
IACHR Rapporteurship on the Rights of People of African Descent and Against Racial
Discrimination

Lecture series “Transforming the Invisible into the Visible”

OAS May 14, 2014

Lecture: Racial Innocence in the Americas: A U.S. – Latin American Comparison

Prof. Tanya Katerí Hernández, Fordham University School of Law

There are approximately 150 million people of African descent in Latin America, representing about one-third of the total population.ⁱ Yet, these are considered conservative demographic figures given the histories of undercounting the number of persons of African descent on Latin American national censuses and often completely omitting a racial/ethnic origin census question.ⁱⁱ At the same time, persons of African descent make up more than 40 percent of the poor in Latin America and have been consistently marginalized and denigrated as undesirable elements of the society since the abolition of slavery across the Americas.ⁱⁱⁱ Yet, the view that “racism does not exist” is pervasive in Latin America despite the advent of social justice movements and social science researchers demonstrating the contrary. When the BBC surveyed Latin Americans in 2005 regarding the existence of racism, a significant number of respondents emphatically denied the existence of racism. Many, for instance, made statements such as “Latin Americans are not racist,” and “Latin-America is not a racist region, for the simple fact that the majority of the population is either indigenous, creole, or mixed.”^{iv}

Thus the denial of racism is rooted in what many scholars have critiqued as the “myth of racial democracy” – the notion that the racial mixture (*mestizaje/mestiçagem*) in a population is emblematic of racial harmony and insulated from racial discord and inequality. Academic scholarship has in the last twenty years critiqued Latin American “mestizaje” theories of racial mixture as emblematic of racial harmony. Yet, Latin Americans still very much adhere to the notion that racial mixture and the absence of Jim Crow racial segregation are such a marked contrast to the United States racial history that the region views itself as what I term “racially innocent.”

In part, the absence of a legal critique of the Latin American comparisons to the Jim Crow United States has enabled the Latin American “racial innocence” stance to remain. My book seeks to fill in that gap in the literature and provide the legal critique. Specifically, the book is about the ways in which the Latin American denial of racism operating in conjunction with the notion that true racism can only be found in the racial segregation of the United States veils the actual manifestations of racism in Latin America. I argue that an examination of the role of the state after the abolition of slavery in regulating race through immigration law and customary law disrupts this picture of Latin America as “racially innocent.” I assess the ways in which the contemporary Latin American anti-discrimination laws seek to eradicate the legacy of racial inequality wrought by the historic racism of the state. Finally, I conclude the book with insights as to how the examination of the Latin American context may be helpful to the U.S. racial justice movement today, given the growing denial of the existence of racism in the United States.

“¡No somos racistas!” “We are not racists!” The Racism-Denial Cloak around Actual Discrimination

The force of racism denial is so strong in Latin America that even the ubiquitous utterance and dissemination of racist speech are viewed as inconsequential. Yet, the very term “negro” (black/negro) is widely considered derogatory, because persons of African descent are stereotyped and referred to as inherently criminal, intellectually inferior, overly sexual, and animalistic. Because the racialized stereotypes of persons of African descent are pervasive, they are commonly understood to smell like animals and, in particular, monkeys. In addition to these commonalities in anti-black stereotypes across Latin America, each country in the region has also developed its own subset of derogatory phrases for blacks and blackness.

In Argentina, “negro de mierda”^v (“shitty negro”) is a popular expression, and “negro” is viewed as the worst of insults.^{vi} As a result, even children’s songs in Argentina are replete with anti-black references such as “I like the white, long live the white, let the black die.”^{vii} In fact, a young Argentinean created the Facebook page “Extermination of the (Negros de Mierda) Shitty Negroes.”^{viii} In Brazil, persons of African descent are referred to as “macaco” (monkey), “besta” (animal), “vagabundo” (bum), “filho de puta” (son of a whore), “safado” (insolent person), “ladrão” (thief), and “nega fedorentas” (stinking female nigger).^{ix} Pointedly, the Brazilian insults are viewed as being coterminous with blackness. This is also unfortunately manifested in Brazilian primary school textbooks, in which black people are consistently depicted as animallike, as socially subordinate, and in other stereotyped manners.^x In Colombian newspapers, even the polluted air of Cali is blamed on the presumed dirtiness of blacks.^{xi} In Costa Rica, blacks are typically described as “pigs,” “stinking,” “unkempt,” and “ugly.”^{xii} In Cuba, “doing things like a black person” is a common expression to describe a poorly done task

