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Lines of Tribe

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SMALL SCHOOL.
BIG VALUE.

LINES OF TRIBE

Christine Zuni Cruz*

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“For we know that our patchwork heritage is a strength, not a weakness. We are a nation of Christians and Muslims, Jews, and Hindus and non-believers. We are shaped by every language and culture, drawn from every end of this Earth; and because we have tasted the bitter swill of civil war and segregation, and emerged from that dark chapter stronger and more united, we cannot help but believe that the old hatreds shall someday pass; that *the lines of tribe shall soon dissolve*; that as the world grows smaller, our common humanity shall reveal itself, and that America must play its role ushering a new era of peace.”¹

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1. President Barack Obama, Inaugural Address (Jan. 20, 2009) (transcript available at <http://millercenter.org/scripps/archive/speeches/detail/4453>) (last visited January 27, 2009) (emphasis added).

I. INTRODUCTION

A. *Lines of Tribe*

It is important to begin by explaining why I take the title of my essay from the statement in President Barack Obama's 2009 Inaugural Address: "*the lines of tribe shall soon dissolve.*" During the address, his words affected me and they remained with me long afterward. President Obama may very well have meant what he said in a metaphoric or figurative sense; I have certainly been provided with many interpretations and assurances by most that a literal meaning was not his intent and that he instead spoke in a good way of the beneficial melting of divisions between us.

It serves my purposes, however, to complicate the statement's usage and to choose not to lose the opportunity to consider it in a literal sense given the history of our country, and not only our country, but the whole of the American continent. That is to say that there is a belief that the dissolution of the lines of tribe², in fact, can result in good and in peace. It is the chilling language and metaphor of colonists. I am familiar with the history of the good that white reformers thought would come from detribalization of Indigenous Peoples in the United States. Detribalization efforts severely weakened the lucky, but destroyed and *disappeared* others, and, in doing so, opened vast tracts of lands for, yes, the peaceful settlement by others. We have seen the lines of tribe dissolve, and not in a poetic sense, but violently. President Obama's reference to tribes brought to mind the modern tribal peoples the United States is engaged with in Iraq, Afghanistan, and within its own boundaries. There can be hope for a peace that does not require that the lines of tribe dissolve.

Additionally, President Obama's words evoke a picture that connects to my present work on Indigenous identity. The words evoke an image that modern day tribes, in their utilization of blood quantum, may be hastening along. To a tribal person, "*the lines of tribe shall soon dissolve*" means the end of a tribe's existence. There is no Indigenous identity without the existence of tribe, or "the People." Such words convey the failure to recognize the significance of tribalism, of the United States' history with tribes, and of the sense of how near we came in this country to its literal meaning. The statement, spoken as metaphoric prophecy, focused my attention on the *lynchpin* of tribe (that is the continuation of "tribe", or "the People") to Indigenous identity and the link between blood quanta, the line of tribe, and dissolution.

B. *Color Spectrums, "Quantum Theory," and Performance of Identity*

This essay is a reflection on a presentation I gave on Indigenous identity at the LatCrit Colloquium on International and Comparative Law titled *Globalizing Equality Theory, Constructing Material Justice: The Next Critical Project* in Paris, France at CITE Universitarie during the summer of 2010. The presentation was part of a panel on *Comparative Conceptions of Equality* addressing the question: *Are*

2. I use "lines of tribe" in this essay to represent those persons recognized by Indigenous Peoples as belonging to "the People" and being within the "line" separating them from others. I recognize "tribe" is a contested term. I use it here because it is word that has been applied to Indigenous Peoples and is a vernacular term in discourse among Native peoples.

there global patterns to the homologous development of nationhood and sovereignty alongside the disestablishment of indigeneity?

In Section II, I discuss the background of my research project on Indigenous identity, specifically the color and race spectrum of Indigenous identity that I have devised to consider the operation of privilege and power internally and externally. In Section III, I touch on the internal conflict within tribes that can be caused by competing legal traditions. In Section IV, I discuss my presentation, which focused on Indigenous identity. I briefly address several different issues Indigenous identity raises, including how Indigenous nations in the United States address tribal membership and the dis/placement of the Indigenous legal tradition in relation to the modern law of membership. Having traveled to the Colloquium following two months of living outside of Quito, Ecuador, I also briefly comment on initial observations of Indigenous identity in Ecuador. I specifically consider the *performance* of identity through dress as an initial comparative analysis of the construction of Indigenous identity between the two, New World, north/south, settler nations.

C. *Escaping the Law of White Space*

In Section V, I shift my attention to an incident that occurred during the Colloquium, involving the act of complaint of a student, a member of the Colloquium audience. I focus on the *act* of complaint rather than the actual complaint itself; as the act carries the power to disrupt no matter the illegitimacy of the complaint. The micro aggression of *complaint* allows me to bring in an ongoing analysis of my experience in the white space of legal academia where the norm is to resist bringing issues of race, color, and privilege into the study of law and into a critique of the institution, more broadly. I reflect on *complaint* and connect it to some of my experiences. These include student gaps in self-learning and critical analysis, the operation of stereotype, and the specific challenge in shifting paradigms, especially in terms of considering Indigenous normative frames. All these complicate the ability of students to make connections, which becomes evident when the dominant knowledge frame is no longer privileged. Further, *complaint* is connected to my discussion of the external operation of the race/color spectrum and the rejection of the legitimacy of analysis, judgment, and competency of knowledge bearers, especially those who are *street-raced* as *not white*. Sometimes *complaint* is an assertion of “the law of white space”³ when suspension of that law overwhelms those benefited by or accustomed to its operation.

3. See generally Peter Goodrich & Linda G. Mills, The Law of White Spaces: Race, Culture and Legal Education, 51 J. LEGAL EDUC. 15, 16 (2001) (discussing the operation of “the law of white spaces” as “the emotional and epistemic relationship between. . .white participants that gain. . .experience in the exclusion of students [or faculty] of color.”).

II. INDIGENOUS IDENTITY

The complexity of Indigenous identity in the twenty-first century is part of the broad title of a research project that I have worked on over a period of time. I have considered Indigenous identity in multiple ways. I am interested in the relationship between identity and in/formal law, including (1) the employment and reliance by many United States tribes on blood quantum to determine membership, (2) Indigenous law and principles (as opposed to non-Indigenous law and principles) and their application to identity, (3) the inconsistency of internal and external constructions of identity (internal and external both in respect to the self and to the Indigenous community), and (4) how identity has been affected as Indigenous Peoples have moved from a purely Indigenous concept of themselves as “the People” to the United States government’s construction of Indigenous Peoples as “domestic dependent nations.”⁴ Over time, this resulted in many tribes, legislatively pressured to organize as such by the United States, adopting constitutionally organized representative democracies that currently operate alongside the United States’ federation of national, state, and local governments. These changes, thus, shifted “the People’s” concept of themselves to a reconstruction of “the People” with a non-Indigenous and peculiarly American concept of *membership* in a quasi-state. I assert that this movement of “the People” to *domestic, dependent nations* challenges Indigenous self-concepts of identity.

