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## **Queering the Painted Ladies: Gender, Race, Class, and Sexual Identity at the Mexican Border in the Case of Two Paulas**

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Elvia R. Arriola<sup>1</sup>

### INTRODUCTION: NOTIONS OF GENDER, SEXUALITY, IDENTITY, AND BORDER CROSSINGS

I have two friends who go by the name “Paula.” The first Paula lives in the United States in Austin, Texas. Juan Pablo, or Paola, lives in a Mexican city that borders Eagle Pass, Texas known as Piedras Negras, Coahuila. I met Juan Pablo through my travels to and from Mexico to examine the working and living conditions for *maquiladora* workers at the border.<sup>2</sup> Both of these Paulas are “queers” in the classic sense of those who cross the gendered borders of sexuality and gender. Mexican Paola is a homosexual male who occasionally cross-dresses among friends. Texan Paula is someone I first met years ago as Paul and today is a pre-operative transsexual female. I found it coincidental that as I was getting to know these two people, I kept noticing and feeling somewhat uncomfortable with the similarities and stark differences each experienced because of his/her sexual and gender identity, citizenship status, race, and class. It took me a while to find words for the questioning going on in my head.

My experiences with these two people triggered intense thinking on my part about the concepts of real and metaphoric borders frequently invoked by the critical scholar. One view of the term “border” would simply equate it with social difference—the kind of difference that determines one’s place in society. The black feminist Audre Lorde introduced an early view of gendered borders when she urged us to embrace the differences that make one stand “outside the circle of...society’s definition of acceptable women” as a mark of strength.<sup>3</sup> Understood as the boundaries that separate and

define existence, the metaphoric border was termed by the Latina essayist Gloria Anzaldúa as a way to define “places that are safe and unsafe, to distinguish *us* from *them*.”<sup>4</sup> Anzaldúa’s writings in the pathbreaking work *Borderlands/La Frontera*, share the pain-filled lessons of border crossings based on race, gender, sexuality, and class. She experienced these crossings as a girl/woman/lesbian growing up in the socially, racially, and economically oppressed region of the Southwest that is home to generations of “Tejanas/os,” or Texans of Mexican/indigenous descent. The healing through those writings thus represented a “borderlands,” an “undetermined place created by the emotional residue of an unnatural boundary.”<sup>5</sup>

In this essay, I will be using the term “border” in two senses. First, in the metaphoric sense to reference the actual U.S.-Mexico border I periodically crossed to conduct research at specific points in the Texas borderlands that separate Mexico from the United States. Second, in the emotional sense related to my crossing the border as a Latina/Mexicana who has experienced the official hostilities associated with the United States’ continuing efforts to enforce a border between “us” and “them” in the Southwest. Thus, my own crossing of the Mexican border was both physical and metaphoric, in the meaning given to it by Margaret Montoya who speaks of the transformation of a bilateral national boundary as a “cultural and epistemic site of contestation.”<sup>6</sup>

Beyond the race and class borders dividing the lives of Paula and Paola, there exists a border that results from the underlying personal choice by these individuals to embrace a female gender identity. In one person, the choice involved sexual orientation. In the other, it involved a gender identity transformation. With every encounter, either individually with Paula in Austin, or with Juan Pablo’s activist group, I could see the borders that could be transgressed and those that could not, without payment of a price. I could also see and sometimes understand, in particular with Paula, that making the choice to blur the borders of gender can be both pain-filled and joyous. The more I learned about each person and the circumstances

that surround his/her life, the more I noticed the sharp differences between them in terms of their aspirations and their possibilities for freedom and security. These possibilities are marked by the queering of race and class as they transform themselves from “men” to “women” through the gendered signifiers of dress, voice, occupation, and manner. The coincidences in these two relationships, whether from the standpoint of the two Paulas’ metaphoric border crossings, or of my own struggle with borders as I traveled to and from Mexico, encouraged me to write this commentary.

In Mexico I had encounters with Juan Pablo, or Paola, and many of his activist colleagues who confront daily the bordered attitudes of class, race, and sex from their employers in the *maquiladoras*, factories that are largely U.S.-owned multinational corporations (MNCs). I was traveling to Piedras Negras and neighboring cities along the Texas-Mexico border to gather stories from workers whose lives and stories helped to illustrate and provide a much needed human face to the impact of unregulated free trade throughout the global economy.<sup>7</sup>

With each trip back and forth, I also thought more about my own crossing of identity borders as a bilingual, Latina lesbian who was both a scholar-activist and a researcher-lawyer who felt vulnerable to harassment and discrimination with every encounter with the INS Border Patrol. While in Mexico, I sometimes felt quite comfortable re-experiencing my cultural roots and engaging with the workers in my first language. At other times, however, I felt the impact of the economic border, since I had a clear financial edge in my travels that was present in every encounter with my activist friends who were clearly not as economically privileged. Sometimes my discomfort was physical because the conditions provided in a border town, even for the well-financed tourist-traveler, can be quite shabby. But most of the time, my discomfort resulted from my being unaccustomed to seeing such extreme and widespread forms of poverty, illness, and despair.<sup>8</sup>

When I returned to Austin, I would re-experience intense feelings of compassionate awareness and guilt over my privileged existence as I settled into the routines of my very comfortable lifestyle, which included an active social life with friends, one of whom was Paula. In my dealings with Paula, whether as her friend or lawyer, I came to appreciate how her new identity and friendship represented a different aspect of my professional interests, but also seemed to clash with my new research interest in justice in the *maquiladoras*. I paid attention to that tension between the feelings and experiences in Mexico and the experiences and feelings every time I returned to Austin. One day I found it reflected in my personal journaling.