or acts of delinquency.^{xiii} In fact, the Cuban Academy of Sciences found in 2003 that dozens of Cuban phrases are used to connect blacks with delinquency and inferiority.^{xiv} This is best exemplified by the popular phrases “It had to be a negro”^{xv} and “There is no such thing as a good black or a sweet tamarind.”^{xvi} In Ecuador, an often-repeated joke is that “a black person running is a thief, a white person running is an athlete.”^{xvii} This helps to account for the 2009 survey findings in Ecuador demonstrating that five out of seven Ecuadorians harbor racial prejudice against blacks.^{xviii} Even Ecuadorian government officials are often quite comfortable stating their racialized perspectives. One chief of police publicly stated in 1995, “There is a type of race that is drawn to delinquency, to commit horrible acts ... that is the Black race, which is taking over the urban centers of the country, forming poverty belts that are conducive to delinquency because of their ignorance and their audacity.”^{xix} In Mexico, Afro-Mexicans respond to the stereotypes that they are “ugly” and “dark” with the focus on marrying lighter-skinned partners in the Latin American hope to lighten and thus “improv[e] the race” of their progeny.^{xx} In Nicaragua, the phrase “100 negroes for one horse” directly compares the inferiority of blacks with the greater value of a single horse,^{xxi} given how blacks are viewed as drug addicts and drunks in Nicaraguan society.^{xxii} In Peru, the common statements about blacks are that they are criminals, that they can only work in low-level positions, that they only think until midday, that they are delinquents and live badly, that they are a leisurely race, and that black women are prostitutes.^{xxiii} A study of Peruvian newspapers from 2008 found a total of 159 different racist adjectives for describing persons of African descent.^{xxiv} In Venezuela, despite the national pride in being a mixed-race “café con leche” (coffee with milk) society, the plethora of racist sayings commonly iterated includes the phrase “Kill a negro and live a Pepsi [enchanted] day.”^{xxv} The widely circulated racial stereotypes about Afro-Venezuelans include

[B]lack people are dangerous, they're thieves, they smell bad, they have bad habits, they discredit a company's image ... it's not their fault if they're like that ... black people when they don't do it [make a mess] on the way in they do it on the way out.^{xxvi}

Such racialized stereotypes also are repeatedly circulated through Venezuelann popular music with lyrics such as

Black woman! ... if only you were white and had straight hair / My mother told me in distress not to marry a black woman, because when she's asleep, she looks like a coiled snake / A black woman with a big nose doesn't cook for me, because she hides the food in her nostrils.^{xxvii}

Within Latin America there is also the use of racialized language as terms of endearment, which unconsciously invoke the paternalism of slavery's past. For instance, affection is expressed by stating, "That's my black person" or calling someone "my little black person." Even compliments directed towards those who are black are reserved for those presumed to "supersede" their blackness by having other "superior" traits. Such racialized compliments include "He is black but has the soul/heart of a white"; "She is black but good looking"; "He is black but well groomed and scented." While such statements are not meant to carry racial malice, they still activate racial stereotypes about the inferiority of blacks. In fact, these perspectives about persons of African descent are so embedded in the social fiber of Latin American societies that persons of African descent's subordinated status in society is viewed as natural and logical. Furthermore, the long-standing notion that "racism does not exist" in Latin America makes those unaffected by hate speech disinclined to acknowledge the harms it causes marginalized groups.