A. Race and Color Spectrum

I initially began my work by considering how race and color operate in respect to Indigenous identity and give rise to power internally among tribal peoples in the United States. I conceived race and color as creating a spectrum across which Indigenous Peoples, mixed both inter-racially *and* inter-tribally, are situated in respect to their identity as “the People.” I want to center on both race *and* color. Color, in particular, with a focus on its privileges and burdens. Externally, the society that has engulfed tribal peoples is a race and color conscious one. This invariably influences tribal peoples internally. Color, race, and inter-tribal mixture also impacts Indigenous identity or membership internally. *Inter-tribal* mixture adds an important dimension that is lost when only inter-racial mixture is considered and is most visible internally and practically invisible externally.

The color spectrum has a core, or center, which I represent as red⁵ with the two outer extremes progressing to black on one side and brown to white on the other, representing at least four of the major groups in the southwestern United States—mestizo⁶, white, Indigenous, and black. It has provided a visual device to consider

4. Cherokee Nation v. Georgia, 30 U.S. 1, 17 (1831).

5. I use red to represent Indigenous Peoples and brown to represent mestizos and to differentiate between the two; although, I have used brown as the color representative of Indigenous Peoples.

6. I purposely use mestizo to refer, specifically, to that segment of the Latino population that arose from the blend of the native population with Spanish colonizers and other races after *contact*. Mestizos arise from a mixture of Indigenous with other races but have moved from tribal identities - often in the first generation after mixture. It is not a term used widely in the United States, where it has been replaced with Chicano or Mexican American; it is used more frequently in Central and South America. There is a segment of the Latino population in New Mexico that refers to themselves as Hispanic; to the

tribal affiliation, race, and color more critically within a tribal frame.

By employing a spectrum, I do not seek to reify color and racial oppression like the *Casta* paintings of New Spain in the 1700s to 1800s.⁷ I utilize the spectrum as a device to illustrate the inconsistency and contradiction of law, to critically think of color and race, particularly as they operate internally, and to map the line created by current policies of blood quantum theory alongside an analysis of Indigenous identity, employing Indigenous thought and principles. My goal in devising a spectrum is to ground my work on identity in the *reality* of the operation of race and color in Indigenous communities. I use race and color in a stark way so that they do not slip and fall from a discussion which must include color (meaning non-white) on color racism, inter and intra-color and racial hierarchies, privilege (especially of gender), and complex inter-tribal relationships. Further, my color/race spectrum has a tribal line which represents the legal line beyond which descendents of Indigenous Peoples are not recognized or which is in/voluntarily crossed by those who lose their tribal affiliation or connections and become detribalized.

I find a color spectrum allows consideration of how race and color (1) give rise to power, (2) affect identity, (3) operate beneath the surface to create diverse in/formal law, and (4) create an important layer in considering the complexity of Indigenous identity. How mixture and color privilege—creating both red privilege and white privilege lead to “overclaiming” (whether exaggerated or outright fraudulent), and “underclaiming” (rejection of an Indigenous identity, covering or passing) and come into play are also more easily captured when considering race and color in the context of a spectrum. The color/race spectrum helps to map both color and race and exposes the nuanced ways they operate in respect to Indigenous identity.

Finally, it is important to situate this work. My experience is in the southwest border region of the United States and in particular with Pueblo peoples in New Mexico. My spectrum reflects this geography. Undoubtedly, where mixture has occurred predominantly with whites, or other groups in other regions of the country, a tribal color spectrum would reflect that mixture and red may not comprise the actual center, and it may or may not remain privileged. However, it is my assertion that, internally, red is centered among southwestern Indigenous Peoples in the color spectrum and this centering explains the different reactions to Indigenous Peoples according to where they fall on the spectrum. It also gives rise to a concept of Indigenous, or red, space, though its operation and analysis is fundamentally different from white space. The spectrum is perceived differently internally and externally and these perceptions are profoundly affected by race politics in the United States. The spectrum allows a critical analysis of that influence.

extent that this population has mixed with the indigenous population, they would also be included with the mestizo in my spectrum. However, as the racial category of White includes Latinos, my spectrum is more accurately a color/racial spectrum. My intent is to explicitly consider color; I emphasize color - that is, red, brown, black, and white.

7. Ilona Katzew, *Casta Painting: Identity and Social Stratification in Colonial Mexico*, <http://www.gc.maricopa.edu/laberinto/fall1997/casta1997.htm> (last visited April 10, 2012).

*B. External Operation—Complexity of Mixture and Race Traitors*⁸

Color, often in combination with gender, accent, and dominant language mastery, also affects stereotypical judgments about competency or intellectual capacity. Racial mixture has also been related to presumptions of the in/competence of Indigenous Peoples. Though such language has long since been dropped from United States federal law and policy, its legacy continues to operate against Indigenous Peoples, primarily through color privilege and burden. The competency level of people is stereotypically assumed to be less the further the person is on the spectrum from whiteness. This was dramatically shown in an experiment in which people were shown videos of a White, Asian, and Black musician performing a piece of classical music and were asked to rank their performances. Consistently, the white performer was ranked as providing the best performance, followed by the Asian, and the Black musician. It was then revealed that all three video performances used the same audio track, the only difference was the visual image of the performers. There was no difference in fact between the performances of the three musicians, except their racial identity and color.

Racial appearance, therefore, can affect appraisals of in/competency. Historically, “full-blooded” Indigenous persons were not presumed legally competent under the law to manage allotments of land parceled out to individual Indians under the Burke Act, which amended the General Allotment Act; they were not, apparently, as competent as persons with less than one-half Indian blood, who were deemed competent.⁹ This stereotype of presumed incompetency continues. Thus, the closer Indigenous peoples are to whiteness, the more competence will be ascribed to them; the closer they are to an Indigenous phenotype, and the darker they are, the less competent they are presumed. It is not by accident that in the academy, for example, one will find far fewer Indigenous Peoples from the center core of the spectrum, than from either end. Many more, however, will be from the left side of the spectrum and to the left of the center because white and lighter skin is privileged and presumed more competent.

