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# La Verdad, El Poder, y La Liberacion

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SMALL SCHOOL.  
BIG VALUE.

## *La Verdad, El Poder, y La Liberación*

Christine Zuni Cruz\*

A Reflection\*\* on Margaret Montoya, Máscaras, Trenzas, y Greñas:  
*Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse*, 17 HARV. WOMEN'S L. J. 185 (1994), 15 CHICANO-LATINO L. REV. 1 (1994)

### I. INTRODUCTION

*As I pull out the original beige color Chicano-Latino Law Review reprint that Margaret gave me when we exchanged scholarship during one of our joint projects, I notice its faded coloring and it sends my mind back over the years. Our now braided experiences, united by the institution where we have spent the greater part of our careers, were first brought together by the meeting of our now adult children—Margaret's daughters, Diana and Alejandra, and my son, Immanuel—when they were in middle and elementary school. They met at a retreat of the faculty in northern New Mexico, even before Margaret and I were well acquainted as colleagues. A fast and rewarding friendship, an intellectual exchange, an inter-familial relationship, and a collegial synergistic connection still continue to this day.*

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\*\*“Reflection” is layered with meaning. I mean to embrace the complexity of the word in this essay. “‘Reflection’ is a noun that comes from a late Latin word meaning the act of bending back. The more common meanings of the word are something produced by reflecting: a thought, idea, or opinion formed or a remark made as a result of meditation; consideration of some subject matter, idea, or purpose. The less common meanings include: turning back, return, an effect produced by an influence, an often obscure or indirect criticism.” Christine Zuni Cruz, *Toward a Pedagogy and Ethic of Law/Lawyer for Indigenous Peoples*, 82 N.D. L. REV. 863, 863 (2006) (internal citation omitted).

Professor Margaret Montoya's *Máscaras, Trenzas y Greñas: Un/Masking The Self While Unbraiding Latina Stories and Legal Discourse*<sup>1</sup> was published during the first year of my entry into the legal academy as a visiting professor. This reflection on her influential article addresses three of the major themes that resonate most strongly for me. The first is the assimilative pull of the legal academic institution, the second is the power of narrative, and the third is transculturation.

The relationship of masking to assimilation and acculturation makes it a sophisticated, dynamic, and fluid device. Masking gives rise to a complex analysis, especially for historically oppressed and culturally and linguistically subjugated peoples. Masking, as descriptive of the experience of the "Other" in academic institutions, diversified but not sensitive to diversity—in fact, hostile to the power of multiplicity and bound to singular, dominant frames of intellectual and creative markers—is illustrative of the suppressive and oppressive nature of assimilation. Some can take masks off and return to self; others cannot, or do not want or "need" to take them off, and are forever changed, melded into the mask.

Masking is a metaphor for the assimilative process and demand of education. The masks that assimilative pressures require those outside the dominant frame to wear, and the experience of "assimilative masking" that affects us through feeling, or being, forced to don masks, or even to desire and embrace them, and to mistrust or mask the truth of self or our difference, can create real challenges to fostering intellectual diversity, autonomy, self-determination and maintenance of our identity. It is primarily ideological masking<sup>2</sup> which I address, but almost all masking in academic institutions results in the loss of the expression of intellectual diversity, mental sovereignty,<sup>3</sup> and diverse knowledge frames.

The second major theme of *Máscaras* is the power of narrative. Narrative is linked to truth and related (for me) to finding voice. Montoya's article, which utilized and captured the impact of narrative on legal discourse, imparted an important message early in my scholarly development. Narrative breaks from the dominant frame of legal scholarship and embodies a culturally and intellectually diverse manner of

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<sup>1</sup> Margaret E. Montoya, *Máscaras, Trenzas y Greñas: Un/Masking The Self While Unbraiding Latina Stories and Legal Discourse*, 15 CHICANO & LATINO L. REV. 1 (1994) (published concurrently in 17 HARV. WOMEN'S L.J. 185 (1994)).

<sup>2</sup> Montoya, *supra* note 1, at 14 ("For Outsiders, being masked in the legal profession has psychological as well as ideological consequences.").

<sup>3</sup> Christine Zuni Cruz, *Shadow War Scholarship, Indigenous Legal Tradition, and Modern Law in Indian Country*, 9 TRIBAL L. J. 1, 2 (2010) (citing Antonio López, *Circling the Cross: Bridging Native America, Education, and Digital Media*, in LEARNING RACE AND ETHNICITY: YOUTH AND DIGITAL MEDIA 109, 110 (Anna Everett ed., 2008) (quoting DONALD L. FIXICO, *THE AMERICAN INDIAN MIND IN A LINEAR WORLD* 15 (2003)).

expression and thought. Narrative itself is also the dominant and legitimate form of expression employed to carry on the Indigenous legal tradition.

