

MULTI-HUED AMERICA: THE CASE FOR THE RECOGNITION OF A MULTIETHNIC IDENTITY IN US DATA COLLECTION

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BACKGROUND

WHAT'S IN A NAME? WHY RACE LABELS MATTER IN THE LAW

Racial categorization is used to enforce civil rights laws, including monitoring equal access in housing, education, employment, and other areas. While the census is the most obvious way to collect this data, Americans also register racial identity through household surveys, medical research, and a variety of administrative forms, such as school registration and mortgage lending applications.³ In order to ensure fairness, numerous anti-discrimination laws, both state and federal, require government contractors, recipients of government funds, and other private bodies to track racial and ethnic data.⁴

However, racial classification is not only used for general statistical calculations. Race, as marked on birth certificates, employment applications, and educational forms, has the potential to have a powerful impact on a person's life. One obvious example is the use of ethnic identity for affirmative action in either the workplace or an educational setting. Besides these practical applications, the Census and other such documents play an important role in shaping the American ethnic landscape.

“In the language of social constructivism, the census helps to construct recognizable identities....’ The census is not merely a passive recorder of statistics, but rather, it actively defines racial identity, and this makes it a potent tool for marginalized groups seeking redress.”⁵

HISTORY OF THE CENSUS AND A PUSH FOR CHANGE

The US Census first recognized multiethnic people in 1850, when “Mulattos” were counted separately from blacks under the category “Color.”⁶ In the following decades, “Mulattos” were accompanied by “Quadroons” and “Octoroons.”⁷ All those terms were included to test Josiah C. Nott’s theory that multiethnic people were biologically inferior to whites or blacks and subject to early death.⁸ The additional terms were dropped from the Census by 1920, presumably because Nott’s racist theory came to naught (pardon the pun).⁹ Between 1920 and 2000, the census displayed no recognition of multiple races.¹⁰

In the decades after the United States Supreme Court struck down all bans on interracial marriage in *Loving v. Virginia* in 1967, the number of families with multiethnic members grew rapidly, and some people began to balk at listing only one race.¹¹ As a result, the OMB considered proposals to amend the classification system. In 1988, the OMB considered a proposal to

*My little girl in her multi-hued skin
When asked what she is, replies with a grin
I am a sweet cuddlebums,
A honey and a snugglebums:
Far truer labels than those which are in.*¹

The above poem resonates deeply with me, and it should: my mother wrote it about me. She recited its lines to me during my childhood more times than I can count. It was a reminder that I, daughter of a woman whom the world saw as white and a man whom the world called black, could not be summed up into any neat ethnic category. The poem told me that, though my skin reflected the tones of a variety of cultures, I was more than the sum of my multiple ethnic identities. Over my lifetime, I have recalled this message each time someone asked, “What are you?” and every time I checked “other” in response to the familiar form demand that I mark one box to describe my race.

The classification of multiethnic individuals like myself recently has been the focus of many heated debates. The Office of Management and Budget (“OMB”) sets the racial categories used on numerous forms, including the census. In 1997, the OMB revised Statistical Policy Directive 15, its rule for racial data classification, requiring all federal agencies to allow individuals to mark multiple races on all federal forms.² Because the implications of the classification of multiethnic individuals in federal racial data collection are potentially far reaching, this change has been surrounded by controversy. The census tracks the numbers and races of Americans for legislative and administrative purposes. This information is particularly important for this country’s enforcement of civil rights laws.

Numerous authors argue that the recognition of multiethnic identity will hamper traditional civil rights efforts. They claim that policies that maintain civil rights must win out over the individual caprice of those who advocate for multiethnic recognition. On the other hand, many argue that the recognition of the personal meaning of multiethnic identity is important and does not hamper the traditional goals of civil rights groups.

In this article I explore the context of this debate by examining both the history of race and the census. I then examine both sides of the multiethnic characterization argument. Finally, I end the article with a proffered solution to the controversy.

change the census form to include a multiracial box but dropped it after federal agencies, including the Equal Employment Opportunity Commission (“EEOC”) and the Civil Rights Division of the Department of Justice, objected.¹² The OMB considered a proposal for change again in 1993 and continued to contemplate the issue for the next four years. In the end, the OMB rejected a multiracial box in favor of the instruction to “mark one or more” races for all government data collection.¹³

THE SHOWDOWN

The change was not the result of a strong push from the major civil rights organizations, but was instead proposed and supported by a small, loosely organized group of multiracial advocates. In fact, most major civil rights organizations either remained neutral, or opposed to the shift.¹⁴ The Mexican American Legal Defense and Educational Fund (“MALDEF”), the National Association for the Advancement of Colored People (“NAACP”), and the Urban League rejected or ignored requests for support made by the American Multiethnic Association (“AMEA”), one of the key groups behind the census change.¹⁵ After the OMB’s announcement that it would not add a multiracial box, but would instead examine the option of choosing multiple races, these civil rights organizations moved from opposition toward a kind of grudging neutrality.¹⁶ Surprisingly, multiethnic advocates enjoyed support from conservatives like Newt Gingrich, who saw the multiracial classification issue as an opportunity to promote anti-affirmative action and other color-blind policies.¹⁷