However, there are complicated racial dynamics that come into play with

8. See Richard Delgado, *Rodrigo's Eleventh Chronicle: Empathy and False Empathy*, 84 CAL. L. REV. 61, 95–97 (1996). I utilize the idea of the helpful, white, race traitors who bring up race and challenge white privilege, except that I apply it to Indigenous mixed-race race traitors. That is, I recognize that the Indigenous spectrum includes mixture with all races, but I find the idea of race traitor helpful to discuss those mixed race Indigenous Peoples who, though within the “lines of tribe,” appear to others to be of another race but challenge their color or racial privilege and aggressively claim their Indigenousness. I also use it in its classic sense, which is to describe those who turn against their own race, in this case their Indigenousness, to align with the dominant race as it fits their interest. I find the theory of mixed-race race traitors to be an important idea to explore fully in the context of the Indigenous color/racial spectrum. Depending on the color space one is in, race treason can be threatening or non-threatening. Further, internally, Indigenous race traitors can challenge red privilege in the same way white race traitors challenge their own structures of color and race privilege to support the acceptance of those of Indigenous mixed identity. Race treason operates differently internally and externally and is either rewarded or punished depending on its threat to dominant power and privilege.

9. See FRANCIS PAUL PRUCHA, *THE GREAT FATHER, THE UNITED STATES GOVERNMENT AND THE AMERICAN INDIANS* 882-883 (unabridged vol. 1 & 2, 1984). Patents in fee were “issued to Indians who had less than one-half Indian blood,” and “to those with more than half Indian blood *if* they were found to be “competent” under the Burke Act of 1906, 34 Stat.182-3, which amended the General Allotment Act of 1887 (Dawes Act), 24 Stat. 388, and the April 17, 1917 Declaration of Policy in the Administration of Indian Affairs whose “guidelines. . .set blood quantum as a norm”. (Emphasis added.)

respect to Indigenous identity that add to the complexity of the race/color spectrum externally. For instance, a stereotypical appraisal based on one's Indigenous identity can be overcome to the extent a raced Indigenous person appears or closely mimics and performs whiteness in speech, dress, mannerism, and affiliation, no matter where they fall on the race/color spectrum when they are in white space.¹⁰ Externally, such an Indigenous person is a *non-threatening "race-traitor"*. A non-threatening race-traitor aligns with whiteness. Thus, an Indigenous person, white in appearance who claims the privilege of whiteness, or if, of color, performs whiteness *and* adheres to the operation of the law of white space (that is—observes the silencing of race, color, culture and their privileging or disabling impacts in white space) is *non-threatening* because s/he does not challenge white space and *race-traitor* because, though Indigenous, s/he does not align with that identity to challenge and resist the law of white space. Indigenous non-threatening race-traitors are rewarded with greater access into white space.

To complicate matters further, there is the *threatening race-traitor*, which for purposes of the Indigenous race/color spectrum is one who appears white, mestizo, or black, but identifies exclusively with their Indigenous tribal affiliation and refuses to adhere to the law of white space. *Threatening* because they disrupt white space by refusing to adhere to the law of white space and refusing to maintain silence around race, color and culture and *race-traitor* because, though they appear white, mestizo, or black, they identify, affiliate, and align with their Indigenous identity, often challenging the prejudices of the racial group to which they are street-raced. However, because of their non-Indigenous racial appearance that lends them their race-traitor status, this group, especially those closest to whiteness, often does not experience the same type of prejudice as those within the Indigenous center of the spectrum. They do, however, experience marginalization and rejection because of their refusal to adhere to the law of white space and the resentment generated from being a traitor to their street-race.

C. *Internal Operation—Complexity, Red Privilege, and Purity Myths*

The color/race spectrum operates internally. However, it is important to discuss its internal operation carefully because, though the spectrum itself does not change, its internal application, interpretation, and use does. Internally, within tribal space, everything shifts in complicated ways.

Internally, the externally threatening race-traitors become non-threatening race-traitors, but color may continue to affect their acceptance and place limits on them internally. The externally non-threatening race-traitors become threatening race-traitors internally, if they do not adjust their behavior. There is recognition that some behave the way they do externally to survive in white space; but color will also affect their ability to transition internally. Internally the concept of race-traitors must be understood in the context of historical and present-day oppression, assimilation, acculturation, and tribalism. This explains why even non-threatening race traitors (those who identify exclusively with their Indigenous tribal affiliation can be resisted and why lowering of blood quanta becomes controversial. A nuanced understanding

10. This is what makes racial performance in dress, as is seen in Ecuador, of such import. It rejects the performance of a mestizo or white identity.

of race and color and its operation is essential when tribes address membership criteria.

The most important shift internally with respect to the *color* spectrum, however, is the shift from white privilege to red privilege. Generally, those who are at the core of the red tribal spectrum are privileged internally and those at either end of the color spectrum enjoy less privilege the further to either end of the spectrum they fall.¹¹ While all within the tribal spectrum's *line of tribe* are tribal members, color and racial privilege factor in; although color and race do not operate in the *exact* manner as they operate externally. Specific Indigenous histories of interaction with the races beyond the Indigenous core, as well as with specific tribes are critical. There are histories of oppressive or aggressive relationships that carry threat to the core identity of the tribe as well as cooperative relationships, and sometimes both over a span of centuries. Color, race, and tribalism must be critically analyzed in respect to the line of tribe. Notions of race traitors, color privilege, un/conscious racism, and tribalism can assist in the analysis of Indigenous identity internally.

The reframed color hierarchy, which privileges red internally, operates relative to the color hierarchy of the dominant society. The status of those mixed with white, mestizo, and black generally follows that same hierarchy internally. However, historical interaction, oppression, and present-day racial relations impact the hierarchy both to reify and to defy the color hierarchy. Race treason is fluid and more complicated with those who are mixed and able to claim more than one race internally and externally. The treacherous beauty of race-traitors is that they can be helpful externally and internally as bridges, but because of their mixture they have also represented tension and assimilative threat to the center. Externally, the further the tribe moves from the center of the spectrum in numbers the more an authentic identity is questioned, creating a challenge to the tribe collectively and to its individual members. Does the line dissolve when the tribe shifts racially from the center core? This question is one reason why tribes, especially the very small ones¹² benefit from an open and broad critical discourse and analysis of Indigenous identity.

A unique dynamic of identity that exists internally and must be understood and considered is the bundle of Indigenous values embedded in Indigenous legal tradition related to one's connection to the People, the land, life ways, and language. If a person is not connected in one or more of these ways, the person, though legally a tribal member, can lack an Indigenous *identity* that weakens the existence of tribe. Accordingly, it behooves tribes to critically analyze identity and membership collectively. Likewise, one can overclaim an Indigenous identity by claiming an identity that was lost due to the disconnection to the Indigenous community that has not been retained over one or more generations. A person can also lose this connection in his/her lifetime affecting future descendants.

11. Mixture can lead to power struggles internally and the role of color, language, race, and outside forces can shift power along the color/race spectrum leading, even, to the oppression of the core. However, the core remains critical from an Indigenous frame and my color spectrum reflects this, as will my Indigenous legal tradition frame.