Lastly, these two themes are joined by a third. I have been researching and writing on Indigenous identity and considering its political, legal, and uneasy borders and boundaries with other identities, including inter-racial and inter-tribal identities. One word and a footnote in *Máscaras* raised new insight for this work.<sup>4</sup> *Transculturation* provides a contrast between Indigenous and mestizo identity, one that I will only mention here but raise to capture that constant thread of conversation that always pushes and pulls on Professor Montoya and me because of our separate identities and the dialogue we choose to engage in across our own differences.<sup>5</sup>

*The themes of assimilation and narrative resonate just as clearly when I read the article now, in conjunction with writing this retrospective reflection, as upon my first read twenty years ago. I recall receiving the draft that became the article I hold in my hands. I remember the forceful resonance of her narrative. The narrative of the strong bond between sisters resonated because of my own experience with three older sisters. Especially relevant was the experience of my sister Evelina, myself, and other*

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<sup>4</sup> “This article explores how *transculturation* creates new options for expression, *personal identity*, cultural authenticity and pedagogical innovation;” footnote 2, states, “I am borrowing the concept of transculturation from the Cuban poet Nancy Morejón, who has written that ‘[t]ransculturation means the constant interaction, the transmutation between two or more cultural components with the unconscious goal of creating a third cultural entity.’” Montoya, *supra* note 1, at 1–2, (internal citations omitted) (emphasis added).

<sup>5</sup> We have been working for a number of years on a “guerilla scholarship” project we call Narrative Braids. Our narrative braid twists, pulls and wraps around the racialized experiences of a Pueblo woman and a Chicana from New Mexico. Given the tension between the two—native peoples and *mestizos* in New Mexico—many issues lie deep below the surface of our narratives, including the tension in these identities, the historical oppositional relationships, and the competing allegiances based on one’s identity. We have discussed tensions linked to aspects of our performance that require race-traitor expositions, extensive personal narrative, hyper-consciousness of race and color-on-color racism, and perhaps most obviously, departure from traditional legal discourse and use of narrative to analyze the law that may tax the traditional legal scholar, including critical race scholars. See Margaret Montoya & Christine Zuni Cruz, *Narrative Braids: Performing Racial Literacy*, 33 AM. INDIAN L. REV. 153 (2009) (published concurrently in 1 FREEDOM CENTER J. 60 (2009)); *Narrative Braids, Performance by Margaret Montoya and Christine Zuni Cruz*, Cultivating Native Intellect and Philosophy: A Community Symposium Recognizing and Discussing the Contributions of Christine Zuni Cruz, 11 TRIBAL L.J. (2011), <http://tlj.unm.edu/events/czc-narrative.php> (March 10, 2011, digital recording of Narrative Braids performance).

*Indigenous students for whom the doors of an elite institution were opened for the first time in our collective tribal histories upon our admittance to privileged academic space. This was then followed by the experience I had sorting out my presence in the legal academy. Margaret asked me to tell her what I thought of her pre-publication draft of the Máscaras article. I read it and it struck that unmistakable and compelling chord of truth.*

## II. MASKS AND THE ASSIMILATIVE TASK OF EDUCATION

I begin with a brief consideration of masks from a Puebloan Indigenous perspective, which is my foundational frame of reference. “Masks” are common to Pueblo expression, just as they are to other Indigenous peoples’ expression throughout the world. In the Pueblo world they are reserved to ceremonial representation and are most commonly associated with the spiritual<sup>6</sup> and other living creatures that share the land and are critical to traditional survival or to the ecosystem and the Indigenous knowledge frame. Masking is also associated with levity. The masked or painted Pueblo clown<sup>7</sup> is important to the way in which correction and instruction are imparted through humor in public ceremony. Masks worn in ceremony are powerful representations. The Puebloan frame of masking imparts both the symbolic power and spiritual significance of masks.

In modern Indigenous resistance movements worldwide, the “masking” of the face has emerged as a symbol of struggle against oppression. This deliberate masking of individual identity serves in part for protection from the government, for example, in the Zapatista movement’s

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<sup>6</sup> See Tom Mashberg, *Hopis Try to Stop Paris Sale of Artifacts*, NYTIMES, April 3, 2013, at C1. The sale of seventy sacred masks was opposed by the Hopi at a Paris auction; the “masks” are considered sacred and are referred to as “friends” in the Hopi language. As there are no international accords to protect “American” cultural patrimony from sale in other countries, the sale went forward. *Id.* An understanding of Pueblo thought is required to comprehend the sacred in representations referred to as “mask/ing” in the English language.

<sup>7</sup> JOE S. SANDO, PUEBLO NATIONS, EIGHT CENTURIES OF PUEBLO INDIAN HISTORY 25 (1992) (“[T]he clowns (*Kushare* in the Keres language, *Kosa* in the Tewa tongue, and *Tabosh* in the Towa language) were that group of society responsible for the entertainment of the people.”).

“uniform,” which includes the covering of the face.<sup>8</sup> However, the meaning of the mask/ing, as in Pueblo ceremony, is far deeper.