Moreover, when flagrant instances of racist conduct are detailed in the Latin American news media, they are understood as the acts of aberrant individuals who do not represent the greater racial tolerance presumed to be a part of Latin American culture. This dichotomy is well exemplified by a study indicating that while 87 percent of nonblack Brazilians manifest racial bias in their response to survey questions, only 10 percent admit to having any racial prejudice.^{xxviii} Similarly, while 89 percent of all Brazilians state that racism exists in Brazil, only 4 percent admit to harboring racial prejudice.^{xxix} Thus, despite Brazil's reputation as a land of "cordial" race relations, Brazilians, like others in Latin America, are acutely aware of color distinctions and their hierarchical significance. As one ethnographer who traveled to Brazil to study liberation theology but found racism instead reports:

The issue of color was, I saw, a constant presence in how men and women looked at each other, chose their lovers and spouses, modeled their bodies. It was there in the daily round of jokes, banter, insults, and accusations. It was there in how people talked to and about each other, in how they touched or did not touch each other.^{xxx}

In fact, Brazilians, like most Latin Americans, cannot imagine an Afro-Brazilian equivalent of Barack Obama being elected their president as a self-professed Afro-descendant.^{xxxi} In short, despite the regional differences in racial demography and the prevalence and manner of racial mixture rhetoric, across Latin America there is a common anti-black reality.

Nevertheless, Latin American racial denial is deeply embedded within racially hierarchical environments. This dualism has been historically facilitated by the deployment of strategic comparisons to the United States racial regime that are meant to depict Latin America as innocent of perpetrating racism. I call this the rhetoric of "racial innocence." As the Latin American human rights scholar Ariel Dulitzky has stated, "[a] kind of presumption of moral

superiority vis-à-vis the United States of America is quite widespread throughout our region. Rarely does a conversation on this issue among Latin Americans take place without mentioning the serious incidence of racism and racial discrimination that exists in the land of our neighbors to the north.^{xxxii} For instance, in the 2005 BBC survey of Latin American racial attitudes, the following invocation of racial innocence was quite prevalent: “I don’t think there is much racism in [Latin] America because we are a mix of races of all kinds of Europeans, Africans, Asians, and other races that were or will be; but I understand that in many other parts there is racism, above all in the United States and Europe, is where there is the most racism.”^{xxxiii} In fact, the U.S. laws of segregation constitute the ideological definition of racism in Latin America.^{xxxiv} Conveniently, the use of the United States as a point of reference has long shielded from view the racial subordination of persons of African descent in Latin America.

Furthermore, the historical absence of official Jim Crow laws of segregation is used as a justification for resisting contemporary black social justice movement demands for racially conscious social policies.^{xxxv} For example, in discussing the possibility of workplace affirmative action in Colombia, one commentator warns, “That would be like buying a ticket to a conflict we do not recognize.”^{xxxvi} Another Colombian similarly states, “If we do not want to create a racial conflict that does not exist in this country, we will have to lower the tone of the ethnic complaints and propose universal solutions, like the fight against poverty.”^{xxxvii} Similarly, the Brazilian reaction to the use of affirmative action in some universities is to denounce it as “the replacement of the Brazilian notion of racial democracy with a U.S. style positive discrimination that would generate polarization.”^{xxxviii} Indeed, a widely circulated statement opposing Brazilian affirmative action is entitled “We Are Not Racists: A Reaction to Those Who Want to Transform Us into a Bi-Color Nation.”^{xxxix}

Yet, often overlooked in the national self-serving comparisons to the U.S. Jim Crow past is the role of the state in Latin America in regulating race. Specifically, upon the abolition of slavery Latin American nations enacted restrictive immigration laws and provided state funding explicitly focused on whitening the population and outlawing the immigration of persons of African descent. Through the operation of immigration laws, persons of African descent were recast into their preemancipation status of marginalized peoples. Moreover, customary law (that is, the enforcement of unwritten laws established by long usage rather than legislative enactment) was also used as a tool of racial exclusion in Latin America.

When customary law is fully integrated into a society as a matter of state practice, there is little incentive to have the customs codified. What is most salient is whether there is a sense of legal obligation to be bound by the custom and have it enforced. It then follows that the acceptance of a social norm as law is also evidenced by the use of state resources to enforce those norms broadly.^{x1} In the Latin American context, the deployment of state resources (with policing of racial segregation and dedication of financial incentives for European immigration) is the key factor for appreciating the role of law as customary law in regulating race in Latin America.