I had known Paula for a few years, first as a male named Paul. Because I have spent so much of my professional career writing and thinking about issues of gender and sexual identity, I felt the need to reflect intensely on a process I had witnessed. This process was that of a courageous individual in search of inner peace and serenity through a life choice, begun in her early forties, to come out as a transgendered female. At the same time Paula was transitioning and I was making a “new friend” with a “woman” named Paula, I was also forming relationships in Mexico and establishing solidarity connections with activists who dared to challenge the powerful structures of the *maquiladora* industries.<sup>9</sup> It occurred to me that I was witnessing in two different settings how individuals make life-transforming changes that are deeply meaningful, yet intensely political and risky for the way in which their choices destabilize their relationships and the status quo. For example, the decision of a worker to organize against a powerful employer—who has the tacit approval of her government to exploit her labor through free trade policy—disturbs the power dynamics that feed globalization.<sup>10</sup> Certainly, a person in the United States who is born a white male, and then decides to abandon that identity for that of a transgendered woman, disturbs the status quo in relationships s/he has had with other men who feel threatened by the loss of male privilege.

I will use the identities of the two Paulas and the metaphoric image of their “male” bodies in active border crossing (e.g., transvestism and transgenderism) as a premise from which to explore, through storytelling and analysis, how each “Paula” is positioned as a person in his/her own country. One part of the story is about my relationship with Juan Pablo, a working class, homosexual, Mexican male labor activist, who cross-dresses as a woman. His gender play forms an aspect of communicating his sexual preference, but is not necessarily intended to communicate a public gay identity. The other story is that of Paula as a transgendered, pre-operative transsexual female who, with the aid of medical science and the law, has given up her male gender signifiers in dress and voice to embrace the “corrected” internal gender identity of a woman. My storytelling moves back and forth between the two Paulas, exploring the ways that law and culture have helped shape their identities, whether artificially, performatively, or physiologically and psychologically (e.g., introducing female hormones). Finally, because my curiosity about each of their gender border crossings happened as I traveled to and from Mexico, I came to some conclusions about the way the global economy at the Mexican border serves as a site of gendered conflict and as a reinforcer of specific socially conservative sex and gendered values.

This essay then, is a kind of journaling into my own process of getting to know two individuals whose lives taught me something important again at a time in my life when I too was transitioning from an identity as an academic to scholar-activist. My travels and my observations of the differences in these two “Paulas” lives led me to experience Gloria Anzaldúa’s powerful concept of the internal “struggle of borders”<sup>11</sup> as I witnessed an external struggle of borders, both metaphoric and real in these two queer Paulas. As I learned more about how economic and political power define so much of the harsh existence of *maquiladora* workers in Mexico’s global economy, I kept comparing how sex, gender, race, and class can create sharp differences in levels of danger to one’s personal sense of safety. I was able

to use the positioning of each of these two Paulas in their own communities as a lens from which to examine those differences in risk and privilege because of who they are, how they view themselves, and how others view them. I began to think of the shared names and female personas in the two Paulas not as a coincidence, but as an opportunity to understand again that metaphoric and real borders, wrought by prejudice, culture, and history, do have the power to oppress. At the same time, the personal decision to transgress those borders, in the face of systemic repression and power, also has the power to liberate the human spirit, in particular when the decision is made with the love and support of a chosen community.

#### MEN, WOMEN, QUEERS, AND THE SEARCH FOR A TRUE SELF IN A FEMININE NAME AND IDENTITY

##### *Meeting a Labor Activist Named Juan Pablo/Paola*

About two years ago, I made a series of research trips to the Texas-Mexico border, primarily to interview women about the health hazards associated with working in the *maquiladoras*. A *maquiladora* is an assembly factory whose end products will be destined for export, consumption, and use in the free trade zones that have existed at the Mexican border since the 1960s. I had already published a major study with a gendered focus on the ways in which U.S. free trade policy and immigration law intersect at the Mexican border to create unique patterns of oppression for women and children in these factories.<sup>12</sup> I now wanted to gather new data to substantiate my argument that pro-NAFTA<sup>13</sup> interests on both sides of the U.S.-Mexico border effect long-term and chronic damage to the environmental and health concerns of workers in violation of the NAFTA labor accord<sup>14</sup> and other international labor norms.<sup>15</sup> I was living in Austin, Texas at the time, which is hours away by car from several Mexican towns and cities. Since then I have returned about every six months to update information I gathered from meeting dozens of women

and men in three border towns. The work was personally and professionally transformative, for I came to appreciate a new level of understanding of oppression that I barely glimpsed through my distanced academic article.

A major insight was my awareness of how tremendously important solidarity is to a people who are fighting what appears to be an impossible cause for justice.<sup>16</sup> *Maquiladora* owners and bosses are incredibly hostile to union organizing.<sup>17</sup> If any progress has been made in recent years it is because there has also emerged an important sense of community ties among people who came to the border from some of Mexico's most culturally diverse, remote, and impoverished regions.<sup>18</sup> The workers I met were repeatedly in a fight against well-established unions that are often corrupted and/or allied with employer interests. Working together to identify problems, develop strategies, learn about the law and how to enforce it, and replace fear with organizing tactics has resulted in slow but effective empowerment. Sometimes the battles are against subsidiary factories that are owned by huge MNCs that employ thousands of workers in Mexico and globally. Many of the people I met had come from humble backgrounds, with minimum education, no other career opportunities, and few social connections other than the people they met in their factories or in the squatter shantytowns that the working poor populate at the border.<sup>19</sup>

