric Yamamoto appropriately cautioned race-crits to be attuned to the ways in which communities of color

¹⁹⁶ The Latin American preoccupation with whiteness and denigration of Blackness is also prevalent in Latin American countries with small numbers of self-identified Afro-Latinos like Mexico, Argentina, and Peru just to name a few. See ROUT, *supra* note 106, at 185-312.

¹⁹⁷ See generally NOEL IGNATIEV, *HOW THE IRISH BECAME WHITE* (1995).

¹⁹⁸ See Marta Tienda & Ding-Tzann Lii, *Minority Concentration and Earnings Inequality: Blacks, Hispanics and Asians Compared*, 93 AM. J. SOC. 141, 163-64 (1987); see also Moran, *supra* note 187, at 175 ("Indeed, Latinos who disproportionately self-identify as Black bear this racial tax as well.").

¹⁹⁹ Delina D. Pryce, *Black Latina*, HISPANIC, Mar. 1999, at 56.

²⁰⁰ See, e.g., Ian F. Haney López, *Retaining Race: LatCrit Theory and Mexican American Identity in Hernandez v. Texas*, 2 HARV. LATINO L. REV. 279, 282 (1997).

²⁰¹ See *id.* at 282-83.

can deploy hierarchies of oppression in their efforts to survive the challenges of racism.²⁰²

An Afro-Latina/o attention to praxis is especially sensitive to how the group label of race or ethnicity can be used to further subordinate communities of color.²⁰³ For instance, if the ethnicity label is chosen to distance Latinos/as from the dispersions of being a race, then the ethnicity choice undermines the potential for solidarity with African-Americans, who are always viewed as a race. In contrast, choosing the race label in order to negate Latina/o connections to African ancestry derails the potential for coalition building with African-Americans. In order for the LatCrit antistatist agenda to be effective we must remain alert to how individual expressions of Latina/o identity practically situate Latinas/os's communications with other communities of color.²⁰⁴ An unquestioning reliance upon Latin American racial ideology that suppresses racial difference within Latina/o communities while simultaneously esteeming connections to whiteness through marriage and racial miscegenation will thwart long-term antistatist coalition building. The white supremacy embedded in the Latin American promotion of racial harmony by encouraging persons of African descent to "marry up" to whiteness, is not conducive to working with other racial and ethnic minorities to dismantle racial hierarchy.

The growing numbers of Latinas/os in the U.S. population will make the race politics of Latinas/os central to the viability for any

²⁰² See Eric K. Yamamoto, *Conflict and Complicity: Justice Among Communities of Color*, 2 HARV. LATINO L. REV. 495, 495 (1997) ("[A] racial group can be simultaneously oppressed in one relationship and complicitous in oppression in another.").

²⁰³ Eric K. Yamamoto, *Critical Race Praxis: Race Theory and Political Lawyering Practice in Post-Civil Rights America*, 95 MICH. L. REV. 821, 840-44 (1997).

²⁰⁴ One powerful example of the political significance of individual expressions of Latino/a identity is illustrated by the interaction that a Latina acquaintance of mine had with her white male partner. After dating one another in college for approximately two years, the young woman asked her partner when he meant to introduce her to his parents. The time for their college graduation had arrived and she wished to coordinate a convenient time to meet them. He responded that he could not possibly introduce her to his parents. When she inquired why that was the case he replied, "Because you have Black blood." Her outcry was immediate: "I don't have Black blood! My dark skin comes from my Puerto Rican Taíno Indian ancestry." Despite the fact that the Spaniards decimated the Taíno Indian population of Puerto Rico in the 1500s, this Latina deployed a common Latino/a defense to U.S. racism — she condoned bias against Blacks by asserting a Mestizo ethnic identity. See TAINO REVIVAL: CRITICAL PERSPECTIVES ON PUERTO RICAN IDENTITY AND CULTURAL POLITICS 49 (Gabriel Haslip-Viera ed., 1999) (explicating Puerto Rican phenomenon of asserting false Taíno identity to deny African ancestry).