The masks are a symbol not only of autonomy, but also egalitarianism. The masks are very symbolic to the Zapatistas...[T]hey say . . . they gave up ‘the word’ (or their voices) so they could be heard and, by wearing masks, they gave up their faces in order to be seen. ‘With my mask, I’m a Zapatista in a struggle for dignity and justice,’ replied the masked man to whom this question was posed. ‘Without my mask, I’m just another damn Indian!’<sup>9</sup>

Donning masks for the Zapatistas is both assuming and critiquing power. “Marcos<sup>10</sup> has said that ‘we cover our faces in order to show the world the true face of . . . Mexico.’”<sup>11</sup> The mask/ing also has multiple representations; it is “the faceless global majority excluded from decisionmaking on the one hand, and the disguise of the modernizing state and increasingly small global ruling class on the other.”<sup>12</sup>

In both instances, the masked person is known to family and community. However, in the first instance, masks transform the person through the power of ceremonial re-presentation of another symbolically

<sup>8</sup> The masked face makes it more difficult “for the police, the state, the paramilitaries or unfriendly observers to identify the wearer.” PAUL KINGSNORTH, *ONE NO, MANY YESES* 22 (2003).

<sup>9</sup> *Frequently Asked Questions About Zapatismo, Why do Zapatistas wear masks?*, SCHOOLS FOR CHIAPAS, <http://www.schoolsforchiapas.org/english/resources/faq-about-zapatismo.html>. On December 21, 2012, in the largest nonviolent mobilization of the Zapatista movement, the Zapatistas marched in silence and with faces covered with their signature masks through five cities in Chiapas, Mexico, demonstrating these very points. See also Luis Hernández Navarro, *Zapatistas can still change the rules of Mexico’s politics*, THE GUARDIAN, Dec. 31, 2012, <http://www.guardian.co.uk/commentisfree/2012/dec/31/zapatistas-mexico-politics-protest>.

<sup>10</sup> Subcomandante Marcos is the spokesperson of the Ejército Zapatista de Liberación Nacional (EZLN). See Navarro, *supra* note 9. “Marcos got his start as spokesperson when asked by the indigenous commanders to translate for a group of French-speaking tourists who were demanding information. The tourists complained that they needed to catch a flight to Mexico City and Marcos’ response became the stuff of legend: ‘We are sorry to bother, but this is revolution.’” John Gibler, *Covering Their Faces in Order to be Seen*, THE HERALD MEXICO, Jan. 5, 2007, available at <http://www.banderasnews.com/0701/eded-tobeseen.htm> (last visited April 4, 2013).

<sup>11</sup> E. Jeffrey Popke, *The face of the other: Zapatismo, responsibility and the ethics of deconstruction*, 5 SOCIAL & CULTURAL GEOGRAPHY 301, 309 (2004).

<sup>12</sup> Fiona Jefferies, *Zapatismo and the Intergalactic Age*, in GLOBALIZATION AND POSTMODERN POLITICS-FROM ZAPATISTAS TO HIGH-TECH ROBBER BARONS 129, 133 (Roger Burbach ed., 2001).

significant identity. In the second instance, masking is intended to obscure identification to protect one's identity from the threat of retaliation expected as a result of organized resistance, as well as to challenge and critique power, and to "give face."<sup>13</sup> Professor of Geography E. Jeffrey Popke, says,

The mask worn by the Zapatistas is thus more than simply a device to avoid being identified. It symbolizes the anonymity of Mexico's nameless and faceless indigenous people, and hence serves as a critique of the way in which modernity has denied them a subject position within the Mexican nation. . . . Part of the Zapatista mission is to recover this face, to reclaim their status as subjects and citizens. . . . This 'giving of face' can be viewed as a way of re-establishing a form of ethical engagement, of insisting that we open ourselves to the presence of the other.<sup>14</sup>

These frames show masks' dual power to transform the wearer and to obscure, project, and protect identity and face. They are equally relevant when one discusses the masking of identity that occurs in educational institutions: masks represent the assimilation into the dominant knowledge and cultural frame educational institutions demand, as well as the masking of identity that occurs to protect one's "true identity." In academia, masks represent the many ways in which the true self, particularly if it is Other, is transformed, cloaked, suppressed, oppressed, or protected, including in the performance of identity, expression, and production of knowledge.

Three questions emerge: What are the masks we are asked to wear in our academic institutions and why? Are we being asked to wear masks that hide our difference or otherness?<sup>15</sup> Are these masks intended to subvert diversity or the face of diversity or diverse expression? Montoya powerfully depicts a mask of whiteness, representing in part the expectation of conformity to the dominant norm reflected by whiteness, including English proficiency, as well as the dominant western frame of knowledge, knowledge production, and manner of cultural and written expression.<sup>16</sup> In a powerful sculpture by Lorraine Bonner, entitled UNMASK!, Ms. Bonner

<sup>13</sup> Popke, *supra* note 11, at 309–10.

<sup>14</sup> *Id.* (internal citations omitted).