One part of the story often repeated itself. A worker becomes affiliated with an organization she had first met through a volunteer who was also a worker.<sup>20</sup> The worker invited her to workshops where she would meet other workers from other factories. She would learn about her rights, participate in role-playing and work up the courage to confront abusive bosses. Sometimes the tactics worked. When they did not, or when situations got harder, she was supported through grievances and learned from repeated situations how to stick up for herself. Finally, she regained a sense of hope, and old fears and shyness were replaced with courage and pride because of these new solidarity connections.<sup>21</sup> Some workers had made new and once



unimaginable friendships with people from very different backgrounds. After several encounters, I concluded that the comradeship from labor struggles also allowed some workers to let go of pre-existing prejudices against others, including the strong cultural bigotry towards sexual minorities.

On one of those trips I walked into the offices of the *Comité Fronterizo de Obreras* (CFO),<sup>22</sup> a non-profit group that has been organizing *maquiladora* workers for about twenty years.<sup>23</sup> I was greeted by a male volunteer staff member wearing a woman's blouse, sprayed hairdo and slight facial make-up that signaled "queen" to me. Among his friends and CFO comrades, Juan Pablo likes to be referred to as Paola. He refers to his ex-boyfriends as "ex-husbands" and to his dates as potential partners for marriage. Over that weekend in the fall of 2000, I worked with Juan Pablo and other CFO volunteers who are engaged in a daily struggle to educate each other on strategies for challenging sweatshop working conditions and low wages. The organizers' tasks are simple. By handing a worker a copy of the federal labor law, they first educate her on her rights and take her through a process that boils down to new self-awareness and empowerment. When the organizer validates that the worker is not just a cog in the wheel of production, but also a human being, the worker sometimes turns into a committed activist. Because the CFO's goals threaten the status quo, the organizers have to be discreet, meeting workers in their homes so as to minimize the risks of retaliation.

While not all *maquiladoras* can be characterized as oppressive, Mexican activists argue that NAFTA only increased historic patterns of companies crossing the border to recruit and exploit young women, and sometimes children, with non-living wages, unsafe working conditions, sexual harassment, and other gross forms of sex-based discrimination.<sup>24</sup> Elsewhere I have documented how MNCs do relocate to places like Mexico, confident that they will get away with violations of local or international health and safety standards because of lax enforcement or the host government's desire

to curry favor to increased foreign trade.<sup>25</sup> Cumbersome, largely ineffective, and complicated jurisdictional issues make the idea of legal justice in the *maquiladoras* an elusive project.<sup>26</sup>

During the week of my first visit, there was an active labor conflict raging in the ALCOA factories of Ciudad Acuña. Once there I was encouraged to travel from Piedras Negras to Ciudad Acuña with Juan Pablo, Amparo, and Juany, workers who had been fired for their activism at a factory known as Dimmit Industries, which once made pants carrying the labels Polo and Ralph Lauren. They would accompany me in a car to a neighboring city to meet workers who might share stories with me about their lives and experiences in the *maquiladoras*. On another occasion, other CFO activists had told me that Juan Pablo went by Paola although it was clear to me that this only happened in what appeared to be safe settings, like the CFO office. As we drove around, I first learned that all three were at the CFO office killing time as volunteers as they awaited the results from a hearing on an unfair labor practice charge. The hour-long drive along bumpy roads and treacherous highways was interspersed with chatter and humor as all three speculated on the potential size of their backpay award and plans on how to spend it. I sensed that the women I was with were very comfortable with Paola and with his running joke of the day that he was looking for a good husband.

A couple of days later, my weeklong research trip was interrupted by a weekend reunion the CFO had organized with a group of visitors and allies from the United States who are based in Austin. Typically, after these long days of meetings and strategizing the CFO also organizes a community potluck, and someone may provide music records. On this particular weekend, about forty people had gathered from Piedras Negras and the six other cities with chapters of active CFO volunteers. Because it was a weekend meeting, many of the attendees had come with spouses and children of all ages. When the meal was over, a few people moved the tables and someone brought out a boombox and CDs. Suddenly the lights

were dimmed and to everyone's surprise Juan Pablo appeared in drag as Paola and began to dance and lip-sync to a popular Mexican love song. Throughout the song, s/he playfully approached the very macho looking men, and we all laughed as they reddened with embarrassment in front of the women, some of whom were their wives. The party had been kicked off by Paola's performance. After that, women, men, and children all joined in dancing and enjoying themselves. Well, now I was even more curious about the relationship between Paola and others in the activist community. I wondered about the unspoken gender attitudes in this party that resembled a big Mexican wedding dance and what explained Juan Pablo's being so "out" and in drag here, while throughout the day he had been clearly closeted in dress and demeanor. When the U.S. visitors left the next day, I made it clear to Paola that I wanted to interview him and he agreed to meet with me the next day.