Assessing the treatment of Afro-descendants through the lens of customary law helps to elucidate the “law” part of Latin American racial histories. For example, Afro-Brazilian oral testimonies from the post-abolition period in southern Brazil repeatedly indicate the entrenched customs of racial segregation in streets, public squares, public gardens, and public parks in both the capital and cities on the periphery (“o interior”) that were enforced by the local police, who had a practice of imprisoning Afro-Brazilian violators. Such practices can be characterized as customary law to the extent that they were imposed through physical sanctions and state officials

felt obligated to enforce the community norms despite the absence of a written code provision or an explicit state declaration that the customs were law. I call this the “customary law of race regulation” to denote the ways in which the social norm of racial exclusion effectively operated as a legal regime in which state resources and coercion were utilized to enforce the marginalization of persons of African descent. Thus my use of customary law focuses upon the ways in which the rules of racial exclusion were more than social conventions, but instead the equivalent of law. Considering the role of customary law thus deepens our understanding of the regulation of race in Latin America.

Specifically, the book examines the post-abolition state customary practices of policing public spaces for the maintenance of racial segregation, excluding persons of African descent from places of public accommodation, imposing racist norms in public education, establishing biased regulation of African-based religions, and structuring census enumerations to marginalize persons of African descent, first in Brazil and then in Spanish America.

Examining the large panoply of racially exclusionary customary practices, along with the legislation and funding of restrictive immigration laws, erodes the notion that Latin American states were innocent of racial regulation. To be sure, the particulars of the Latin American legal context cannot be directly equated with the U.S. history of Jim Crow segregation. Nevertheless, it is important to note how state action in Latin American racial subordination had a similar effect in marginalizing persons of African descent in the region. Indeed, the true evil of U.S. Jim Crow racial restrictions emanated not so much from the fact that the laws of segregation were codified into written laws, but from how those laws denoted the participation of the state in racial discrimination. Customary law in Latin America similarly elucidates the pernicious role of the state in regulating race.

In describing the reality of Latin America's racial history, the book also seeks to show how this sheds light on the United States racial context today. As in Latin America, the racial justice movement in the United States today has reached an important turning point. While the formal mechanisms for addressing racial inequality have long been in place, there is a growing societal belief that it is no longer necessary for the government to be proactively engaged in ensuring racial equality. A racial hierarchy continues to exist alongside a deteriorated social commitment to race-based programs. The early U.S. civil rights movement was astonishingly successful at making the goal of racial equality a stated national norm and catalyzing government programs designed to provide concrete access to jobs and education. However, the movement's very success contributes to the notion that blacks and other persons of color no longer require legal assistance in accessing equal opportunity. Indeed, President Obama's election in 2008 is viewed as the culmination of U.S. racial transcendence, so that now the United States presents itself as "racially innocent" in much the same way Latin America has long claimed to be. At the same time, systemic racism has not been eradicated, as evidenced by the longstanding institutional racial disparities in employment, educational attainment, access to health care and capital, residential segregation, and disparate incarceration and execution rates.

Thus, despite the differences in historical particularities, demographic variations, legal structures, and mode of governance, the Americas share the commonality of struggling with the enduring legacy of slavery and post-abolition regimes of discrimination. Moreover, the Americas now centrally share a rhetoric of racial progress uttered in the midst of systemic racial hierarchy. In other words, the successful civil rights movement struggle against Jim Crow segregation now places racial minorities in the United States in a situation comparable to that of Afro-descendants in Latin America – struggling against racial hierarchy without formal legal discrimination as a

target. Furthermore, U.S. post-racialism undermines the commitment to racial equality laws and policies because it disregards manifestations of racial inequality in its celebration of formal equality and pursues a color-blindness that equates the articulation of racial concerns with an act of racism.^{xlii} This most certainly resonates with what has long been the Latin American approach to matters of race.