<sup>15</sup> "[T]he systematic and legal reduction of the other to the same for political purposes helps to create conditions under which the face of the other can be obscured, transcendence hidden, and ethics ignored." Popke, *supra* note 8, at 305, (citing E. Wingenbach, *Refusing the temptation of innocence: Levinasian ethics as political theory*, 12 STRATEGIES 219, 223 (1999)).

<sup>16</sup> Montoya, *supra* note 1, at 8. ("Academic success traditionally has required that one exhibit the linguistic and cognitive characteristics of the dominant culture.") *Id.*

depicts two melded Janus<sup>17</sup> faces, one holding a black mask to the face with holes for the eyes, and the other holding a white mask to the face with an opening only for the mouth. The black mask renders the person voiceless and the white mask blinds the person providing only voice.<sup>18</sup>



Dealing with diverse peoples, languages, knowledge systems, and ways of thinking is a challenge/threat for the American academic institutions most study and teach within. Indigenous peoples have a history in which assimilation served as the primary task of American education and assimilation continues to reflect the Indigenous experience with education. This is true in the modern legal academy. The acquisition of a legal

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<sup>17</sup> *Id.* at 15. Montoya discusses being “Janus-faced, able to present one face to the larger society and another among ourselves. Janus-faced, not in the conventional meaning of being deceitful, but in the sense of having two faces simultaneously. One face is the adult face that allows us to make our way through the labyrinth of the dominant culture. The other, the face of the child, is one of difference, free of artifice. The image with its dichotomized character fails to capture the multiplicity, fluidity and interchangeability of faces, masks and identities upon which we rely.” *Id.* “In Roman mythology, Janus was the god of doorways and transitions of time. He was depicted as a double-faced head with two faces looking in opposite directions. . . . To the Romans Janus signified transitions such as from primitive life to civilization, childhood to adulthood, war to peace and vice versa.” 2 *ENCYCLOPEDIA OF TIME: SCIENCE, PHILOSOPHY, THEOLOGY & CULTURE* 726 (H. James Birx ed., 2009). Janus as the representation between primitive life and civilization is especially interesting to me because of its connection to the origins of Indian education in the United States.

<sup>18</sup> Ms. Bonner displayed her work, including UNMASK!, at the Intersectionality: Transforming Movements Critical Race Studies Annual Symposium at UCLA School of Law in 2010. Pictures of UNMASK! can be found at [www.lorrainebonner.com/content/unmask-0](http://www.lorrainebonner.com/content/unmask-0) (last visited Feb. 10, 2013).



education through an accredited law school is required before one may engage the legal system. This imbeds Indigenous Peoples in both an educational and a political system, not of their own making, but with which Indigenous Peoples are compelled to fully engage in order to preserve remnant lands, peoples, languages, and Indigenous knowledge frames.

### III. “WHO ARE YOU/WE?”

The danger of the (linguistic, cognitive, social, and cultural) masking that Indigenous Peoples go through in academic institutions is that the tribal self is forgotten or buried, and eventually transforms into the mask of whiteness itself. Unable to shed the mask/s acquired, our identities become forever altered. The act of masking illustrates the shifts and changes fundamentally required in the movement from tribal knowledge system to another knowledge system; Indigenous cultural understanding of masks and modern Indigenous resistance analysis of masking helps us understand the transformative, protective power and symbolism of masks. Specifically, the metaphor and symbolism of masking also represents the oppressiveness associated with masking. This is seen in the two masks poised to cover the faces of Lorraine Bonner’s clay figures in UNMASK!<sup>19</sup> The smooth white mask may privilege or allow voice, but blinds. The smooth black mask allows one to see what is happening, but silences or oppresses giving voice to what is seen. These masks are metaphors for the law of white spaces that operate in institutions.<sup>20</sup>

“[K]ill the Indian in him and save the man,” are the words attributed to U.S. Army Lieutenant Richard Henry Pratt, who when making this statement quoted a “great general”, who said, “the only good Indian is a dead Indian.”<sup>21</sup> Pratt participated in the then-bold experiment of educating native warriors and leaders who were incarcerated by the United States

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<sup>19</sup> *Id.*

<sup>20</sup> Christine Zuni Cruz, *Four Questions on Critical Race Praxis: Lessons From Two Young Lives in Indian Country*, 73 *FORDHAM L.REV.* 2133, 2138–39, 2005 (“The law of white spaces considers ‘the emotional and epistemic relationships between the white participants, [and] the[ir] internal relationships’ and is one of ‘nonrecognition, silence, or denial’ of race, color, culture, and their privileging or disabling impacts. The law of white spaces operates in white space.” (internal citations omitted)).