*The Mexican Queer and Juan Pablo's Performative Transvestism*

The role of homosexuality in Mexican legal culture has changed in the past fifteen years. While at one time it would have been fairly easy to proclaim that "there are no homosexual rights" in Mexico, such is no longer the case. Homosexuality is not per se illegal.<sup>27</sup> A few years ago, Mexico City passed a law prohibiting discrimination on the basis of sexual orientation, a move suggesting that queer activism is having an impact in that country, at least in the governmental nerve center.<sup>28</sup> Not unlike other parts of Latin America, Mexico is feeling the pressure to accept that queer people are demanding equal rights and recognition of their relationships.<sup>29</sup> But changes in social attitudes present a greater challenge. Sometimes the law precedes attitudes, and sometimes it is the other way around. In the United States, the historic example of the law's changes on enforced racial segregation taught us that important and needed changes in the law<sup>30</sup> are often met with massive resistance and hostility.<sup>31</sup>

The cultural urge to keep or maintain older values that are laden with prejudice and bigotry often invites the kind of violence that produces martyrs. Mexico has apparently seen some examples in the spate of homosexual murders in the late 1990s that also triggered the passage of new protective laws.<sup>32</sup> Meanwhile, the gay and lesbian activists forged on in the pursuit of equal rights. An example of this was the election of the first openly lesbian legislator ever in the country.<sup>33</sup> However, while the movement to recognize lesbians, gays, bisexuals, and transgender persons (LGBTs) and their right to equality continues in Mexico and other Latin American countries, homophobic attitudes persist.

Against this mixed backdrop of Mexican legal and social attitudes over homosexuality, I thought of Juan Pablo's performative transvestism on the night after the workshop with CFO labor activists. I reflected on the embarrassment of the men, both Anglo-white and Mexican, who were being teased by Paola as s/he brushed their faces with fake long hair, blew them kisses, or sought them out for dancing or cuddling on their laps. Even more surprising was the egging on by everyone in the audience: man, woman, and child. This was a kind of banter that encouraged the play-acting by this man/woman that struck me as entirely at odds with the broader cultural attitudes that are traditionally thought of in Latino culture as not only strongly homophobic but also strictly gendered.<sup>34</sup> The participation of the community of fellow activists seemed to have liberated everyone to let go of their prejudices for the opportunity to laugh and play with gender.

Was any of this unusual? No. Like many homosexual men in Mexico, Juan Pablo uses the image of the female gender to negotiate his sexuality. When friends refer to him/her in the female pronoun it is more about play, since he is not really a woman. Yet the cross-dressing and feminized name is also a serious adoption of a gender-based homosexual identity in Mexican culture that appears to characterize the working-class gay subculture. In her feminist study, *Mema's House*,<sup>35</sup> sociologist Annick Prieur details social networks and identities of a working-class community of transvestites,

queens, and machos who live in a Mexico City suburb known as Ciudad Nezahualcóyotl, or “Neza.” Prieur describes a Mexican gay male world of sexual identities constructed from the intersection of gender and sexuality to explain both gendered behavior and sexual proclivities, based on a strong acceptance of the bipolar female/male divide.<sup>36</sup> Taste in sexual pleasure emerges in a range of sexual identities that reinforce the bipolar divide between femininity and masculinity.<sup>37</sup> Thus, for example, masculine men, called *mayates*, remain “men” even if they have sexual relations with both women and men, as long as they maintain a masculine public identity.<sup>38</sup> Meanwhile, *jotos*, *tortillas*, and *bisexuales* may identify men who play with the feminine gender or cross-dress completely into the female gender and who do so in order to communicate their participation in what in the United States is called “gay sex.”<sup>39</sup> The more feminine appearance may also indicate a greater willingness or desire of a male partner to play the passive sexual role.<sup>40</sup>

Juan Pablo’s own “coming out” story describing his move from the country to the city, mirrored some elements of Prieur’s conclusions for the working class homosexual males of Neza. Much like the gay men of Neza who live not in the city but where they can afford to live,<sup>41</sup> Juan Pablo and his friends appeared to reside alongside other families with children in working-class sections of Piedras. It is a relationship between class, gender, and sexuality that differs from the pattern we are more familiar with in the United States, where certain metropolitan centers are seen as havens for “gay neighborhoods” or “gay ghettos.” Whereas gay sections in the United States tend to blur, though not perfectly, the borders of race and class,<sup>42</sup> a country like Mexico does not. With huge working poor and working class populations, as compared to a small middle class and tiny upper class, Mexico’s major cities do not present the possibility of identifying a “gay demographic.” Mexico City, an international metropolis and a minority example of Mexican legislative efforts to produce anti-discrimination laws, may present a more complex mixture of class, global contact, and

homosexuality that explains the emergent gay political agenda. But, I would speculate that it is not enough to overcome the huge social class disparities that exist in the lifestyle of Mexican citizens at the border versus the interior.

The social environment of the Mexican borderlands, which is hugely populated by members of the working poor, suggests a largely pre-gay civil rights environment more likely to produce examples of closeted, yet broad, social networks among gays, lesbians, bisexuals, and transgender persons. I learned from Juan Pablo that while *he* is comfortable being openly gay, it is not easy to be openly homosexual, or to question the transgenderist assumptions that accompany Mexican society's awareness of what it means to be a homosexual. As one who has lived in Mexico and is still close to her cultural roots, I would have to confirm a prevailing stereotyped view of the public homosexual in transgenderist terms—lesbians as women who want to be men, or gay men as wanting to be women. In other words, any departure from the heterosexist assumptions associated with sexual normalcy must indicate an abnormal desire to be seen as a member of the opposite sex. Such conservative, gendered views are in fact most often associated with a non-elite class. In this case, this includes members of the lower middle class, working class, and working poor. In Neza, many members of Mema's house reflected an internalization of these attitudes; that is, a self-construction of one's homosexual inclinations in a gender identity of the opposite sex in accordance with the values appropriate to their class status.<sup>43</sup> It is possible that Juan Pablo's gender play and performance is an external expression of those same attitudes communicated to others in limited settings,<sup>44</sup> that he is a homosexual who plays the passive sexual role.