Implementation of the 1997 amendment has been slower than expected,¹⁸ and multiracial advocates say that compliance is still not uniform, even though agencies were expected to implement the new format by January 1, 2003.¹⁹ Meanwhile, the debate has moved to the states. Between 1992 and 1998, eight states added some form of multiracial designation and legislators in five other states introduced multiracial designation bills.²⁰ In 1997, thirty-one states reported receiving requests to add a multiracial category to school forms.²¹ Thus, the issue of multiethnic identity continues to be a hotspot on the nation’s political radar.

WHAT BLOOD FLOWS THROUGH MY VEINS? RACE AND BIOLOGY

In order to fully understand the multiethnic argument, one must first understand the context in which it exists. This is a nation that has struggled with race from its beginning. Europeans formulated the notion of biological race during the colonialist era to legitimize the subordination of residents of Asia, Africa, and the Americas.²² These racial categories were based on external traits, primarily skin color, facial features, and the shape and size of the head and body. Throughout the eighteenth and nineteenth centuries, scientists theorized that humans had racial essences that flowed through blood and determined physical, psychological, and racial identity.²³

Modern science has since demonstrated that “any significant biological differences between racial groupings are illusory.”²⁴ “Races, in the sense of genetically homogenous populations, do

not exist in the human species today, nor is there any evidence that they ever have existed in the past.”²⁵ Many Americans still believe in biological race, yet, most of what we think of when we discuss race is not about biology; rather the social, political, and legal construct of race has defined much of who we are. “Insofar as race is biologically false, but ethnicity is pervasive in daily life and universal as a narrative and social sciences subject,” for the purpose of distinguishing the historical idea of biological race from the broader idea of a constructed identity, as well as for a clearer analysis and discussion of the topic, I will primarily use the term “ethnicity” throughout this article.²⁶

Mulatto: (Myoo-lä'-tO) n. from the Spanish ‘mulato,’ young mule

1. The first-generation offspring of a black person and a white person

Mule: (myool), n.

1. The sterile offspring of a female horse and a male donkey²⁷

Slavery involved the social, political, and economic subordination of blacks for the benefit of whites. In order for slavery to exist, a clear separation of the races was necessary. Mixed-race people posed a challenge to this racial system.²⁸ Throughout the history of the United States, most jurisdictions have considered those of mixed black and white heritage to be black un-

USCIS took precautions to implement a rule that acknowledged the complexities and challenges of petitioners in abusive relationships.

der the law. Under this “one-drop rule,” anyone with any known black ancestry was considered black, referencing the belief that any amount of black blood would contaminate white racial purity. Courts took this rule as being a matter of common knowledge.²⁹ Anthropologists term practices like the single-drop rule “hypodescent,” wherein multiethnic children are assigned to the racial category of the parents with the lowest social status.³⁰ Such a system serves to maintain the social hierarchy in the face of racial mixing by policing the gates of the higher social caste. Under such a paradigm, it is possible to move down from the higher social category, but power is maintained for the elite by the impossibility of upward movement into the higher social group. The single-drop rule is unique to the United States, and even within the US, applies only to blacks.³¹

Despite the fairly consistent legal recognition of those of black and white ancestry as only black, in practice and popular view, multiethnic individuals always have been treated differently. Lighter-skinned slaves were often granted higher status positions on plantations, and were more likely to be liberated from slavery, perhaps because of the pervasiveness of sexual

relations between slave owners and slaves.³² For this reason, before the abolition of slavery, multiethnic people were “disproportionately represented among the free,” and many multiethnic people “achieved a certain amount of education and economic security” closer to that of whites.³³ During those years, some “light skinned blacks” formed “blue vein” societies, which were social groups limited to wealthy blacks whose skin was light enough to permit full view of the veins on the wrist.³⁴ During the antebellum period, South Carolina and Louisiana recognized multiethnic people as distinct from the black community and created a third racial category of “free persons of color.”³⁵

Despite the privileged position enjoyed by some multiethnic people, many Americans thought that the mixing of races would harm both blacks and whites—the mulatto degeneracy theory.³⁶ The very definition of mulatto, “a sterile hybrid,” speaks to the belief that “people from Africa and people from Europe are two different animal species, species that should lead separate lives, species that cannot be family.”³⁷ Multiethnicity frightened white Americans because it challenged the idea of racial purity, and more significantly, racial superiority.³⁸ A judge in 1896 explained such thinking:

The amalgamation of the races is not only unnatural, but it is always productive of deplorable results. Our daily observation shows us, that the offsprings [sic] of these unnatural connections are generally sickly and effeminate, and that they are inferior in physical development and strength to the blood of either race.³⁹

Even American fiction casts multiethnic people as psychologically different because of their race: the socially confused and tormented mulatto, the untrustworthy “half-breed” Native American and white mix, and the criminal mestizo appear throughout American literature.⁴⁰

A HIDDEN MAJORITY: MULTIETHNIC NUMBERS PAST, PRESENT AND FUTURE

Thanks in no small part to slavery, the paradigm of race in America has always centered on the black/white axis; however, mixing has occurred across all ethnic groups. While some estimate that as many as 90 percent of blacks have some multiethnic background,⁴¹ today, 30 percent of Asians and 28.4 percent of Latinos are in interracial marriages, compared to only 10.2 percent of blacks.⁴²

Although it is difficult to estimate the growth of the multiethnic population because such data was not historically tracked, the growth in interracial couples may give some hint. In 1970, there were an estimated 321,000 interracial unions in the United States. By 1990, that number had increased to 1.5 million.⁴³ Some studies suggest that the number of children in interracial

families grew from fewer than 500,000 in 1970 to roughly 2 million in just twenty years.⁴⁴ This figure does not include multiracial Latinos because Latino is classified as an “ethnic” group in the census rather than a “racial” group.⁴⁵ In the 2000 Census, 6.8 million people picked more than one racial or ethnic category, and nearly half were under the age of 18, demonstrating that our society is becoming increasingly multiethnic.⁴⁶ According to

the most recent Census Bureau estimates, the number of non-Latino multiethnic Americans has grown by around one million since the 2000 Census.⁴⁷

SAY IT LOUD, MULTI-ETHNIC AND PROUD: THE IMPORTANCE OF MULTIRACIAL SELF-WORTH

Just as many other groups throughout history have struggled for rights and recognition, multiethnic individuals are now engaged in the same struggle. Critics continue to belittle the multiethnic identification by arguing that its importance is far outweighed by potential negative policy implications. Such critiques ignore two key points: first, personal experiences have major policy implications, and second, personal experiences are intrinsically important.

The phrase, ‘The personal *is* political,’ was used by the women’s movement and other movements as a recognition that shared personal experiences come out of the social and political constructions of American life. When multiethnic people describe feelings of alienation when filling out “Other” in the race category on forms, or when asked, “What race are you *really*?,” they are stating that they too have a shared identity and shared experience that comes from the socio-political landscape. Multiethnic people make up at least two percent of the population and that figure is growing rapidly. This group’s shared experiences are significant and their interests should be taken into account when making policy decisions. One of the core purposes of civil rights organizations is to seek recognition of the shared personal experiences of their members, and by devaluing the experience of multiethnic people, civil rights advocates ignore their own historical struggle to show that their group experience was a matter of concern for all Americans. The difference between the multiethnic agenda and the traditional civil rights agenda is how much they have achieved. The multiracial movement is literally and figuratively the child of the civil rights movement.

The very fact that the concept of multiethnicity has created such controversy is an indicator that the issue taps into important social and political questions about the meaning of race and identity. Indeed, the issue of multiethnicity was central to one of the most important race cases in United States history, *Plessy v. Ferguson*, in which Homer Plessy (an “octoroon,” or one-eighths black) challenged railroad segregation both on the grounds that it was unconstitutional and on the grounds that it

CROSS

My old man's a white old man
And my old mother's black.
If ever I cursed my white old man,
I take my curses back.
If ever I cursed my old black mother
And wished she were in hell,
I'm sorry for that evil wish
And now I wish her well.
My old man died in a fine big house.
My ma died in a shack.
I wonder where I'm gonna die,
Being neither white nor black?⁴⁹

Beyond the policy implications of personal identity, it is also important not to dismiss the intrinsic significance of multiethnic people's personal experience. According to psychologist Erik Erikson, racial identity figures prominently in individuals' ability to construct a complete, healthy self identity.⁵⁰ In *Brown v. Board of Education*, the Supreme Court placed a great weight on the effects that school segregation had on the self-esteem of black children.⁵¹ *Brown* still stands for the proposition that the personal and psychological impact of government action (or inaction) matter.⁵² If the systematic denial of a multiethnic identity has a similar personal effect on multiethnic children and adults, society should be concerned.

While many critics consider the desire for a multiethnic identity trivial, for most minorities, the importance of group pride and identity is self-evident. The Black Power Movement in the 1960s and 1970s emphasized the importance of the individual's sense of self-worth in regards to racial identity. As *Time Magazine* put it in 1967: "There is indeed evidence that black pride is nourishing the new Negro's determination to take over his own destiny and accept no definition of blackness but his own."⁵³ Why should multiethnic people be denied that same right?