<sup>21</sup> BRAD D. LOOKINGBILL, *WAR DANCE AT FORT MARION, PLAINS INDIAN WAR PRISONERS* 6 (2006). “Speaking to the National Convention of Charities and Correction, Pratt celebrated the education of chiefs and warriors: ‘A great General has said that the only good Indian is a dead one, and that high sanction of his destruction has been an enormous factor in promoting Indian massacres. In a sense I agree with the sentiment, but only in this; that all the Indian there is in a race should be dead. Kill the Indian in him and save the man.’ Inspired by the treatment of the war prisoners, Pratt’s words became a mantra for federal Indian policy in America’s Gilded Age.” *Id.* (internal citations omitted).

government in St. Augustine, Florida for armed resistance to the imposition of federal authority over them and their peoples.<sup>22</sup> American education was thus proposed as an alternative to literally eradicating Indigenous Peoples from the emerging American settler nation in the 1800s once authorities determined that it was cheaper to educate Indians than to wage military campaigns to kill them.<sup>23</sup> The linguistic, cognitive, social, and cultural knowledge frame that Indigenous Peoples adhered to was targeted as the “Indian” in need of killing.

Assimilation transforms and is intended to change us, un/consciously. It is intended to address negative assessments of difference as well as to recreate us to fit in (in less negative ways).<sup>24</sup> Resisting and maintaining our own identity becomes a challenge.

Montoya’s descriptive use of *trenzas* and messy hair describes the performance of identity as we move from the negative stereotype, the *greñas*, to the consciously public aspects (braids) of our managed and performed identity. This represents the ability to maintain the true self through understanding that we “perform” identity, including the identities required to be covered by the assimilative masks as well as the masked identity.<sup>25</sup> This un/conscious battle of the private and public self through the use of performance and masks dependant on the space one is occupying evidences an awareness of the importance of resisting the melding of the masked and unmasked identities into one permanently masked identity. To me, this represents not only the importance of maintaining unique social and cultural expression, but of maintaining the critical foundation of separate tribal identity; the existence, outside dominant frames of knowledge and expression, of Indigenous knowledge and language, including a legal tradition, which support the cultivation of different ways

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<sup>22</sup> RICHARD HENRY PRATT, BATTLEFIELD & CLASSROOM, FOUR DECADES WITH THE AMERICAN INDIAN, 1867-1904, AN AUTOBIOGRAPHY xx (Robert M. Utley ed., 2003).

<sup>23</sup> ROBERT A. TRENNER, JR., THE PHOENIX INDIAN SCHOOL: FORCED ASSIMILATION IN ARIZONA, 1891-1935 (1988) (Assimilation was the federal policy pursued in the education of Indian children at the federal boarding schools, like Phoenix Indian School. These schools developed as a result of Pratt’s experiment with the Indian prisoners of war at Fort Marion).

<sup>24</sup> “There are indigenous, there are workers, there are women, there are homosexuals, there are lesbians, there are students, there are young people . . . If we look at what they all have in common, we will see that they have nothing in common, that they are all ‘different’. They are ‘others’ . . . Power has armies and police, to force those who are ‘other’ and different to be the same, identical.” Popke, *supra* note 8 at 310, citing S. Marcos, *Why We Use the Weapon of Resistance*, in OUR WORD IS OUR WEAPON: SELECTED WRITINGS 159, 163 (J. Ponce de Leon ed., 2001).

<sup>25</sup> This also requires an understanding that *assimilative* masks are meant to be removed to reveal the truth underlying the mask.

of being, thinking, and existing in the world—a sovereignty of the mind and intellect.

*It would be a while longer before I recognized and felt that I had found my own voice and my own cultural expression in contrast to the prevailing pattern and norm of legal scholarship existing in the culture of written discourse of the legal academy through what, even now, is perhaps still considered contested “legal” scholarship.<sup>26</sup> I recognized Margaret had found her voice in Máscaras through the power it had and I deeply admired her for accomplishing what I was struggling to do without fully realizing my own struggle.*

#### IV. NARRATIVE AND VOICE

Law schools prepare students for a profession that frames thinking, writing, and approach to the law in a very specific manner, and requires its participants to operate within this frame for success. For admission to the bar, and permission to operate within the justice system as lawyers, a law school education is required, representing a minimum of nineteen years of education total. This educational training casts us into a particular frame of thinking about law and everything connected to law. To break from the frame requires moving outside of it entirely. Narrative allows for this: the reframing of thought is necessary to permit consideration of a legal tradition linked to orality. Narrative shatters the small, narrow frame which contains the only information, language, and experience that is said to be *relevant* to the American common law tradition. Both objectivity and relevance affect legal scholarship and legal proceedings in the common law tradition and both test and reject all or parts of collective<sup>27</sup> and personal narrative.<sup>28</sup>

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<sup>26</sup> I do not contest the importance of traditional legal scholarship. Just as bringing diversity into the academy means we infuse and yes, change, the perspectives of *what* it means to lawyer from diverse perspectives, we also diversify not only what is written about the law, but *how* the law is written about and experienced. As a tribal person, I experience an oral culture that has been surrounded by a written discursive culture and I find that how I join in that written discourse is more satisfying and real to me when I write in the manner I do. Professor Montoya’s *Máscaras* article allowed me to see that this was a possibility. It rang with a truth that had a profound impact.