The emergence of a Latin American–style post-racial discourse in the United States is suggested both by the growing numbers of individuals who no longer think that racism is a problem^{xlii} and by the judiciary’s own deflection from race in the pursuit of “color blindness” because race is a taboo subject whose mere referencing is an act of racism. Such views are embodied in Supreme Court justice Scalia’s statement “In the eyes of government, we are just one race here. It is American.”^{xliii} Furthermore, as with Latin America’s various nation-building campaigns, U.S. citizens are being encouraged to view themselves as “simply American” rather than identifying along racial or ethnic lines, which practice is considered inherently divisive. Indeed, even attacks on race-conscious attempts to facilitate electoral political participation in redistricting have been characterized by the courts as being concerned with how they “stimulate public awareness of race” and thus “fan[] the flames of racial division.”^{xliv}

Yet, Latin American post-racialism has not led to a transcendence of race but instead to a reinforcement of a racial caste system in a region long touted as a racial democracy. The legacy and continued support for the myth of racial democracy in Latin America have interfered with the government acknowledgment that collecting data by race can be a useful aid to pursuing racial equality. But growing pressure by Afro-descendant activists is beginning to make Latin American governments more receptive to race-conscious public policies. Indeed, the Latin American context also illustrates how resistance to post-racialism can be possible even after

decades of post-racial rhetoric. Latin American states have shifted from defending the myth of racial democracy in nations with large populations of indigent Afro-descendants, or from marginalizing an invisible minority of Afro-descendants in largely indigenous “mestizo” nations, to slowly acknowledging the salience of race and racism.^{xlv}

Conclusion:

Because North and South America share the same battle against insidious systems of racial hierarchy it is perhaps by the strategically combined efforts of peoples of African descent and their allies that racial justice can be effectuated. The book can provide clarity about the ways in which racial hierarchy can be maintained even with seemingly different racial ideologies and approaches. Moreover, the comparative examination of the Afro-descendant struggle against racism may be helpful to U.S. racial justice advocates in confronting their own “post-racial” contemporary version of Latin American–like racial democracy ideology. Specifically, U.S. activists may be better able to pierce the veil of post-racialism with the knowledge of how similar rhetoric in the rest of the Americas facilitated racial inequality. Because as the Brazilian social justice activist and educator Paulo Freire once stated, “Ninguém liberta ninguém, ninguém se liberta sozinho. Os homens se libertam em comunhão.”^{xlvi} [No one liberates anyone else, no one can liberate themselves alone. People liberate themselves in community with others.]