Prieur's study also focuses on the role of community in the individual's experience of freedom to be gay.<sup>45</sup> Without community there can be no survival or safety in a society that is not ready for great numbers of people to come out. Prieur shows, for example, how the Neza families gradually

came to accept Mema's house as the queer house on the block. Mema was an older ex-prostitute/HIV counselor who offered refuge to young boys and men who were coming out and who had been ousted from their own homes.<sup>46</sup> The notion of a broad gay rights movement in Mexico is thus very difficult to apply to the social conditions of the working class homosexuals found at the border whose expression of sexuality is unlikely to disturb dominant heterosexist values.<sup>47</sup> Given that Juan Pablo could hardly be out at work as a labor activist, it would have been unimaginable for him to be out as a gay man. The risks are too high.<sup>48</sup> Thus, Juan Pablo's moving in and out of being out greatly mirrors the experiences of many a rural U.S. citizen who needs to find a big city in order to come out. For Juan Pablo, that big city was Piedras Negras.

The presence of the physical U.S.-Mexico border also played a part in Juan Pablo's evolution as a young gay man. He told me how he once took the opportunity physically to cross the border for an adventure in the United States, only to be met with other bordered experiences he had never experienced in Mexico. Off he went to Dallas, Texas, for what he said at the time was his desire "to see more of the world and for more dates."<sup>49</sup> In fact, he lived there about one year, taking on, like most Mexican undocumented workers, an insecure, low paying job with no benefits. The borders of gender and sexuality that kept him more closeted in Mexico were much more easily crossed while he was in the United States. For example, he made extra money on the side by cross-dressing and lip-synching with two other friends who formed a group and hired themselves out about three times per week in the Latino bars of Dallas. Juan Pablo thought he might have stayed if he had found a relationship, but he did not.<sup>50</sup> Ultimately, it was the borders of race and class that limited him socially and economically, and accounted for a less than liberating view of his brief time in Dallas.

Juan Pablo's experience also tells us a story of how the privilege to feel free is absolutely conditioned by a variety of social factors. He believed he

could be more openly queer in Dallas, yet his sense of freedom turned on the realities surrounding his Mexican citizenship and illegal alien status<sup>51</sup> in the United States, along with his race, ethnicity, and class. In fact, he said he left Dallas on an impulse, and just “got on a bus back to Piedras.” Not because he did not feel comfortable being gay in Texas but because he got tired of feeling afraid and at risk for his personal safety because he was alone, with no friends or family, and he did not have citizenship papers. He had ended up living and working in neighborhoods he sensed to be very dangerous. Even if he could not be as openly gay in Mexico or make as much money, at least he could return to the feeling of safety among his own people back home.

*The Cooking of Gender Identity: Re/presenting Paul/Paula*

I first met “Paula” several years ago through mutual friends as a tall, blonde and gentle male named Paul. Paul/a is currently transitioning from an at-birth male to transsexual female. The DSM-IV, the handbook for mental health professionals, explains that an individual who has strong cross-gender identity and a discomfort with his or her assigned sex may be diagnosed with Gender Identity Disorder.<sup>52</sup> My connection to male Paul was definitely more detached and emotionally distant. We, Paula and I, have sometimes speculated that it was the gender role expectations that may have contributed to the distance. This barrier came down from the moment I “met” Paula, which happened while I was at a women’s support group, and the person I had known as Paul suddenly showed up wearing women’s attire. There s/he was wearing a short jean skirt, light makeup, and sandals. My established reputation as a queer scholar and my compassion urged me to rush to her at the end of the meeting to express my full support of what I knew was a courageous step. Not long after that day, I was given the opportunity to demonstrate that support by agreeing to help her get her name legally changed from Paul Christopher to Paula Christine.



The path towards freedom as a woman has not been easy for Paula. Unlike some transgender people who stop short of reconstructive surgery, Paula has the goal of making the full transition to having a female body.<sup>53</sup> But one of the first setbacks she had was losing her job to a sudden cut in the budget of the funds for her position. It was a move she felt was discriminatory but was ultimately not provable. For months she seemed to have the support of many co-workers while her supervisor, a person notoriously difficult to work for, became even harder to work for. The several months leading to the job loss were no more intolerable than other times except for the fact that her job was being eliminated and Paul/a knew this far in advance. Paula worked for a Texas social services agency that, at least publicly, paid lip service to the rights of sexual minorities. Nothing seemed questionable about the process. There was no real firing because Paul had come out as a transgender person, just a cut in the budget that conveniently eliminated Paul's job.<sup>54</sup> Legally, of course, transgender people have not been able to convince the courts that existing law prohibiting sex-based discrimination should protect them. Instead, cases like *Ulane v. Eastern Airlines*,<sup>55</sup> brought under Title VII and involving the firing of a male-to-female transsexual, have long foreclosed such a theory.<sup>56</sup>

Like many transgender people, Paula sought to acquire the legal indicators of societal approval and recognition of her gender identity change by having her name changed. Getting her petition filed turned out to be fairly easy in the Travis County, Texas courts. The petition labeled "correction of sex identification on the birth certificate," however, turned out to be a bigger challenge for the newly elected judge that Paula was assigned to at her hearing.<sup>57</sup> Off the cuff, the judge stated that it was his general understanding that such a petition had no great support in the law.<sup>58</sup>

Over the next few months I felt privileged to know Paula enough to be aware that the process she was engaged in was indeed very courageous, sometimes difficult, but most of the time a true finding of herself at a deeper spiritual level. She had come out on the job and then lost that job. She had

come out to her family, and got the support of her mother for an important supporting affidavit we used in her legal petitions. She had come out to her community of friends, some of whom supported her, and others—mostly men—who shunned her. She came out while living in a house in a family, residential neighborhood that she was unable to sell for over a year. She had gone, for some people, from the image of a nice guy some of us only knew as “sweet, gentle, and wonderful Paul,” to the identity of a person who might have resembled Paul’s sister. In essence, she had opened the door to grief on an individual and communitarian basis for the “old Paul” who was now gone forever.