<sup>27</sup> See Don Monet & Skanu’U, COLONIALISM ON TRIAL: INDIGENOUS LAND RIGHTS AND THE GITKSAN-WE’SUWET’EN SOVEREIGNTY CASE (1991)) (Documenting the initial trial of *Delgamuukw vs. British Columbia*, [1991], 79 D.L.R. (4th) 185, [1993], 104 D.L.R. (4th) 470, [S.C.C, 1997] 3 S.C.R. 1010, before the Supreme Court of British Columbia and presided over by Chief Justice Allan McEachern from 1987 to 1990 from the perspective of

Narrative is critical to the expression of the Indigenous (Chthonic) legal tradition.<sup>29</sup> The dominant framing of what legal discursive expression looks like, what it allows, and what it locks out entirely, is challenged by narrative.

It can be a challenge to find one's voice and the use of narrative allowed me to "find voice." I view finding voice as related to the removal of masks that permits the true self to speak free of encumbrance, be it the self hidden by *imposed* masks, or covered by masks silencing voice or allowing voice without vision, the latter two as illustrated by the masks in Bonner's sculpture, UNMASK!<sup>30</sup>

Sometimes voice is affected by the *protective* mask necessary for our safety or success, and therefore necessary for us to impose on ourselves, like the Zapatista "face-covering" protecting a face of resistance. The subversive use of masks—to cover, to be seen, or to use the mask to reveal the truth of what is masked and the subversive use of voice—to hold silence in order to be heard, flip the assimilative tools of institutional mask/ing and silencing:

It would seem evident that masks conceal and silence  
quiets.  
But the truth is that masks also reveal and that silences  
speak.  
To conceal and to quiet, to reveal and to speak, masks and  
silences.<sup>31</sup>

Speaking out assumes prerogative. Speaking out is an  
exercise of privilege. Speaking out takes practice.

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the Indigenous plaintiffs. The trial court had difficulty with Clan elders' testimony including oral narrative history from time immemorial and the methods of knowledge and expression, including song.).

<sup>28</sup> See Margaret Montoya & Christine Zuni Cruz, *Narrative Braids: Performing Racial Literacy*, 33 AM. INDIAN L.REV. 153, 158–74 (2009).

<sup>29</sup> Chthonic legal tradition is the term utilized to describe the legal tradition of autochthonous peoples, those who "live ecological lives . . . in or in close harmony to the earth." The Indigenous legal tradition is grounded in this relationship to the earth and understanding of ecology. I prefer Indigenous legal tradition to chthonic legal tradition, and I use this term in reference to the chthonic legal tradition. See H. PATRICK GLENN, *LEGAL TRADITIONS OF THE WORLD* 58–59 (2000).

<sup>30</sup> Bonner, *supra* note 18.

<sup>31</sup> Subcomandante Marcos, *Above and Below: Masks and Silences*, LA JORNADA, July 1998, available at <http://www.inmotionmagazine.com/chiapmar.html> (originally published in Spanish, translated from Spanish by Irlandesa for Nuevo Amencerc Press).

Silence ensures invisibility. Silence provides protection.  
Silence masks.<sup>32</sup>

Reflecting on *Máscaras* highlighted the critical role narrative has played in my own work and the impact *Máscaras* has had on me and others for whom narrative is an aspect of cultural discursive expression. Employing narrative in legal analysis allows resistance to the often too narrow legal discursive and analytical frame. Montoya's employment of narrative influenced my work and my thinking about the dominant frame of legal analysis and law.<sup>33</sup> Narrative was like a key that unlocked a door that opened discursive expression about the law. The employment of narrative in writing about the law, its impact, and context, also opened a door of understanding concerning the connection between narrative, its use, and its relationship to the Indigenous legal tradition.<sup>34</sup>

If there is power in narrative then there is disempowerment in silencing narrative. This occurs in law through rendering parts of story and narrative irrelevant in legal process and discourse, as illustrated by the Josephine Chavez case Montoya discusses in *Máscaras*. Legal opinions limit facts to the *legally* relevant narrative, but to challenge and question whether narrative can inform analysis of the law devalues it. In contrast, in the Indigenous legal tradition foundational law is contained in collective narratives, including origin stories,<sup>35</sup> journey narratives,<sup>36</sup> and other

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<sup>32</sup> Montoya, *supra* note 1, at 26; *see also id.* at Part C: *Desen/Mascarando Silencio / Un/Masking Silence*, at 17–26.

<sup>33</sup> *See generally* Christine Zuni Cruz, *Four Questions on Critical Race Praxis: Lessons From Two Young Lives in Indian Country*, 73 *FORDHAM L.REV.* 2133 (2005).

<sup>34</sup> Zuni Cruz, *supra* note 3; Christine Zuni Cruz, *Tribal Law as Indigenous Social Reality and Separate Consciousness [Re]Incorporating Customs and Traditions into Tribal Law*, 1 *TRIBAL LAW J.* (2000), [http://tlj.unm.edu/tribal-law-journal/articles/volume\\_1/zuni\\_cruz/index.php](http://tlj.unm.edu/tribal-law-journal/articles/volume_1/zuni_cruz/index.php) (addressing the use of Indigenous concepts, values, and precepts embedded in collective narrative as the basis for tribal law).