- ⁱ Margarita Sánchez and Maurice Bryan, *Persons of African Descent, Discrimination and Economic Exclusion in Latin America* (London: Minority Rights Group International, 2003), 3–4, tbl.1, <http://www.minorityrights.org/933/macro-studies/afrodescendants-discrimination-and-economic-exclusion-in-latin-america.html>.
- ⁱⁱ Juliet Hooker, “Afro-Descendant Struggles for Collective Rights in Latin America: Between Race and Culture,” *Souls* 10 (2008), 279, 281.
- ⁱⁱⁱ Gustavo Márquez et al., *Outsiders? The Changing Patterns of Exclusion in Latin America and the Caribbean* (Washington, DC: Inter-American Development Bank, 2007), pp. 15–17; Henry Louis Gates, Jr., *Black in Latin America* (New York: New York University Press, 2011).
- ^{iv} “Iberoamérica, ¿una región racista?”
- ^v Corina Courtis et al., “Racism and Discourse: A Portrait of the Argentine Situation,” in Teun A. van Dijk (ed.), *Racism and Discourse in Latin America* (Lanham: Lexington Books, 2009), pp. 13, 32.
- ^{vi} Marina Ari, “Argentina: Empanada, Asado de Vaca y Mucho Racismo,” *Kaos En La Red*, May 22, 2010, <http://www.kaosenlared.net/noticia/argentina-empanada-asado-vaca-mucho-racismo>.
- ^{vii} “Piden que Un Libro Infantil que Fomenta El Racismo sea Quitado de Circulación,” *MDZ Online*, May 27, 2010, <http://www.mdzol.com/mdz/nota/212497>.
- ^{viii} Carlos Neri, “Un Grupo Argentino Exterminación de los Negros de Mierda Indigna en Facebook,” *Moebius*, March 2, 2008, <http://enmoebius.com.ar/?p=972>.
- ^{ix} Teun A. van Dijk, *Racism and Discourse in Spain and Latin America* (Philadelphia: John Benjamins, 2005), pp. 136–7.
- ^x Hédio Silva Jr., *Discriminação Racial nas Escolas: entre a lei e as práticas sociais* (Brasília: UNESCO Brasil, 2002), pp. 34–8.
- ^{xi} Hernando Salazar, “Colombia Contra el Racismo,” *BBC Mundo*, May 23, 2008, http://news.bbc.co.uk/hi/spanish/latin_america/newsid_7415000/7415897.stm.
- ^{xii} Marjorie Jiménez Castro, “*Las Mascaras del Chiste Racista*,” *InterSedes: Revista de las Sedes Regionales*, 2 (2001) 43.
- ^{xiii} Fernando Ravsberg, “Advierten Sobre Racismo en Cuba,” *BBC Mundo*, February 13, 2003, http://news.bbc.co.uk/hi/spanish/latin_america/newsid_2759000/2759775.stm.
- ^{xiv} *Ibid.*
- ^{xv} T. Avellaneda, “Manifestaciones del Racismo en Cuba: Varias Caras de Un Viejo Mal,” *Revista Digital Consenso*, 2005, http://www.desdecuba.com/02/articulos/11_01.shtml.
- ^{xvi} Rafael Duharte Jiménez and Elsa Santos García, “‘No Hay Negro Bueno Ni Tamarindo Dulce’: Cuba, 118 Años Después de la Abolición de la Esclavitud,” *Matices*, <http://www.matices.de/18/18pcuba.htm>.
- ^{xvii} José Alfredo Andaluz Prado, “Prácticas Racistas y Discriminatorias Es Castigada Con Prisión,” *Diario Correo*, July 6 2009, <http://www.diariocorreo.com.ec/archivo/2009/07/06/practicas-racistas-y-discriminatorias-es-castigada-con-prision>.
- ^{xviii} *Ibid.*
- ^{xix} Jean Muteba Rahier, “Blackness and the ‘Racial’ Spatial Order, Migration, and Miss Ecuador 1995–1996,” *American Anthropologist* 100 (1998), pp. 421–30, 424.
- ^{xx} Alicia Castellanos Guerrero et al., “Racist Discourse in Mexico,” in van Dijk, *Racism and Discourse*, pp. 217, 233.