12. See D. GETCHES, ET AL., CASES AND MATERIALS ON FEDERAL INDIAN LAW 14 (5th ed. 2005) (Of the 562 federally recognized tribes, 121 have more than 1,000 members, with the largest, the Cherokee Nation having 281,069 identifying as American Indian alone and 390,902 identifying as American Indian in combination with other races. This means nearly three-quarters of U.S. tribes have less than one thousand members.).

Thus, detribalization, even of those who are members, can occur in one generation. Historically, detribalization was encouraged through federal Indian policy. The results of the federal policies of assimilation and termination included the breaking up of tribal lands into individual allotments, boarding schools, monolingual (English) education, criminalization of religious practices, and relocation. Detribalization through the legal loss of tribal affiliation has become the new challenge to tribal continuance. It is a challenge over which the tribes are in control.

Finally, a critical aspect of Indigenous identity that is difficult to represent on the spectrum is inter-tribal mixture. The federal government introduced the notion that a person could not be affiliated with more than one tribe. Most tribes do not recognize any other tribal affiliation except their own in determining membership or determining tribal blood quantum.¹³ This represents a major loss of Indigenous identity to both the tribe that does not factor other tribal identity into tribal membership criteria, and to those whose Indigenous identity is discounted. It is counter to the complete absorption of other Indigenous peoples by the affiliated tribe that the federal policy forces on those of mixed tribal parentage. It also represents a loss to the building and strengthening of inter-tribal relations through marriage. Mixed tribal people, it seems, are acutely aware of this potential.

III. CONFLICTING LEGAL TRADITIONS

A. *The Intervention of the Common Law Tradition*

Color and race are not the only dynamics operating in respect to Indigenous identity. The second part of my early analysis is a consideration of how law—in this instance, both federal law and tribal law—treats Indigenous identity, much of which has been explored in both federal Indian law and Native studies scholarship.¹⁴ Formal law defines Indian status differently, creating confusing distinctions in formal law by making some people Indigenous for one purpose or time, but not for another. The federal government recognizes tribal membership and creates a political status. Thus, while Indigenous Peoples or Native Americans are racialized, those who are members of tribes also have a political status. Tribal membership provides specific tribal rights recognized by the tribes and the federal government that

13. The Constitution of the Cree Tribe of the Rocky Boy Reservation is one such exception.

14. The writing of John LaVelle, *The General Allotment Act "Eligibility" Hoax: Distortions of Law, Policy, and History in Derogation of Indian Tribes*, 14 WICAZO SA REVIEW 251 (Spring 1999) and Paul Spruhan, *Indian as Race/Indian as Political Status: Implementation of the Half-Blood Requirement under the Indian Reorganization Act, 1934–1945*, 8 RUTGERS RACE & THE LAW REV. (2006); *A Legal History of Blood Quantum in Federal Indian Law to 1935*, 51 S.D. L. REV. 1 (2006), and *The Origins, Current Status, and Future Prospects of Blood Quantum as the Definition of Membership in The Navajo Nation*, 8 TRIBAL L. J. 1 (2008) address the legal history of blood quantum from a federal Indian law perspective. J. Kehaulani Kauanui's *HAWAIIAN BLOOD, COLONIALISM AND THE POLITICS OF SOVEREIGNTY AND INDIGENITY* (2008) on blood quantum and the Kanake Maoli (Native Hawaiians), takes a broader look at federal Indian law, Hawaii state law, and the Kanake Maoli legal tradition, in addition to considering American racial politics. Circe Sturm's *BLOOD POLITICS, RACE, CULTURE, AND IDENTITY IN THE CHEROKEE NATION OF OKLAHOMA* (2002) on the Cherokee and Laura Gomez's on the *MANIFEST DESTINIES, THE MAKING OF THE MEXICAN AMERICAN RACE* (2007) Mexican American in New Mexico have also been very helpful. The scholarship by others who have written, or who have presented their scholarship in this area, has significantly advanced this part of the research.

Indigenous or Native American racial status alone does not provide. Due to the associated political recognition and rights to land and sovereignty, tribal membership status carries the continuity of the People that *racial* status alone does not protect. Tribal continuation, therefore, requires an analytical consideration of membership law. Indigenous legal tradition with its diverse but fundamentally different concepts that generate the concept of “the People,” stands largely in the shadow of the vast majority of sovereign state determinations of membership or Indigenous status. The Indigenous legal tradition is central to probing the present use of blood quantum as the mechanism to determine membership by modern day United States tribes and is my starting point in respect to law.

B. Membership Wars

I decided to look even more closely at Indigenous identity as a result of the “membership wars” that have erupted across the United States within tribes regarding either the disenrollment of previously enrolled members, the non-recognition of those seeking recognition, or the disputes over membership requirements that tribes, including mine,¹⁵ have recently become engaged. Membership wars are distinct from the high-profile and outright fraudulent overclaims to Indigenous identity individuals who self-identify as Indians use to benefit themselves. Fraudulently claiming or exaggerating one’s claim to an Indigenous identity has continuously and sadly plagued Indigenous Peoples. I use the term “war” because although these membership wars are not literal wars, they create internal civil strife. There is mostly no death, and yet these wars pitch families and members against one another with casualties and collateral damage of a unique kind. Losing an existing tribal affiliation or being denied affiliation by a tribe within a generation of one’s parental affiliation is particularly bitter. The lines of tribes are lines that detribalize. They *cut* individuals from a legal and personal identity. Questions on tribal membership that reach the tribal electorate divide the community and families and often give rise to internal political discord. Issues of identity are tied to the inner core of individuals. The line involuntarily places an individual beyond a recognized relationship with a tribe. A loss of people occurs generationally for tribes with blood quantum requirements.

Membership wars are somewhat peculiar to the end of the twentieth century and the beginning of the twenty-first century. Over the period of time in which I undertook Indigenous identity as a scholarly project, my tribe has engaged, as have many others, in the disenrollment of previously enrolled members. In addition, upon my return from Paris, my Pueblo held a tribal constitutional election to vote on an amendment to our Constitution to lower the blood quantum required for membership in the Pueblo. The amendment to decrease the Isleta blood quantum required for membership, from one-half to one-quarter, failed by a margin of ten votes.

I am most interested in exploring closely some of the dynamics that are given less consideration in the legal scholarship on membership law, including inter-tribal mixture, color, power, land, and the place of Indigenous legal tradition in developing an analysis of Indigenous identity in the present. As this subject has

15. I am a member of the Pueblo of Isleta, one of the nineteen Pueblos located within the state of New Mexico in the southwestern region of the United States. The Cherokee and Seminole Nations of Oklahoma are among the many other Indigenous Peoples who have experienced membership disputes.

moved closer to home, I have also become concerned with the psychological impact that legal lines of severance of tribal identity have on “the People.”