<sup>35</sup> Zuni Cruz, *Tribal Law*, *supra* note 34, at fn. 34 and accompanying text. “The traditional law of any given tribal community is not entirely and unequivocally accessible in the same manner as is written law. Traditional law is internal to a particular community, oral, and for the most part, dynamic and not static in nature. There are some who feel that traditional law, such as that contained in creation narratives, for example, can never change. Both these positions can be reconciled.” *Id.*

<sup>36</sup> *See e.g.* SANDO, *supra* note 7, at 22 (“For unknown ages the ancient people were led from place to place upon this great continent.”); GREGORY CAJETE, *LOOK TO THE MOUNTAIN, AN ECOLOGY OF INDIGENOUS EDUCATION* 91 (1994) (“In the body of myth of all Indians there are stories of the travels and migrations of the People through time and place.”).

narratives connecting Indigenous autochthonous peoples to the land.<sup>37</sup> The disconnection of narrative to the law in the American common law tradition all but shuts down the ability to impart understanding of the Indigenous legal tradition into common law through oral narratives in spoken word or song. Additionally, asserting that narrative is irrelevant to legal analysis is disempowering on an individual level, as illustrated in Montoya's description of the Josephine Chavez case.<sup>38</sup> The narrative of Josephine Chavez's life absent in the Court's written opinion in the case is an example of the Court's focus on legally relevant facts as masking Josephine Chavez.<sup>39</sup> Law and the legal process masked her reality.<sup>40</sup>

Finally, on a collective level, it is disempowering to dismiss narrative for Indigenous Peoples whose legal tradition is imbedded in narrative. While there is room for "relevant facts" and partial narrative, there is no room for irrelevant facts, and "whole narrative"<sup>41</sup> is rarely relevant in American legal process or legal analysis. When narrative contains law, narrative has heightened importance to the law. In societies that operate in the oral tradition, law is contained in various texts, including narrative, art, land, song, and symbols. American common law normalizes partial narrative and it has no experience with whole narrative containing law. It is therefore no surprise that the introduction of narrative to legal analysis and its use in discussing the law is challenged as unscholarly legal discourse.

Personal narrative is representative of the impact of the law at a local, specific level. Within indigenous knowledge frames, the local

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<sup>37</sup> See, C.F. BLACK, THE LAND IS THE SOURCE OF THE LAW, A DIALOGIC ENCOUNTER WITH INDIGENOUS JURISPRUDENCE 4 (2011) ("[I]t was the stories—the vehicles for intellectual and metaphysical knowledge encased in feelings—that would reveal to me the Indigenous jurisprudence: why the Land is the source of the Law.").

<sup>38</sup> Montoya, *supra* note 1, 18–26.

<sup>39</sup> *Id.*

<sup>40</sup> "Contextualization of the facts through the use of gender-linked and cultural information would inform our understanding of the . . . legal issues. Contextual information should have been relevant to determining the criminality of her behavior. Josephine Chavez's behavior seems to have been motivated as much by complex cultural norms and values as by criminal intent." Montoya, *supra* note 1, at 20.

<sup>41</sup> By whole narrative, I mean a person's or a community's complete and entire narrative. Canada provides some interesting departures in its recognition of narrative in its common law system's interaction with Indigenous Peoples, however. Consider *Delgamuukw vs. British Columbia*, [1997] 3 S.C.R. 1010 (oral histories and renditions of oral knowledge are relevant evidence to a land claim case). Likewise, personal histories of native defendants' lives are relevant at sentencing through *Gladue* pre-sentencing and bail hearing reports, stemming from the Canadian Supreme Court ruling in *R. v. Gladue*, [1999] 1 S.C.R. 688 (addressing Section 718.2(e) of the Criminal Code, a provision to address the historical over-representation of Aboriginals in the Canadian justice system allowing considerations pertaining to Aboriginal defendants to be presented upon sentencing).

ecosystem contains valuable knowledge upon which higher and connecting knowledge is premised—Indigenous knowledge stems from a specific ecological order,<sup>42</sup> including the connection that the local has to the surrounding ecosystems, to the larger global ecosystems and to the celestial. In this respect, personal narrative represents the local, which connects to the collective narrative. The larger connection of law to the spiritual emerges from the collective narrative. Narrative is greatly valued; it emerges as a vessel of understanding and knowledge and in the Indigenous legal tradition, law can be found imbedded in collective narrative.<sup>43</sup> The local, just like the personal, is a necessary site of resistance.<sup>44</sup> Perhaps this is why Montoya's article on narrative resonated so powerfully with me and was connected to my own ability to find voice in employing narrative in written legal discourse.