CRITIQUING THE CRITIQUES

The scope of this article is such that I could not hope to catalogue every objection raised to multiethnic identification. I will, however, attempt to summarize and briefly respond to some of the most common critiques of a multiracial category on the census and multiethnic identity in general.

WRECKING RACE: MULTIETHNICITY AND PUBLIC POLICY

One of the chief objections to the inclusion of a multiracial category on the census was the policy concern over how counting would impact civil rights legislation. Tabulation procedures matter immensely because the size of a protected group is a factor in determining whether discrimination has occurred.⁵⁴ If

multiethnic people were counted separately, the numbers of Latinos, Asians, and blacks would dwindle significantly, making discrimination harder to prove.⁵⁵ The OMB's choice not to create a separate multiracial box was in direct response to this fear of the dilution of historically protected ethnic groups.⁵⁶ The OMB also proscribed that those marking white and any other race category be placed in the non-white category for data tabulation purposes.⁵⁷ Because of this practice, numerical dilution is not currently a serious practical concern.

Proponents of the dilution theory assume that multiethnic individuals should be considered full members of protected ethnic groups for civil rights purposes. While the question is uncomfortable, it must be asked: if civil rights protections are provided on the basis of historical inequality, should a person with one white parent receive the same benefits as a person with two parents of color? These issues are particularly salient in regard to affirmative action.⁵⁸ Because multiethnic people have experiences distinct from mono-ethnic individuals, it is arguable that multiethnic people should be counted separately.

Some of the more skeptical critics see multiracial classification as a tool used by conservatives to end programs like affirmative action. This suggests that multiracial activists fail to see the policy implications of their actions, or that they are actually complicit with those who are working against the interests of people of color.⁵⁹ In May 1997, speaking before the House of Representatives' Government Management, Information, and Technology Subcommittee, Harold McDougall, Director of the Washington Bureau of the NAACP, publicly expressed this concern, stating, "The census may not be the correct place to make

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such a personal statement."⁶⁰ One unidentified government analyst put it more bluntly: "There's no concern on any of these people's part about the effect on policy; it's just a subjective feeling that their identity needs to be stroked. What they don't understand is that it's going to cost their own groups."⁶¹ Though multiracial advocates are not necessarily conservative

themselves, conservative politicians have been eager to encourage multiracialism, often with the apparent hope of promoting color blindness.⁶² When Harvard Professor Kim M. Williams surveyed advocates for multiracialism, she found that Democratic members of multiracial organizations were willing to welcome Republican support, but Williams surmised that these members were unaware that "their powerful GOP allies had probably surfaced...because they were intent on undermining civil rights enforcement efforts."⁶³ Even if multiethnic activists consciously chose to accept Republican support despite opposing the overall conservative agenda, multiethnic advocates would be less susceptible to Republican designs if civil rights groups and Democratic allies were more supportive.

While civil rights organizations have been largely skeptical of the motives of multiracial advocates "given the company they

keep,” small groups with little political power of their own do not have the luxury of choosing their allies.⁶⁴ Multiethnic recognition on the census eventually succeeded because multiethnic identity is not inherently partisan.⁶⁵ “Democrats wanted multiracial recognition *without* adverse civil rights consequences, while Republicans wanted multiracial recognition *with* adverse civil rights consequences.”⁶⁶

Civil rights organizations do not benefit from either opposing multiethnic classification or remaining on the sidelines. Given the left-leaning tendencies of most advocates, civil rights groups had and continue to have, the opportunity to bring multiethnic advocates into their fold. If civil rights groups choose not to use that opportunity, it will be a great loss both for multiethnic organizers and for themselves.

BIOLOGY AND DESTINY: MULTIRACIAL OR MULTIETHNIC

One of the more intellectually interesting critiques of multiethnic identity is that it reinforces the idea that race is biological. Christine Hickman takes particular issue with multiethnic identity for this reason, arguing that what she calls the “Mulatto system,” has its own version of the one-drop rule in which one drop of white blood “elevates a Black person out of the Black race.”⁶⁷ According to Hickman, society has created a black ethnic identity that is not biological but instead cultural, and multiethnicity threatens to eliminate this social unity.

There is no logical reason why multiethnic identity must depend on biology. A multiethnic person may see himself as such because his cultural experience is different from his monoethnic peers. The difficulty many multiethnic people experience when answering the ubiquitous question, “What are you?” comes from the recognition that biology does not provide a good answer. If multiethnicity were only biological, then a simple list, such as, “I am black, white, and Native American,” would suffice. However, for a multiethnic person, the answer may be something more like: “I don’t feel that I fit in any of the categories.”⁶⁸ While a multiethnic/multiracial label may never be fully satisfactory (no ethnic label can be), it does capture something about the unique position of people of mixed heritage in our society.