IV. LAW AND INDIGENOUS IDENTITY

My presentation at the Colloquium focused on *why* I chose to consider Indigenous Identity in the 21st Century as a subject of legal inquiry. I tell the story of my elder Aunt, who has since passed. I often overheard her asking the question “*Who are you?*,” of people she did not know when she would encounter them in our village. To my ears it was a simple, but soul-piercing, question and, from the reactions I witnessed, it demanded so much more than a name. It demanded an explanation of self and of relationship, particularly if you were an insider. It, perhaps, reflected the tight social network of Puebloan village peoples. It required that you *knew* yourself and could satisfactorily explain yourself in terms of your relationship to the People, as well as your presence in relation to whatever activity was occurring.

In the same manner, in my research, I turn the question to “the People” in this present age. I seek more than a recitation of the tribal law on membership. I seek an explanation of self and relationship reflecting the tight social network of tribal peoples. My purpose is to explore from a different perspective the law of membership which has developed among the so-called “domestic, dependant” nations of the People. I chose identity over membership because considering identity allows a deeper and fuller assessment of who “the People” are and how this relates to the present law of membership, particularly that based on blood quantum. Focusing on identity allows the exploration of matters obscured by the modern law adopted by “the People” concerning tribal membership. This law is often contained in the Tribal Constitutions, adopted as a result of the 1934 Indian Reorganization Act¹⁶ or in other written tribal law.

A. Land

A critical component of indigenous identity is land—from which the people, language, and the indigenous legal tradition itself emerge. The connection between language, culture, and land was made by my co-panelist Robert Cruz in his presentation on O’odham language loss at the colloquium.¹⁷ Christine Black in her book, *The Land is the Source of the Law*, clearly connects land to the Indigenous legal tradition.¹⁸ J. Kēhaulani Kauanui comments that “within the field of critical race theory, **land** and indigeneity have been neglected in relation to the study of

16. Indian Reorganization Act of 1934, 25 U.S.C.A. § 461.

17. Robert Cruz, “AM T ÑE OK ET A:T O CE:K T DO IBIODA:LIK”: “*In Our Language Is Where We Will Find Our Liberation*,” 22 BERKELEY LA RAZA L. J. 97 (2012).

18. CHRISTINE BLACK, *THE LAND IS THE SOURCE OF THE LAW: A DIALOGIC ENCOUNTER WITH INDIGENOUS JURISPRUDENCE* (2010). *See also*, MARIE BATTISTE AND JAMES SA’KE’J YOUNGBLOOD HENDERSON, *PROTECTING INDIGENOUS KNOWLEDGE AND HERITAGE, A GLOBAL CHALLENGE* (2000) (The book addresses Indigenous knowledge. The Indigenous legal tradition is a component of Indigenous knowledge.); CHRISTINE ZUNI CRUZ, *Law of the Land-Recognition and Resurgence in Indigenous Law and Justice Systems*, in *INDIGENOUS PEOPLES AND THE LAW, COMPARATIVE AND CRITICAL PERSPECTIVES* (B. J. Richardson et.al. eds., 2009).

racial formations and the legal constructions of race,”¹⁹ (Emphasis added). Land, particularly the actual connection or relationship to ancestral lands, is a critical component of Indigenous identity and I agree with Kauanui that it has been neglected within the field of critical race theory in respect to the study of racial formations and the legal constructions of race. I treat land as a component of the Indigenous legal tradition—one of the critical *layers* that give rise to the complexity of Indigenous identity. I am in the process of devising a frame to represent the Indigenous legal tradition to consider the marks of that legal tradition, including relationship, role, responsibility, gender and relationship to land, and to analyze its operation.²⁰

B. Blood “Quantum Theory”

Many tribes in the United States use the degree of tribal blood one possesses to determine tribal membership. One’s blood quantum is based on the degree of tribal blood one possesses—for instance, one can be determined to be full, half or quarter blood. For tribal membership in most tribes, it is the amount of *tribal* blood one has, not the amount of Indian blood, that determines eligibility. Therefore, depending on one’s parental tribal affiliation and race, tribal blood quantum can increase or decrease generationally. The theory behind the use of a minimum blood quantum is that it ensures a relational and a degree of connection with members whose amount of Indian blood was recorded at a certain period of time when a percentage of tribal blood quantum was determined for each person. The minimum amount of blood quantum required for membership establishes the line at which a legal relationship with the tribe is severed, a point of severance where a legal relational connection with the tribe or the People ends—the legal line of the tribe. Currently, amounts required range from five-eighths blood of one specific tribe at the high end, to amounts of one-quarter, the most common requirements for tribes utilizing blood quantum as the determinate for tribal membership.²¹ Some tribes utilize descendance from a specific person listed on a tribal roll at a designated period to determine membership.²² While blood quantum can be calculated for descendants, blood quantum is not the operative determinate for tribes that utilize descendance. The United States Supreme Court in *Santa Clara v. Martinez* has stated, as a matter of law, that Indigenous nations in the U.S. have the sole authority to determine tribal membership.²³ Thus, how an Indigenous nation determines its membership is a matter of a tribe’s exercise of its sovereign authority. Tribes who utilize blood quantum typically set forth their requirement in their tribal constitution

19. J. KÉHAULANI KAUANUI, HAWAIIAN BLOOD, COLONIALISM AND THE POLITICS OF SOVEREIGNTY AND INDIGENEITY 10 (2008).

20. The placement and representation of the spectrum of color in this frame is a subject of ongoing consideration.

21. WILLIAM C. CANBY JR., AMERICAN INDIAN LAW IN A NUTSHELL 11 (5th ed. 2009). In New Mexico there are twenty-three tribes with land holdings in the state. Of these twenty-three tribes that use blood quantum, one-half is the highest and one-quarter is the lowest.

22. CIRCE STURM, BLOOD POLITICS: RACE, CULTURE, AND IDENTITY IN THE CHEROKEE NATION OF OKLAHOMA 2–3 (2002) (In 2002, Circe Sturm wrote of the Cherokee, “According to tribal law, Cherokee citizens must be lineal descendants of enrolled tribal members, but no minimum blood quantum is required. Not quite a century ago, blood degree varied among tribal members from ‘full-blood’ to 1/256. Today, the range is far greater—from full blood to 1/2048.”).

23. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 72 (1978).

or in statutory law. Today, it is the exception for membership to be entirely a matter of oral law, grounded in the chthonic/Indigenous legal tradition.