Finally, in reading *Máscaras* for this reflection, *transculturation* resonated in a new way for me, largely as a result of my research and writing on Indigenous identity.<sup>45</sup> Indigenous identity, *mixture*, and the different treatment of mixture by Tribes, has been a focus of my research. I have found myself especially interested in the treatment of inter-tribal mixture and the challenges experienced and affected by mixture of tribal identities. With Indigenous identity so deeply embedded in particularized tribal existence, I consider whether this is a rejection of the idea of *transculturation*<sup>46</sup> in Indigenous identity in that there is not an interest in the emergence and formation of a new identity from the mixture, but rather an interest in the perpetuation and continuance of a singular and specific tribal identity.

*Máscaras was the familiar in the strange; the strange that I had become so accustomed to that I had forgotten it was strange until contrasted with the truth of narrative, and my own need for the truth, power, and liberation I find in narrative.*

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<sup>42</sup> Marie Battiste & James (Sa'ke'j) Youngblood Henderson, PROTECTING INDIGENOUS KNOWLEDGE AND HERITAGE, A GLOBAL CHALLENGE 35–56 (2005).

<sup>43</sup> The importance of traditional narrative in developing policy is emerging in the work of Christine Black at the Aboriginal and Torres Strait Islander Foundation in Australia. See generally, Christine Black, *Maturing Australia through Australian Aboriginal Narrative Law*, 110 SO. ATL. QTRLY 347 (2011). In addition, Christine Black is working with traditional narrative to develop policy.

<sup>44</sup> Montoya, *supra* note 1, at 27.

<sup>45</sup> Christine Zuni Cruz, *Lines of Tribes*, 22 BERKELEY LA RAZA J. (forthcoming 2013) (addressing Indigenous identity, race, color, belonging, and Indigenous legal tradition).

<sup>46</sup> Montoya, *supra* note 1, at 1 n.2.

## V. CONCLUSION

*“My truths require I say unconventional things in unconventional ways.”*<sup>47</sup>

To consider *Máscaras* on its twentieth anniversary is to recognize the timelessness of Margaret Montoya’s influential work on narrative. Additionally, it allows me to consider all Professor Montoya and I have experienced and grown/groaned through together, including reactions to our joint work on narrative,<sup>48</sup> that span the spectrum from complete silence and dismissal from those it alienates, to great excitement from those for whom it resonates. I wonder aloud whether the silence, coolness, impatience is related to the dominant law’s truncated mode of story-telling, or the lawyer’s inability to move easily in such unbounded discursive space. And whether the joy shared by those who respond with excitement to the Narrative braid is related to their recognition of the truth, power, and freedom of themselves in narrative.

Finally, it allows me to publicly thank and acknowledge Professor Montoya for mentoring, collaborating with, and supporting me through the years.<sup>49</sup> There is a reinforcing synergy that occurs between those who share intellectual friendship; this synergy is known only in its presence, not its absence. The importance and true power of critical mass<sup>50</sup> and diversity in

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<sup>47</sup> *Id.* at 25.

<sup>48</sup> See Montoya & Zuni Cruz, *supra* note 4.

<sup>49</sup> See also Christine Zuni Cruz, *A Tribute to Professor Margaret Alarid Montoya*, SALT LAW BLOG, <http://www.saltlaw.org/blog/2011/05/16/a-tribute-to-professor-margaret-alarid-montoya/> (last visited April 3, 2012).

<sup>50</sup> See Sheldon Bernard Lyke, *Catch Twenty-Wu? The Oral Argument in Fisher v. University of Texas and the Obfuscation of Critical Mass*, NORTHWESTERN L.REV., Colloquy, April 7, 2013, <http://colloquy.law.northwestern.edu/main/2013/04/catch-twenty-wu.html#more> (critical mass has both quantitative and qualitative elements). In 1993, when I joined the University of New Mexico School of Law as a visiting professor, the school had an impressive critical mass of Latino/a faculty that increased over time. When I joined the faculty, six members were Latino/a. The School of Law currently has two Latinas from New Mexico and one Latin American Latino, after five retirements and one departure. Of our five Latina/o emeriti professors, four are New Mexicans, including Professor Montoya. There are currently four tribally-enrolled Native American law professors at the Law School and a fifth has been hired. I assert critical mass is just as important for faculty of color as it is for students of color in educational institutions. Christine Zuni Cruz, *Toward A Pedagogy and Ethic of Law/ying for Indigenous Peoples*, 82 N.D. L. REV. 863, 867 (2006); but see Dawinder S. (Dave) Sidhu, *A Critical Look at the ‘Critical Mass’ Argument*, THE CHRONICLE OF HIGHER EDUCATION, Feb. 18, 2013, available at [chronicle.com/article/A-Critical-Look-at-the/137369/?cid=at&utm\\_source=at&utm\\_medium=en](http://chronicle.com/article/A-Critical-Look-at-the/137369/?cid=at&utm_source=at&utm_medium=en) (last visited April 3, 2013).



academic institutions is demonstrated in the bridges of understanding that would not occur without the friendships that arise across difference.

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(questioning the support for ‘critical mass’ of underrepresented minority students for the educational benefits of diversity to occur as validating racial stereotypes and perpetuating notions of racial inadequacy). Sidhu is an assistant professor at UNM School of Law.