As I learned more about her process, I came to understand that whatever image anyone had had of Paul was but a glimpse at a “true self” that society and Paul had struggled to repress for over 35 years. There was no going back, however. While some “friends” in the community showed their true colors and publicly admonished Paula for making changes they could neither understand nor accept, others—mostly women and most of them lesbian—gleefully embraced Paula with love, friendship, make-up tips, and even clothing and jewelry out of their closets. Meanwhile, Paula becomes more female and womanly each day, according to the highly gendered norms of Western culture, as her feminized appearance is accompanied by daily hormone supplements, periodic hair removal treatments, and voice classes.

There are more notable facts that accompany the process of Paul’s becoming Paula. Paul/a is Anglo-white, is an artist, has some college education, and is a practitioner of Lakota spirituality. In fact, what I have always found fascinating about Paul/a’s identity process is that she felt that the decision to embrace her transgendered identity grew out of “Paul’s” ten plus years of ceremonies in Native-American spirituality, in particular the sun dance ceremony.<sup>59</sup> Native American cultures, unlike the rigid bipolar approach to gender prevalent in Anglo-European cultures, have historically had a much more fluid interpretation of gender that literally allows for

gender choice and gender blending.<sup>60</sup> Referred to as a kind of “cooking of identity” that happens over one’s early lifespan, gender is a byproduct not of genitalia but of spirit, behavior, and attitude.<sup>61</sup> What this means is that Paul’s identity had been “baking” into that of Paula long before her thirties and forties. But the rigid and bipolar sex and gender culture of the United States, and her home life, instead produced a sex- and gender-constrained young boy and man who experimented with homosexuality, married a woman, and then cast off both of those experiences because they felt “entirely wrong.”<sup>62</sup> The outcome—one filled with the pain of job discrimination, stares from neighbors on her block, and the outright rejection from some former male friends—is a person who in her own words is “much happier than ever” before. Paula has often said that a moment of utter joy happened when Leonard Crow Dog, a Chief of the Lakotas, and the spiritual leader of the American Indian Movement (AIM),<sup>63</sup> announced at a ceremony that Paula’s transitioning was a part of the “old ways of the Lakota.” They understood that the *winkte*, or “would-be-woman” has a special role to play in Native American culture.<sup>64</sup> A final fact that really confuses people about Paula is that the gender identity switch did not disturb her heterosexual orientation. In other words, Paula is sexually oriented towards women, but wants to be womanly, which makes her a transgender lesbian woman.

In the United States, transgendered people have come out boldly as the underdog minority in the community of sexual minorities. There are thousands of transgendered persons who never come out, whose goal in life is to blend in once they have made the physical transition, and who do not look back to their hetero-normative upbringing or identity. The ones who are out may find friends and support in the gay and lesbian community, but that is not always the case. The Human Rights Campaign Fund received criticism for years for its failure to be inclusive of the transgender cause. Its lobbyists are still harshly criticized for not seeking a gender variance inclusion in either the language or suggested interpretation that defines

“sexual orientation discrimination” in the proposed Employment Non-Discrimination Act.<sup>65</sup> As I have suggested elsewhere, such a public stance on the transgendered cause is an appeal to the gay and lesbian community that we should guarantee our safety in a heterosexist world by only accommodating to hetero-normative expectations of acceptable queerness.<sup>66</sup> In other words, this means that someone like Paul crossed the boundaries of “acceptable” queerness by transitioning on the job and expecting to keep her job. In fact, Paula experienced a range of reactions—from “how wonderful,” to being shunned by formerly friendly acquaintances, to a supervisor probably planning the budget cut that eliminated her job and so on. The at-birth male who suddenly shows up one day at work in women’s clothing as a statement of a new gender identity may be opening the door to a personal sense of freedom but s/he gives up the status and privileges accorded men in U.S. culture. While we know that there are, and have probably been, thousands of transgendered people throughout history,<sup>67</sup> the lack of acceptance has forced many to live “in the closet” upon transitioning, abandoning families, communities, and careers. As Leslie Feinberg suggests, the transgendered person who comes out publicly and stays out publicly is a “warrior” who has to fight not only the legal attitudes but also to have a life, a home, and a job to support him or herself.<sup>68</sup> It is irrelevant that Paula feels she has become more fully human by expressing parts of her identity denied in the sex and gender role as Paul. Overall, both law and society are unsympathetic to her identity crisis and her desire to have the social and legal attitudes match her discovery of a more genuine sense of self.