- ^{xxi} K. W. Stephenson, “Michael Campbell: El Racismo Está Enraizado en la Sociedad Nicaragüense,” *La Brújula Digital*, February 25, 2011, <http://www.labrujula.com.ni/noticia/159>.
- ^{xxii} Carlos Salinas Maldonado, “Alta Hooker Rectora de la Uraccan ‘El Chamán es Sólo la Punta del Iceberg,’” *Diario de la Prensa*, February 22, 2009, <http://archivo.laprensa.com.ni/archivo/2009/febrero/22/suplementos/domingo/313375.shtml> (describing racism in Nicaragua from the perspective of a Caribbean black woman).
- ^{xxiii} van Dijk, *Racism and Discourse*, pp. 159–60.
- ^{xxiv} Centro de Estudios y Promoción AfroPeruanos Lundu, “Informe 2008: Presencia de Afrodescendientes en los Medios Impresos en el Año 2008,” 2008, <http://lundu.org.pe/web2/informe%20anual%20web/informe%202008.pdf>.
- ^{xxv} Jesús Chucho García, “El Racismo Nuestro de Cada Día,” Geledés Instituto da Mulher Negra, March 21, 2010, <http://www.aporrea.org/ddhh/a97436.html>.
- ^{xxvi} Adriana Bolívar et al., “Discourse and Racism in Venezuela: A ‘Café con Leche’ Country,” in van Dijk, *Racism and Discourse*, pp. 291, 292–3.
- ^{xxvii} Bolívar, “Discourse and Racism in Venezuela,” p. 293.
- ^{xxviii} “Datafolha Revela O Brasileiro,” *Folha de São Paulo*, June 25, 1995, Especial-2, 3, <http://almanaque.folha.uol.com.br/racismo02.pdf>.
- ^{xxix} Gevanilda Santos and Maria Palmira da Silva (eds.), *Racismo No Brasil: Percepções Da Discriminação E Do Preconceito Racial Do Século XXI* (São Paulo: Fundação Perseu Abramo, 2005), pp. 141, 145.
- ^{xxx} John Burdick, *Blessed Anastácia: Women, Race, and Popular Christianity in Brazil* (New York: Routledge, 1998), p. viii.
- ^{xxxi} Luis Fernando Verissimo, *O Mundo é Bárbaro – E o que Nós Temos a Ver Com Isso* (Rio de Janeiro: Objetiva, 2008).
- ^{xxxii} Ariel E. Dulitzky, “A Region in Denial: Racial Discrimination and Racism in Latin America,” in Anani Dzidzienyo and Suzanne Oboler (eds.), *Neither Enemies nor Friends: Latinos, Blacks, Afro-Latinos* (New York: Palgrave Macmillan, 2005), pp. 39, 42–50.
- ^{xxxiii} “Iberoamérica, ¿una región racista?”
- ^{xxxiv} Suzanne Oboler, “The Foreignness of Racism: Pride and Prejudice among Peru’s Limenos in the 1990s,” in Dzidzienyo and Oboler (eds.), *Neither Enemies nor Friends*, pp. 75–100.
- ^{xxxv} Anani Dzidzienyo, “The Changing World of Brazilian Race Relations?” in Dzidzienyo and Oboler (eds.), *Neither Enemies nor Friends*, pp. 137–55; Hooker, “Afro-Descendant Struggles for Collective Rights in Latin America,” 279–91.
- ^{xxxvi} Catalina Gallo Rojas, “Igualdad Sin Cuotas,” *El Tiempo*, July 12, 2009, p. 7.
- ^{xxxvii} César Rodríguez Garavito, “En Defensa de las Acciones Afirmativas,” *El Espectador*, July 13, 2009, <http://www.elespectador.com/columna150499-defensa-de-acciones-afirmativas>.
- ^{xxxviii} Gonzalo Vega Sfrani, “Universidad Reserva La Mitad de sus Cupos Para Negros y Desata Polémica,” *El Mercurio*, October 22, 2006, http://www.ifcs.ufrj.br/~observa/noticias/elmercurio/discriminacion_22.htm.
- ^{xxxix} Ali Kamel, *Não Somos Racistas: Uma Reação Aos Que Querem Nos Transformar Numa Nação Bicolor* (São Paulo: Nova Fronteira, 2006).
- ^{xl} Hanne Petersen, “Reclaiming ‘Juridical Tact’? Observations and Reflections on Customs and Informal Law as (Pluralist) Sources of Polycentric Law,” in Hanne Petersen and Henrik Zahle

-
- (eds.), *Legal Polycentricity: Consequences of Pluralism in Law* (Aldershot: Dartmouth, 1995), p. 174.
- ^{xli} Kimberlé Williams Crenshaw, “Twenty Years of Critical Race Theory: Looking Backward to Move Forward,” *Connecticut Law Review* 43 (2011), 1253, 1256.
- ^{xlii} Joe R. Feagin, *Racist America: Roots, Current Realities and Future Reparations* (New York: Routledge, 2000), p. 96.
- ^{xliii} *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 239 (1995) (Scalia, J., concurring in part and concurring in the judgment). *Adarand* held that federal affirmative action programs instituted to assist subordinated groups are subject to the same strict scrutiny standard as acts of discrimination against subordinated group members.
- ^{xliv} Melissa L. Saunders, “Of Minority Representation, Multiple-Race Responses, and Melting Pots: Redistricting in the New America,” *North Carolina Law Review* 79 (2001), 1367–82.
- ^{xlv} Mala Htun, “From ‘Racial Democracy’ to Affirmative Action: Changing State Policy on Race in Brazil,” *Latin American Research Review* 39 (2004), 60–89.
- ^{xlvi} Paulo Freire, *Pedagogia do Oprimido* (Rio de Janeiro: Paz e Terra, 1987).