MULTIRACIALS IN THE MIDDLE: THE FEAR OF MULTIETHNIC FLIGHT

“If the old saying ‘one drop of Black blood makes you Black’ were reversed to say one drop of White blood makes you White, would the biracials still be seeking a separate classification?”⁶⁹ One of the most common critiques of the multiethnic identity movement is the assertion that multiracial people are merely claiming that identity in order to escape from a lower social status race. When Tiger Woods told the world that he did not consider himself black, but instead “Cablinasian,” (Caucasian, Black, Indian, and Asian), “some blacks saw Woods’ assertion of a multiracial identity as a sellout that could

begin an epidemic of ‘passing.’”⁷⁰ During a 1993 Congressional hearing on census categories, Arthur Fletcher, a black member of the U.S. Commission on Civil Rights, testified, “I can see a whole host of light-skinned black Americans running for the door the minute they have another choice. All of a sudden they have a way of saying, ‘In this discriminatory culture of ours, I am something other than black.’”⁷¹ Two underlying beliefs animate those who expound such concerns, and together they explain the evident passion of the speakers. The first belief is that multiethnic people rightfully belong in a particular category, and want to leave it. The second belief is that it harms that racial category when multiracial people leave.

At first glance, the argument that multiethnic people belong in one racial component category appears to reflect an antiquated adherence to the idea of the single-drop rule that continues to imagine biology to be the driving force of race. However, a second look demonstrates that this argument deserves more credit. Hickman claims that through the one-drop rule, social and political forces “created the African-American race as we know it today...unit[ing] this race as a people in the fight against slavery, segregation, and racial injustice.”⁷² In other words, multiethnic people belong in the black category because of their shared history and struggle with blacks.

While eloquent, this theory ignores several issues. First, as discussed above, the experience of mixed blacks has always been different from those of blacks. Throughout American history, multiethnic people always have been treated both better and worse than their counterparts. Second, in the forty years since the Supreme Court struck down all bans on interracial marriage, a greater consciousness of the unique experience of those whose parents are of different ethnicities has developed. As the world continues to change, the social forces that shaped

our idea of what creates blackness have also changed, and the old racial categories may no longer apply. Third, even if multiethnic people have much in common with their black peers, it does not mean that a forced inclusion is best for anybody.

Perhaps the most obvious problem with this theory is to the lack of evidence that multiethnic people actually are trying to opt out of black racial heritage by asserting a multiethnic identity. When Marcus Garvey claimed that only unmixed Africans counted as black, he drew impassioned, hostile responses from mulatto leaders in the black community.⁷³ On the Harvard Law School campus, most members of MLSA are also members of other ethnic affinity groups.⁷⁴ If multiethnic people are as eager to deny black racial identity as Hickman seems to suggest, then one must wonder how multiracial people benefit the racial solidarity and black pride that Hickman argues will suffer from a multiethnic classification. This proposition ignores the real possibility that multiethnic people may be striving to create, maintain, and gain recognition of multiple identities that better reflect their experiences.

The fear of multiethnic flight can only serve to alienate multiethnic people from the ranks of other groups. Kim Williams put it succinctly when she said: "If abandonment is part of the problem, then blacks need to ask themselves who is abandoning whom; it is not always so clear."⁷⁵

TOWARDS A NEW RACE PARADIGM: A PROPOSAL

Civil rights advocates ought to support and encourage multiethnic people as they struggle for governmental recognition. The experience of multiethnic individuals is descriptively different than that of their monoethnic peers and ethnic self-identification is a basic right that once was championed by civil rights groups. Both civil rights and multiethnic activists stand to benefit from such a partnership.

A WORLD OF DIFFERENCE: THE UNIQUE MULTIETHNIC EXPERIENCE

While some writers argue that because it crosses culture, heritage, and physical biology, multiethnic status is different from other ethnic categories, multiethnic people share certain characteristics.⁷⁶ The socioeconomic status of bi-ethnic people, for instance, consistently falls between that of the lower and higher status parent.⁷⁷ Additionally, multiethnic people frequently report prejudice based on having varied heritages.⁷⁸ Finally, there is a growing sense of multiethnic community, which will further develop as multiethnicity becomes more prevalent and accepted. Perhaps the demand for a multiethnic identity is reflective of a new understanding of race, one that recognizes that the lines that divide us by race or ethnic status are actually quite blurry.

PROVIDING THE FREEDOM OF SELF-IDENTIFICATION

Perhaps the strongest reason to recognize multiethnicity is that self-definition ought to be encouraged. The individual and collective right of ethnic self-identification has been recognized and exercised by other racial and ethnic advocates as they redefined themselves with new terms like *Chicano*, *Xicano*, *Latino*, *Asian American*, *Black*, *African American*, or *Native American*. Multiethnic people are similarly looking for a way to turn ex-

Giving an official label to those who identify as multiethnic creates a forum in which to discuss the discrimination and marginalization of those experiences.

periences of alienation, racism, and marginalization into positive experiences of shared cultural identity. Giving an official label to those who identify as multiethnic creates a forum in which to

discuss the discrimination and marginalization of those experiences. Recognition is the first step toward securing rights.