C. *The Dissolving Line*

Indigenous identity and self-concept are a part of the Chthonic or Indigenous legal tradition. It begins with origin stories. Origin stories connect the People to the land. The land itself gives rise to Indigenous knowledge, as Battiste and Henderson state, and Indigenous Knowledge (IK) itself emerges from an ecologic order.²⁴ As the Indigenous legal tradition is a part of Indigenous Knowledge, the Indigenous legal tradition emerges from the land as well. How the Indigenous legal tradition approaches the question of who is included among “the People” is particular to each Indigenous Peoples. What I propose is a theoretical framework by which to consider the Indigenous legal tradition regarding the make-up of the People. I propose to map out a broader Indigenous legal tradition framework and approach to consider what the modern common law of blood quantum cannot. For instance, the Indigenous legal tradition, which differs greatly from “law” in the same sense as the written law of the other major legal traditions, addresses relationships, marriage, responsibility and obligation, the way of the People, the land, and survival and continuance. The chthonic (or Indigenous) legal tradition is one of seven major legal traditions of the world. However, the Indigenous legal tradition requires a paradigm shift because it sits within an Indigenous knowledge frame. While the Indigenous legal tradition has undergone change because of its encounter with the six other major traditions, including Talmudic, civil law, Islamic, common law, Hindu, and Asian legal tradition, it continues to operate largely informally among Indigenous Peoples. I was not taught of this legal tradition in law school. It is my position that it is the Indigenous legal tradition that is the basis for our rights as Indigenous Peoples. It is my interest in this *legal tradition* that has driven most of my work and will be the center of my consideration of modern membership law. Whenever the term “tradition” is employed, there is concern with respect to the ability to manipulate “tradition” or to oppress with “tradition” and so it is important to include a consideration of influences that have brought changes, and to identify mixtures of other legal traditions that have effected that change and question their adherence to other principles of the Indigenous legal tradition.

D. *Performance of Indigenous Identity in Ecuador*

My study is focused on U.S. Indigenous Peoples, but Indigenous identity is a subject of international comparative study. Indigenous identity, by itself, gives rise to what I call an “Indigenous internationality”—that is, it gives rise to recognition of relatedness across nation state boundaries. This “Indigenous internationality” recognizes the connection among Indigenous Peoples that is based on a shared legal tradition and knowledge frame, from which we continue to operate and understand ourselves, our place, and one another, even as nations have carved themselves out around us. As nation states have developed their nationhood and sovereignty around Indigenous Peoples, Indigenous Peoples have been severely impacted. Those

24. See MARIE BATTISTE & JAMES (SA'KE'I) YOUNGBLOOD HENDERSON, PROTECTING INDIGENOUS KNOWLEDGE AND HERITAGE, A GLOBAL CHALLENGE 36 (2000).

surviving initial cataclysmic impacts at first contact have experienced continuing pressures in multifaceted manners, all of which affect Indigenous identity. Those who survived the violent birth of nations in their midst have varying degrees of political, numerical, social, and linguistic characteristics and so the very continuation of Indigenous *identity* across the globe becomes a fascinating subject of comparative study. A global pattern of the homologous development of nationhood and sovereignty, alongside the disestablishment of indigeneity, has been an attempt to control tribalism by law. An aspect of this involves the subjection of tribal identity and autonomy to the law of the nation state and the non-recognition of the Indigenous legal tradition.

Regarding Indigenous identity, the United Nations Declaration on the Rights of Indigenous Peoples, Article 9 states, “Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.”²⁵ Article 33, paragraph 1 states, “Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.”²⁶ The rights recognized in the Declaration are minimum standards.

In Ecuador, CONAIE²⁷ estimates the Indigenous population at 40% of the total population of approximately 14.2 million²⁸ although only 7% were identified as such in the 2010 Census.²⁹ In the United States, the Indigenous population in 2010³⁰ was approximately .9% (2.9 million) with another approximately .6% identified of mixed Indigenous heritage totaling 1.5% (5.2 million). A notable difference in respect to identity between Indigenous Peoples in the United States and Ecuador is the pervasive performance of identity through dress in Ecuador. Indigenous Peoples, men and women, but mostly women, employ dress as a means of visibly identifying themselves as Indigenous in Ecuador. Distinct dress, jewelry, shoes, shawls, ponchos, and hats visibly mark the Indigenous identity of the Quechua person in Quito and outlying provinces. It is in sharp contrast to the United States Indigenous person where distinctive tribal clothing worn everyday was largely displaced by western attire, most related to U.S. governmental Indian boarding school policies in the 1800s, forcibly requiring students to discard their tribal attire for western-style school uniforms.

Performance of identity through dress takes on significance when it is employed with consistency by a majority of the group. It is visual resistance, it is common bond, and it is a silent, but unmistakably loud, assertion of identity. Such visual performance of identity unifies, resists, and employs customary attire with

25. United Nations Declaration on the Rights of Indigenous Peoples: Resolution/ Adopted by the General Assembly, G.A. Res. 61/295, art. 9, U.N. Doc. A/RES/61/295 (Oct. 2, 2007).

26. *Id.* at art. 33, ¶ 7.

27. Confederation of Indigenous Nationalities of Ecuador.

28. Gonzalo Ortiz, *Native People stand up to be counted in Census*, INTER PRESS SERVICE, (Nov. 3, 2010) <http://ipsnews.net/news.asp?idnews=53649> (last visited April 10, 2012).

29. INSTITUTO NACIONAL DE ESTADÍSTICA Y CENSOS <http://www.inec.gob.ec/cpv/> (last visited Apr. 10, 2012).

30. *United States Census 2010*, U.S. Census Bureau (Nov. 6, 2011), <http://www.census.gov/population/www/cen2010/glance/>.

group consciousness, cohesion, and equality. Uniformity and oneness become principles of group cohesion. Such visual performance of identity is powerful. A person so clothed cannot *pass* when it is convenient and, though an individual, that person is immediately identified as part of a group for good or bad. In 2007, Rigoberta Menchú Tum, the 1992 Nobel Peace Prize recipient and Guatemalan K'iche' Indigenous woman, was asked to leave an exclusive hotel in Cancún where she was waiting in the lobby to meet a contact. She was not recognized by the hotel employees, and was targeted as not "belonging" because of her attire that identified her as an Indigenous woman.³¹ As I discussed with a student after my presentation, Eduardo Galeano, in *Open Veins of Latin America: Five Centuries of the Pillage of a Continent*, states that the very dress that distinguishes Indigenous Andean women today arises from an edict from Charles III at the end of the Eighteenth Century.³² Charles III imposed the dress on Indian females of the Andean *altiplano* that was copied from the regional costumes of Estremaduran, Andalusian, and Basque peasant women.³³ What Galeano broadly asserts was a mark of servitude and oppression has since become a symbol of Indigenous identity, belonging, and resistance. Performance of identity resists imperial culture, imitation of the west, assimilation and absorption, the *melting pot*, and openly displays Indigenous affiliation, especially where one is free to *perform* or dress as one chooses. Resistance to power creates power. Such resistance, through performance of Indigenous identity, causes me to consider the cohesion of the self and the group identity, where identity is asserted inwardly and outwardly simultaneously. How this external display of identity is interpreted internally and connects to the nation state's attempt to control Indigenous identity is part of a larger historical and legal analysis. Nevertheless, such a wide performance of Indigenous identity through dress presents an interesting contrast to performance of Indigenous identity in the United States and suggests points of difference in treatment of identity in the two nations worth exploring, including assimilative pressures, population, and women's lives, to name a few.