*Challenging Hetero-Normativity: Comparing the U.S. and Mexico Experience and Coming Home to One’s True Self*

To compare the positioning of Paola and Paula in their social and legal culture is to encounter marked degrees of difference as to how they might find freedom and acceptance in their own societies. The resistance met by

Paula “coming out” on the job in Austin did not materialize right away. She kept her job for a few months and several co-workers accepted the transition. Her spiritual and social networks have been a source of constant support. She had two lesbian lawyers who were dedicated to getting her the best possible results in a system that was unlikely to support her on the most controversial petition, to “correct” the sex identification on her birth certificate, even with a supporting affidavit provided by her biological mother. Yet, Paula is also unlucky to be living in a state that produced *Littleton v. Prange*,<sup>69</sup> a bizarre opinion of a Texas court of appeals that reinforces heterosexist norms and discriminatory attitudes towards transsexuals. *Littleton* holds that one’s gender is *not* a matter of social construction but is, rather, a product of the current scientific understanding of gender as derived from one’s at-birth chromosomal make-up.<sup>70</sup> The court thus rejected even the remote possibility that a sex assignment error had been made by the delivering physician. Although genital ambiguity is commonly seen in maternity wards all over the world, U.S. doctors have long provided the questionable remedy of fashioning a surgical fix to match a gender choice rather than promoting gender fluidity.<sup>71</sup>

One may wonder, between Paola and Paula, who experiences more freedom from adopting a feminized identity? We see from Juan Pablo’s story that the feminine identity is both a sexual choice and a personality, but one that can be abandoned easily for other goals. It is purely performative transgenderism, and he uses this to communicate his preference to play the passive role in sexual relationships. However, Juan Pablo also appears to have internalized the broader cultural attitudes about homosexuality that are apparently transgenderist. When I told him on a recent trip to Nuevo Laredo, where he was doing some labor organizing for the CFO, that I had a friend named Paula in Austin who had once been Paul, Juan Pablo immediately assumed that this Paula was also interested in men. He seemed to make no distinction whatsoever between transsexualism as an identity and homosexual orientation. In fact, Juan Pablo appeared confused when I

told him that Paula was *not* interested in men sexually, but was only interested in *becoming* a woman. His response for me confirmed his culture's absolute commitment to a heterosexist gender interpretation. That is, in a male-dominated social and legal culture, the man who is sexually attracted to other men has his identity socially constructed in line with the masculine/feminine divide. Either he is viewed as playing the "man's role" in a sexual relationship with a "woman" or he is a *jota*, a man who has entirely assumed the woman's role.<sup>72</sup> He may also be viewed as a *jota vestida*, someone who mainly dresses in women's clothing, except maybe among the family at home, who takes a woman's name, and is more likely to play a passive sexual role with other men.<sup>73</sup> The ends accomplished by this "transformation" are purely sexual; that is, Juan Pablo *loves* his male genitalia and that of other men. This is different, and presumably externally less liberating, than the radical identity change of Paula, who has transitioned from his/her lifelong outwardly male identity to one of an openly transsexual "woman." For Paula, female attire is not "drag" but is the permanent new look of an at-birth male who anxiously awaits the riddance of the male genitalia in order to possess a reconstructed vagina despite the huge medical costs and risks involved.

Self-acceptance seemed key to Juan Pablo's sense of freedom, which includes the freedom to be a "flaming queen" among friends, like the mostly female labor activists whom he works with to achieve labor rights against U.S. multinational corporations. I gathered from Juan Pablo that openly gay for him might mean being the occasional drag queen in settings where he can feel free to communicate his sexual preference. It certainly did not seem to be a need to be out in the wider community or even at home. Like many situationally closeted gays, no one in his family talks about his sexuality, even if they tacitly accept that he is never going to bring home a girlfriend or future wife. Juan Pablo says that his family coped with his differences from the moment he wanted to leave the small village of his

birth for the big city of Piedras Negras, where he worked until he was fired for union activism in the *maquiladoras*.

In contrast, Paula's own sense of freedom as an openly transgendered female is still subject to severe limitations. Transgendered people face tremendous discrimination and physical violence in contemporary society.<sup>74</sup> One obvious and tangible example of the price and penalty she paid for coming home to a true sense of self was the loss of a job she could not easily replace and being forced into seeking a new college degree in the hopes of making photography a full-time career. "Freedom" is then qualified by attitudes of gender and hetero-normativity. The gender rebel puts at risk one's job and home, a reality that explains why thousands of transsexuals make geographic moves to other cities and countries to transition more easily into their new gender identity. Despite these risks and social penalties, it is a choice that thousands do make because they, like Paula embrace the concept of "to thine own self be true."<sup>75</sup>

The Mexican and the U.S. Paulas may be divided in purposes and goals but they are united in the common ground of the sex and gender values and conformist attitudes that define who they are and how they must be in order to survive. The norms that view Juan Pablo as gay and "wanting to be a woman" so he can have sex with a man, and view Paul as abnormal in wanting a new gender identity *as* a woman unite on the common ground of privileging patriarchy and heterosexism. They are the same strict gendered norms that made it impossible for transsexual female Christine Littleton to sue for the wrongful death of her husband; regardless that she looked, lived, and felt a woman, the *phantom penis* still lived in the judges' minds who dismissed her case by seeing her only as a person who had been born male and is forever male because of her genetic chromosomal make-up.<sup>76</sup>

Sex and gender are never one and the same thing, while history, culture, and social context are at the core of interpreting the meaning of freedom to be oneself irrespective of the officially pronounced civil and political rights. I once mentioned to Paula some of my observations about what was the

same and different between her and the Paola I knew in Mexico—particularly about the race and class differences that gave each of them a greater or lesser sense of freedom. I suggested that she had more freedom in exploring her gender identity because of the greater progress in openness towards queers in the United States. I also felt that her whiteness and education easily gave her an edge over someone like Juan Pablo who is limited to being openly gay in safe settings despite the slowly emerging movement for gay civil rights. This last comparison I felt rested on how easily Juan Pablo could lose any sense of freedom the moment he stepped upon U.S. soil without citizenship papers, money, or the ability to speak English. In that conversation, Paula stated how coming out as a transsexual had opened her eyes to other forms of discrimination, including those based on race and sex, that she once only understood as a matter of politics.