Self-definition allows people to express an ethnic identity that causes less cognitive dissonance with their experience than being forced to choose between ethnicities.⁷⁹ The recognition of multiethnic identity marks a shift to an understanding of race that is more fluid and multi-faceted than before.

Of course, some multiethnic people will not want such a label, but for those who do, the classification system ought to be flexible. Recognizing that racial identification is not a simple process in which any given person can correctly categorize any other is beneficial to all. Internal perspective ought not be the only factor in determining someone's ethnicity, but individuals deserve as much freedom as reasonably possible to engage in good-faith self-definition.⁸⁰ While a multiple race box may not make sense for data collection given its potential negative impact on civil rights enforcement, the ability of multiethnic people to list multiple identities provides room for the growth of a concept of multiethnic identity. It seems the least society can offer.

CONCLUSION

STAND TOGETHER OR FALL APART: A MULTI RACIAL CIVIL RIGHTS MOVEMENT

The growth in the numbers of multiethnic people has forced America to ask what race means today. While multiethnic advocates have noted the point so often that it is almost cliché, a recognized multiethnic identity will benefit society if only by raising the question. Civil rights advocates now must consider whether they are more concerned with the principles they have espoused, including self-identification and multicultural pride and acceptance, or in maintaining the system as it is. Multiethnic identity is a double-edged sword because it begs the question of how we can move to a world in which our historical race categories do not limit us without risking the accomplishments that civil rights advocates struggled so hard and long to achieve.

If civil rights comes to encompass multiethnic rights, civil rights groups are likely to gain members who currently may feel unrepresented. This is especially true given the concern that multiethnic advocates have been willing to work with conservatives to accomplish their goals. If more established civil rights leaders step forward, the multiethnic agenda and the civil rights agenda can be framed hand in hand, rather than in potential conflict. Additionally, multiethnic individuals ought to be free to be members of ethnic groups without feeling required to check their multiethnic identity at the door. In a world increasingly aware of multiculturalism, the framing of fluid identities, including multiple identities, ought to be a priority.

ENDNOTES

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¹ Joanna Kruckenberg, *Untitled*, (1984) (on file with author).

² Office of Mgmt. & Budget, *Standards for the Classification of Federal Data on Race and Ethnicity* (Jun. 9, 1994), available at http://www.whitehouse.gov/omb/fedreg/notice_15.html (last visited Mar. 7, 2008).

³ *Id.* (detailing that the federal standard for data collection for all of these forms is the same as for the census).

⁴ Tseming Yang, *Choice and Fraud in Racial Identification: The Dilemma of Policing Race in Affirmative Action, The Census and A Color-Blind Society*, 11 MICH. J. RACE & L. 367, 413 (2006).

⁵ Patricia Palacios Paredes, *Latinos and the Census: Responding to the Race Question*, 74 GEO. WASH. L. REV. 146, 147 (2005).

⁶ Naomi Zack, *American Mixed Race: The U.S. 2000 Census and Related Issues*, 17 HARV. BLACKLETTER L.J. 33, 34 (2001).

⁷ Kim M. Williams, MARK ONE OR MORE: CIVIL RIGHTS IN MULTIRACIAL AMERICA 23 (The University of Michigan Press 2006).

⁸ *Id.*

⁹ *Id.*

¹⁰ JAMES DAVIS, WHO IS BLACK? ONE NATION'S DEFINITION 12 (The Pennsylvania State University Press 1991).

¹¹ *Loving v. Virginia*, 388 U.S. 1 (1967).

¹² Williams, *supra* note 7, at 39.

¹³ Office of Mgmt. & Budget, *supra* note 2.

¹⁴ Williams, *supra* note 7, at 42.

¹⁵ Williams, *supra* note 7, at 43.

¹⁶ Office of Mgmt. & Budget, *supra* note 2.

¹⁷ Williams, *supra* note 7, at 121 (stating that “the elected officials most open to the idea of multiraciality over the past decade have been conservative Republicans in Congress and state legislators (mostly Democrats) representing affluent, suburban districts”).

¹⁸ Francis Wardle, *We Have Only Just Begun, Interracial Voice*, (2003), available at <http://www.webcom.com/intvoice/wardle4.html> (last visited Mar. 7, 2008).

¹⁹ Office of Mgmt. & Budget, *supra* note 2.