V. LAW SCHOOL, WHITE SPACE, CRITICAN RACE, AND COMPLAINT

Our colloquium panels were part of the Tulane Law School Paris Study Abroad program. *After* the Colloquium presentations, I became aware of a student complaint—a microaggression. The complaint was made to the faculty who employed the Colloquium panel presentations as a part of the classes on international and

31. Rory Carroll, *Hotel Mistakes Nobel laureate for Bag Lady*, THE GUARDIAN (Aug. 16, 2007), <http://www.guardian.co.uk/world/2007/aug/17/international.travelnews>. See also Judith M. Maxwell, *Ownership of Indigenous Languages: A Case Study from Guatemala*, in INDIGENOUS INTELLECTUAL PROPERTY RIGHTS 187-89 (M. Riley ed., 2004) (In Guatemala, in order to wear Spanish attire, one had to speak Spanish. One could not hold public office unless one wore Spanish attire. To become enfranchised, one had to give up ethnic attire. In the late seventies, Mayan men adopted a "solidarity jacket." "The legal ban on Mayan dress has been lifted. Dress is recognized in the Peace Accords and in the Guatemalan Constitution as a protected right of the Mayan communities and not tied to language use or ability.").

32. EDUARDO GALEANO, *OPEN VEINS OF LATIN AMERICA: FIVE CENTURIES OF THE PILLAGE OF A CONTINENT* 47 (25th ed. 1997).

33. *But see* LYNN MEISCH, *OTAVALO: WEAVING, COSTUME AND THE MARKET* 118 (1987) (regarding the dress of Otavalo women stating, "[t]he women's dress is the closest to Inca costume worn anywhere in the Andes."). It is the Otavalena/o dress that I observed in Quito.

comparative law to their Cite Universitaire students, most of whom were law students from the U.S. I deliberately leave the specifics of the complaint vague because that is how I experienced it as a visiting colloquium speaker. Upon hearing of a student complaint, though, I felt affected, despite the fact I was only tangentially involved. It caused reflection on *complaint* in relation to my work in the academy. Therefore, here, I consider *complaint* in the displacement of the law of white space in law school and in relation to lived experience as opposed to addressing the specific complaint voiced. I imagine the complaint emerging, if not directly, at least tangentially, from the result of a struggle with the shift from the usual law school class room in which the law of white spaces is honored. Individuals can carry the law of white spaces into any space, including a LatCrit colloquium, and the perceived lack of adherence to that law can emerge as a *complaint*.

I consider this disruption in the spirit of memorializing an aspect of the colloquium for those who were not there. It was a wonderful colloquium, an invigorating day of interaction among LatCrit theorists who were serious and excited about presenting their work to other respected LatCrit scholars and the students in the study abroad program. It became the highlight of the three months I spent outside the U.S. at the beginning of my sabbatical.³⁴ Student *complaint* drew me back to consider that which has been a challenge for me in law school institutional space and I reflect on student complaint generally and what I teach, in a way that is allowed by sabbatical distance.

I begin with the general absence of the mindset to teach oneself in law school and the increasingly important need for students to bring such a mindset into law school. Much of the knowledge presented in the law school classroom does not necessarily invite the student to move beyond what and how it is presented in the classroom and the texts, or beyond the analysis that students learn they should expect to be judged by in class examinations, in their written papers and ultimately, in the bar examinations which will permit them to practice law. A deeper legal education, therefore, requires students, who wish to graduate with more than the ability to analyze law in the specialized way law schools are designed to train law students, to possess the ability to teach themselves more than that specialized analytical skill.

Complaint that arises when a shift away from the law of white space is introduced is a telltale sign of an education that has failed to teach its students, as Donaldo Macedo in *Literacies of Power: What Americans Are Not Allowed to Know* describes it, to read the world critically.³⁵ For those from settler nation states, a lifetime of participation in the mainstream educational systems, indoctrinates, rather than educates³⁶ young minds regarding many things, including the relationship of the Indigenous population to the formation of nation states. Both positive (the contributions and accomplishments) and negative (the demise, subjugation and oppression) are collapsed into fleeting references to the encounter and disappearance

34. I traveled first to Ecuador for two months to take part in a English-Spanish language exchange program being developed for Indigenous Peoples between UNM and the *Universidad de San Francisco de Quito* and then to Paris for the Colloquium, Switzerland and England with my husband, Robert, and our twelve year old son, Fabrice. I have always found it invaluable to view the United States externally and to travel with family to other countries.

35. DONALDO MACEDO, *LITERACIES OF POWER: WHAT AMERICANS ARE NOT ALLOWED TO KNOW* 16 (2006).

36. *Id.* at 36.

of Indigenous Peoples in the national discourse of the birth of nation, despite their relevance to the very opening of place to build a nation and to the questioning and understanding of the political theory that could arise in the face of their existence and “disappearance.” The extra-constitutional, as well as the constitutional presence of Indigenous Peoples is relevant knowledge. For most law students, if it is acquired, it must occur through independent critical analysis and thought, especially because it is not generally taught in law school, except in the handful of federal Indian law courses taught across the country. However, even in these courses, a critical read of the world is essential, particularly if one is Indigenous.

As Paulo Freire and Macedo suggest, students who possess the ability to read the world critically incorporate a historical and cultural reading of the world and move beyond a technical training devoid of political, social and critical analysis.³⁷ A technical understanding of the law in itself is insufficient. Fragmentation of knowledge inhibits contextual understanding and makes it difficult to link law, a lived world experience, and social, cultural, and institutional relations of power and privilege. The questioning of the relevance of a lived experience to a legal education can also be explained in respect to the compartmentalization and specialization of knowledge. As law is taught in isolation to other disciplines, and perhaps to the history of Other in particular, the suggestion that issues of the Other complicate the learning of law, are irrelevant, unhelpful and derogatory to white privilege is not surprising.