future efforts to develop effective coalitions across communities of color. The popular press has repeatedly alerted the public to the changing racial demographics of the United States, including predictions that Anglo-whites will be a numerical minority, just as it has expounded upon the consequent importance of the Latina/o population for purposes of election campaigns and economic development.²⁰⁵ The extraordinary public focus upon the growth of the Latina/o community and its influence in the United States is equivalent to the flattering attention of an obsessed suitor. But Latinas/os should stop to consider what the courtship is leading up to. There are numerous historical examples of demographic changes motivating elite whites to allocate middle-tier privileges for certain groups that have elevated the status of those group members, but maintained a hierarchy that privileges whiteness all the same.²⁰⁶

The public focus upon Latinas/os as a “hot new minority that will outnumber African Americans” implicitly encourages Latinas/os to dissociate themselves from the plight of other oppressed people of color.²⁰⁷ Accordingly, Latinas/os will be ideally positioned to either be complicit in the maintenance of a race-based hierarchy, or empowered to challenge the status quo together with other subordinated communities.²⁰⁸ Given the growing demographic importance of Latinas/os, the path they take may be central to the development of opportunities for permanently eradicating racism.

²⁰⁵ See Dick Kirschten, *Hispanics: Beyond the Myths*, 31 NAT'L J. 2350, 2351-52 (1999) (describing Hispanics as America's hottest minority and crucial to America's future); Brook Larmer, *Latin U.S.A.: How Young Hispanics Are Changing America*, NEWSWEEK, July 12, 1999, at 48; Katharine Q. Seelye, *Embracing Clinton at Arm's Length, Gore Formally Begins Run For President*, N.Y. TIMES, June 17, 1999, at A26 (noting that Gore, like George W. Bush, speaks to Latina/o voters in Spanish because they make up important swing constituency).

²⁰⁶ See Tanya Katerí Hernández, *The Construction of Race and Class Buffers in the Structure of Immigration Controls and Laws*, 76 OR. L. REV. 731, 738-39 (1997).

²⁰⁷ See Espinoza & Harris, *supra* note 188, 85 CAL. L. REV. at 1624, 10 LA RAZA L. J. at 538 (“Latinos/as are offered a lure by mainstream society: the choice of not identifying with African Americans and not identifying as racial minorities.”).

²⁰⁸ See Moran, *supra* note 187, at 169-170. Moran wrote:

As the Latino population continues to grow, officials are likely to pay increased attention to its unique needs and characteristics. With its heightened visibility will come weighty responsibilities Latinos must be sensitive to the ways in which their reform agenda will affect those Americans least able to escape the strictures of race labels.

Id.

The Cuban example of the Latin American “blanqueamiento” approach to race relations has demonstrated the harm of denying that race and racism exist while simultaneously maintaining a racially-stratified society that esteems whiteness. Just as Cuba’s nationalism project subverts recognition of race to unite all Cubans in a common struggle for economic survival, Latinas/os in the U.S. may succumb to the temptation to discount racial difference in the effort to unify Latinas/os across class as Latinas/os only, distinct from other members of the African Diaspora.

In order for LatCrit to be true to its antisubordination goal it will need to engage the particularities of all Latinas/os rather than viewing those with intersectional identities as a distraction from some essentialized view of how Latinas/os are subordinated. This is a struggle that any group-focused movement will confront as its members assert perspectives that do not conform with a pre-defined notion of the group’s identity or mission.²⁰⁹ The Cuban context indicates that such a dynamic would be an ineffectual response to ameliorating economic and social subjugation of Latinas/os and other communities of color. In conclusion, glossing over the racial particularities of Latinas/os would undermine the antisubordination goal of LatCrit theory, and thus should be resisted at all costs. Similarly, class-based affirmative action should be rejected because of its inability to appreciate and address the personal investment whites have in race-based privilege or the way poverty is racialized.

²⁰⁹ See, e.g., Kimberlé Williams Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1241-43, 1272-73 (1991) (describing doctrinal problems Black women confront in civil rights movement based on experiences of Black men and with feminist movement based on experiences of white women); Harlon L. Dalton, *Minority Critique of the Critical Legal Studies Movement: The Clouded Prism*, 22 HARV. C.R.-C.L. L. REV. 435, 436 (1987) (expressing some difficulties that minority scholars encountered in working within Critical Legal Studies movement rubric).