²⁰ Williams, *supra* note 7, at 65. (Six states, Ohio, Illinois, Indiana, Michigan, Maryland, and Georgia passed legislation to introduce the category. Florida and North Carolina added a designation administratively. California, Minnesota, Oregon, Massachusetts, and Texas legislators also proposed multiracial categories for their states). California, is currently considering legislation to establish a “mark one or more” approach to racial data classification. S.B. 26 (Ca. 2007), available at http://info.sen.ca.gov/cgi-bin/postquery?bill_number=sb_26&sess=CUR&house=S&site=sen (last visited Mar. 7, 2008).

²¹ Williams, *supra* note 7, at 65.

²² Zack, *supra* note 6, at 41.

²³ Zack, *supra* note 6, at 38.

²⁴ Yang, *supra* note 4, at 382 (citing Stephen J. Gould, THE MISMEASURE OF MAN (1981)).

²⁵ American Association of Physical Anthropologists, *AAPA Statement on the Biological Aspects of Race* (1996), available at <http://www.physanth.org/positions/race.html> (last visited Mar. 7, 2008).

²⁶ Zack, *supra* note 6, at 39.

²⁷ JUDY SCALES-TRENT, NOTES OF A WHITE BLACK WOMAN 99 (The Pennsylvania State University Press 1995).

²⁸ Christine B. Hickman, *The Devil and the One Drop Rule: Racial Categories, African Americans, and the US Census*, 95 MICH. L. REV. 1161, 1173 fn. 35 (1997). The fear of the creation of a large mixed populace can be traced as far back as 1630. The first reported judicial decision to allude to blacks at all was an interracial fornication case in this year.

²⁹ Davis, *supra* note 10, at 15; see also, SCALES-TRENT, *supra* note 27, at 4 (declaring that “the laws [governing hypodescent], however, were not uniform. They varied from state to state, they often varied, as well, within a given state over time. Hence, a person might be white in one state and black in another. Or a person might be black under state law one day, and the next day white—or vice-versa”).

³⁰ Zack, *supra* note 6, at 34.

³¹ Davis, *supra* note 10, at 13 (commenting that until recently in fact, most Americans who were of white and Japanese or Chinese ancestry were forced to present themselves as non-Asian because they were not accepted as Asian within those ethnic communities); PAUL R. SPICKARD, *The Illogic of American Racial Categories*, in RACIALLY MIXED PEOPLE IN AMERICA 12, 20 (Maria P. P. Root ed.) (Sage Publications, 1992).

³² G. REGINALD DANIEL, *Passers and Pluralists*, in RACIALLY MIXED PEOPLE IN AMERICA, 91, 103 (Maria P. P. Root ed.) (Sage Publications, 1992).

³³ *Id.* at 96.

³⁴ *Id.* at 94-95.

³⁵ Davis, *supra* note 10, at 34-35, 45 (adding that in South Carolina, controversy raged over whether to move towards a strict one-drop rule well after the end of Reconstruction).

³⁶ URSULA M. BROWN, THE INTERRACIAL EXPERIENCE: GROWING UP BLACK/WHITE RACIALLY MIXED IN THE UNITED STATES 37 (Praeger Publishers, 2001).

³⁷ SCALES-TRENT, *supra* note 27, at 100.

³⁸ Hickman, *supra* note 28, at 1176-77 (arguing that the underlying intent of Colonial-era anti-miscegenation laws was “to debase to a still lower status the offspring of blacks...[and] to leave women of color without protection against white men”).

³⁹ BROWN, *supra* note 36, at 29.

⁴⁰ Cynthia Nakashima, *Creation and Denial of Mixed-Race People*, in RACIALLY MIXED PEOPLE IN AMERICA 162.

⁴¹ Davis, *supra* note 10, at 21.

⁴² Williams, *supra* note 7, at 32.

⁴³ *Id.*

⁴⁴ Gregory Rodriguez, *Do the Multiracial Count?* Salon.com, Feb. 15, 2000, <http://archive.salon.com/news/feature/2000/02/15/census/> (last visited Mar. 7, 2008) (finding that a recent analysis of birth records by the Public Policy Institute of California indicated that 15 percent of all births in the Golden State are multiracial or multiethnic).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Census Bureau, *Estimates of United States Population for July 1, 2006* (May 17, 2006), available at <http://www.census.gov/popest/national/asrh/NC-EST2006-asrh.html> (last visited Mar. 7, 2008).

⁴⁸ *Plessy v. Ferguson*, 63 U.S. 537 (1896).

⁴⁹ Langston Hughes, SELECTED POEMS 158 (Alfred A. Knopf, 1970).

⁵⁰ BROWN, *supra* note 36, at 1; see also, James H. Jacobs, *Identity Development in Biracial Children*, in RACIALLY MIXED PEOPLE IN AMERICA, 190, 206 (Maria P. P. Root, ed.) (Sage Publications, 1992) (stating that “the social, legal, and institutional acknowledgment of children’s biracial group membership would facilitate the difficult task of constructing a positive biracial identity”).