By way of example, I focus here on the particular link of the relevancy of Indigenous language and identity to comparative constitutionalism,³⁸ specifically to the Constitutions of the United States, México and Ecuador. All three Constitutions address Indigenous Peoples. The identity of the Indigenous Peoples referred to in each becomes critical by virtue of the fact that the identity of Indigenous Peoples must be addressed in the interpretation of the Constitutions. Language becomes an issue in respect to the dominant language in which the Constitution itself is written, the protections, if any, afforded to language rights under the Constitution, as well as the legal tradition represented by a Constitution, which make Indigenous rights embedded in an Indigenous legal tradition nearly incomprehensible to the civil and common law traditions in which language or law is not associated with land. Literacy and access to legal education for Indigenous Peoples, which allow them to have their own technical experts, are sub-issues.

The Indigenous Panel required the students to ask themselves (or the panelists) many questions, assuming they sought to connect the panel presentations with their class on comparative constitutionalism and cultural rights. The most basic questions to pose would query into the historical and present treatment and relationship of Indigenous Peoples to the constitutions of nation states, in particular, those of the American nation states discussed—the United States, México and Ecuador. Questions such as, how/do the Constitutions of the United States, México, and Ecuador situate Indigenous Peoples? How is Indigenous identity a subject of comparative constitutionalism? How/why is an Indigenous identity or language of any import to constitutionalism? How do language rights fare under the Constitutions

37. MACEDO, *supra* note 35, at Foreword.

38. The specific class our panel on Indigenous language and identity replaced was the class on comparative constitutionalism. The class was considering cultural rights.

of Mexico and the United States? In the United States, what is the relationship between tribal constitutions and the United States Constitution? These questions, in part assume the student sees there is a relationship between Indigenous Peoples, their Identity, and Language issues and comparative constitutionalism. The problem runs a little deeper than a student's ability to self-teach and to probe through self-generated questions if it is asserted that identity and language issues of Indigenous Peoples are irrelevant to comparative constitutionalism. The above questions one might pose are connected to the assumptions one has already made about the relationship between Indigenous Peoples and constitutionalism and about the worth of the subject matter itself.

The typical law school class room is classic white space where, as analyzed by Goodrich and Mills, "the emotional and epistemic relationships between the white participants" and "their internal relationship" is considered and where race, color, culture and their privileging or disabling impacts is not recognized and is either silenced or denied.³⁹ Thus, the relevancy of Indigenous Peoples to constitutionalism must be independently mined outside the white space of the typical law school class on constitutional law. But there is more going on in the white space of legal academy that ties to the issues of color, race, and Indigenous legal tradition that I am exploring in my research on the external reaction to Indigenous identity.

Generally, there is a silencing of knowledge of the Other, as well as silencing of the knowledge frames of the Other in western education. The concept of Indigenous intellectualism is alien. As Freire states, "The intellectual activity of those without power is always characterized as nonintellectual."⁴⁰ Additionally, outside of red space, red, street-raced Indigenous Peoples are not typically privileged as knowledge bearers, particularly the more western the subject matter. The presumption of incompetency is a challenge of the academy to most people of color. Color, often in combination with gender, accent, and dominant language mastery, affect the association with *competency* or *intellectual capacity*. The Indigenous academicians closest to whiteness are deemed more coherent, relevant, and intellectual than those from or closest to the Indigenous core.

The Indigenous panelists presented their research in the context of the Colloquium theme, seeking to answer the question selected, *Are there global patterns to the homologous development of nationhood and sovereignty alongside the disestablishment of indigeneity?* in the affirmative. For students of comparative constitutionalism the connections were there to be made. It required that students actively engage in their own learning, beginning with the most basic question of how Indigenous Peoples and tribalism fit vis-à-vis both the historical and the modern constitutional nation state. It was something students minimally knowledgeable about the history of Indigenous Peoples, apart from the national mythologies, could be expected to do; however, critical analysis of the social and political order requires willingness to question. Students who expect discussions of law to be framed neatly in a "legal issue, rule, analysis of law and conclusion" framework do not easily employ the skill of making connections themselves through questioning, self-generated research or an expectation that they (the students) themselves are to answer the question of "how does what is addressed connect?" However, students

39. Goodrich & Mills, *supra* note 3, at 16.

40. MACEDO, *supra* note 35, at 102-03.

can also be hindered by judgments regarding the competency of raced knowledge bearers to address topics previously explored only under the law of white space, where notions about the relevancy of what is discussed, and the irrelevancy of what is *not* discussed, are formed.

The challenge is not only upon the professoriate at professional schools but upon our entire educational system to produce students who function as self-teachers, as participants in their education. It requires students to look further into what is covered or to make a connection with what was not covered. I did not learn all I needed to learn in law school. Once I left, I sought out what I had not learned, and it made me appreciate the skill of self-teaching. Throughout my own education I encountered only two such students, one at the undergraduate level and one at the professional school level. They provided me with a model of self-teaching. Both explored on their own narrower subjects mentioned, but not expounded on in class in the form of books. Such simple acts made a strong impression on me and opened a portal to the *student* aspect of learning.

Part of my self-teaching comes from the chthonic legal tradition. It is a legal tradition unlike all the other legal traditions, requiring a paradigm shift in how one thinks of the law. The Indigenous legal tradition in itself can be challenging to law students because it is embedded in an Indigenous knowledge base that is not easily understood by students whose frame of law is the common law legal tradition. Perhaps it is the subtext of Indigenous legal tradition that carries a questioning of the common law tradition. After years of teaching in the legal academy where the law of white space operates I can speak to the difficulties of piercing frames, shifting paradigms, and shattering stereotypes. Who or what is worthy of consideration is best responded to by students who first ask how is what I am hearing connected to the subject I am studying—that question in itself will launch the student on the all important road to self-teaching. That the students do not ask, however, is evidence that they have succumbed to the compartmentalization and specialization of knowledge and does not serve to prepare students to expand their knowledge base.

The Colloquium occurred at the beginning of my sabbatical; a sabbatical I sorely needed to recover from micro-aggressions in academia, like that captured by the act of *complaint* at what was an amazing gathering at the Paris Colloquium. It did not make my year sabbatical seem long enough. In retrospect, it was a valuable aspect of the colloquium to process.

What I ultimately considered is the need, at all levels of our educational system, to impress on our students the responsibility for developing their own spontaneous or organic intellectualism, as professional specialization and a reliance on spoon-fed knowledge is dangerous to their own education.

VI. CONCLUSION

I returned home to a tribal election to amend our Constitution to lower the blood quantum required for tribal membership and a challenge to the election to rule on as a member of the Appellate Court. As I mentioned earlier, the measure failed. As I continue my work on Indigenous identity I consider how change must be adjusted to, and how that adjustment can be difficult. If, however, we keep our sights on core principles that should not change, the line of tribes will not dissolve, it will

adjust. And the “illusion of the **ONE-TRIBE NATION**”⁴¹ will prove itself just that, an illusion.

41. DAVID WOJNAROWICZ, CLOSE TO THE KNIVES: A MEMOIR OF DISINTEGRATION 153 (1991).