⁵¹ *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

⁵² See, e.g., Lani Guinier, *From Racial Liberalism to Racial Literacy: Brown v. Board of Education and the Interest-Divergence Dilemma*, 91 THE JOURNAL OF AMERICAN HISTORY 91 (Vol. 1, 2004), available at <http://www.historycooperative.org/journals/jah/91.1/guinier.html>.

⁵³ *Black Power & Black Pride*, TIME MAGAZINE, Dec. 1, 1967, available at <http://www.time.com/time/magazine/article/0,9171,712007-1,00.html> (last visited Mar. 7, 2008).

⁵⁴ THE NEW RACE QUESTION: HOW THE CENSUS COUNTS MULTIRACIAL INDIVIDUALS 15 (Joel Perlmann and Mary C. Waters eds, 2002).

⁵⁵ Williams, *supra* note 7, at 59.

⁵⁶ Williams, *supra* note 7, at 58-59.

⁵⁷ Zack, *supra* note 6, at 36.

⁵⁸ While the author believes that to ensure actual diversity, multi-ethnic people should be able to receive affirmative action benefits and should be able to choose whether they wish to primarily identify with a particular ethnic group, others will likely disagree. The discussion should be had on a policy level, not simply swept under the rug.

⁵⁹ See Lawrence Wright, *One Drop of Blood*, THE NEW YORKER, Jul. 24, 1994 (declaring that “those who are charged with enforcing civil-rights laws see the Multiracial box as a wrecking ball aimed at affirmative action, and they hold those in the mixed-race movement responsible”).

⁶⁰ *Federal Measures of Race and Ethnicity and the Implications for the 2000 Census: Hearing Before the Subcomm. on Gov’t Mgmt, Info., and Tech. of the H. Comm. On Gov’t Reform and Oversight*, 105th Cong. (1997) (statement of Harold McDougall Director of Washington Bureau, NAACP on May 22, 1997).

⁶¹ Wright, *supra* note 59.

⁶² *Id.* at 107 (finding that most multiracial advocates surveyed considered themselves Democrats).

⁶³ *Id.* at 108.

⁶⁴ *Id.* at 109.

⁶⁵ Williams, *supra* note 7, at 122 (holding that “democrats wanted multiracial recognition *without* adverse civil rights consequences, while Republicans wanted multiracial recognition *with* adverse civil rights consequences”).

⁶⁶ Williams, *supra* note 7, at 122

⁶⁷ Hickman, *supra* note 28, at 1191. One only can assume that Hickman is not aware of the offensive nature of the term “mulatto.”

ENDNOTES CONTINUED

⁶⁸ See BROWN, *supra* note 36, at 48 (the author has varying senses of her own ethnic identity that have shifted based on my community, age, and personal belief. This kind of unwillingness to accept a biological definition of race is common amongst multi-ethnic people); See also, David R. Harris & Jeremiah Joseph Sim, *Who Is Multiracial? Assessing the Complexity of Lived Race*, 67 AMERICAN SOCIOLOGICAL REVIEW 614, 618 (Aug. 2002) (finding that multiracial adolescents identify their race differently when asked at school and at home, unlike age, gender, and socioeconomic status).

⁶⁹ Hickman, *supra* note 28, at 1163 (citing letter to the editor EBONY MAGAZINE, Nov. 1995).

⁷⁰ Jack E. White, *I'm Just Who I Am*, TIME MAGAZINE, May 05, 1997, available at <http://www.time.com/time/magazine/article/0,9171,986278-3,00.html> (last visited Mar. 7, 2008).

⁷¹ *Id.*

⁷² Hickman, *supra* note 28, at 1166.

⁷³ Davis, *supra* note 10, at 175.

⁷⁴ Interview with Joanna Bettis, MLSA President (Apr. 2, 2007).

⁷⁵ Williams, *supra* note 7, at 131.

⁷⁶ See MICHAEL C. THORNTON, *Is Multiracial Status Unique?*, in RACIALLY MIXED PEOPLE IN AMERICA 321, 324.

⁷⁷ Jennifer Hochschild, *Going Back to Class? The Reemergence of Class in Critical Race Theory*, 11 MICH. J. RACE & L. 99, 112-13 (Fall 2005).

⁷⁸ Such experiences include being shunned by members of monoethnic groups as not being black, Chinese, or Latino enough; experiencing prolonged staring; being bullied into claiming to be monoethnic; or being described as "a mistake."

⁷⁹ Multiethnic people should be allowed to identify themselves as such, but in making room for a newly recognized identity, multiethnic activists must take care to not attempt to force people to join their ranks.

⁸⁰ While self-identification itself may not be enough to give credit to anyone who asserts a different ethnic identity, multiethnic people that do not fit into the current categories, represent a large and growing number, both of which suggest that the recognition of a difference makes sense in our society.

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