#### EXPORTING HETERO-NORMATIVITY THROUGH AMERICAN CORPORATE CULTURE AT THE MEXICAN BORDER

##### *The Presence of American MNCs, Gendered Values, and the Official Homophobia at the Mexican Border*

It would be easy to conclude that it is primarily the historic western and Christian prejudices against homosexuals that circumscribe Juan Pablo's life. However, there is arguably another source for the reinforcement of gender conformity at the Mexican border; that is, the contribution of the gendered corporate culture produced by the increased presence of U.S. MNCs at the border. The *maquiladoras* have had a presence at the Mexican border since the late 1960s. Viewed by Mexico as a necessary evil against widespread poverty among the working classes, the *maquiladoras* define life at the Mexican border today. Virtually every major city and town along the border has been affected by the *maquiladoras*. The factories are nothing but the end product of the corporate decision in some company headquarters to cut losses by relocating some aspect of their production and assembly



processes to another part of the world. President Clinton's signing of the NAFTA was a huge boost to Mexico's participation in the global economy. As Mexico welcomed the investors, literally thousands of new factories spread into large and small cities bringing with them jobs, and along with the jobs, an Americanized work culture and lifestyle.

I often remark that not only are Mexico's border cities tourist traps and havens for global factories, but the rapid growth is also re-shaping cultural values that pertain to gender roles, family, work, and community. This bordered Mexico, with its gateways to foreign investment or drug trafficking is in active transition to becoming a haven of American corporate cultural dominance. One need only travel to a few border cities to appreciate what I mean. Visitors can acquire the typical tourist goodies of cheap medicines and household wares. U.S. travelers going back and forth from a sister city can just as easily get a range of their favorite fast food choices (e.g., McDonald's, KFC, Domino's) as in any other U.S. suburb. Moviegoers can even drop into a Cinemark theatre to catch the latest films being shown in other such theatres across the United States, paying with cash converted into *pesos* obtained from the satellite ATM dispenser of a U.S. bank. The border culture offers tourist and residents alike a global flavor of Americanism according to corporate consumerist marketing. It is all part of the free trade package.

Yet, I have learned from other visits and encounters that little has changed when it comes to Mexican attitudes towards homosexuals at the border. As noted earlier, although Mexico may not criminalize homosexuality *per se*, in stark contrast to the continued existence of sodomy laws in at least thirteen states in the United States,<sup>77</sup> the intensely gendered culture views homosexuals through the lenses of gender and moral transgression. For example, local laws prohibit public indecency and encourage police to harass and exploit male prostitutes or those perceived to be gay, usually the male who externalizes his sexuality through a feminized appearance. Juan Pablo told of a time he was leaving a friend's home and

was not allowed to continue down the block without giving an officer fifty *pesos*. “Why?” I asked. Juan Pablo replied, “Just because, or else he was going to charge me with indecency.”<sup>78</sup>

In my visits to four border cities, it has become evident to me that the catering to American tourism typically found all along the two thousand miles of Mexican border does not include catering to a gay clientele. As Juan Pablo put it once to the lesbian members of a delegation of U.S. visitors, “there are no gay bars, but you are welcome to a home party.” The remark reminded me of the historical works that have documented the pre-Stonewall lesbian subculture in Buffalo,<sup>79</sup> while the transgenderist views of homosexuals among Mexicans evokes the kind of gendering of sexual preference Chauncey documented in his study of gay New York City.<sup>80</sup> While there might be a gay movement going on in Mexico, it would appear to be largely confined to the large metropolitan centers rather than in border towns.<sup>81</sup>

Further, while elsewhere I have criticized the *maquiladora* industries and NAFTA for its sexually discriminatory impact on the working woman,<sup>82</sup> there are more subtle ways in which corporate America also helps to perpetuate sex and gender conservative values by virtue of its economic activities at the Mexican border. One glaring example is in the treatment of the queer. I find it interesting, for example, that someone like Juan Pablo would probably view himself as openly gay except that he chooses the instances where he will be totally himself as Paola. It is an openness that is absolutely contextual, however, given the prevailing stereotypes and the societal expectation that homosexuality is taboo, private, and not a legitimate alternative to heteronormativity. His openness may be a far cry from the lifestyle he was able to have for a year in Dallas when he made money engaging in performative transvestism in Latino bars. When organizing in new neighborhoods with the CFO or larger reunions of activists, it is clear that Juan Pablo is closeted. Once a solidarity or trust

relationship emerges among activist colleagues, his true gay self is out and loud.

*Queer Activists in the Maquiladoras of Nuevo Laredo*

I sat in a van filled with people from Austin, Texas, who had taken a trip down to the Mexican border to learn about the living and working conditions of workers in the *maquiladoras*. We rode along the dusty streets and boulevards of Nuevo Laredo, being jostled by our driver's negotiating of the heavy traffic, impatient drivers, and big potholes in the midst of a huge border city that provides fancy landscaped offices for global corporations like Sony, ALCOA, and General Electric.

In the seat behind me sat Juan Pablo, who was serving as our CFO contact together with a very handsome *compañero* named Jorge who was learning the ropes on organizing from Juan Pablo.<sup>83</sup> We were at the end of a two-day visit and I wanted to explore some more questions I had about Juan Pablo's work as an organizer. I also wanted to pick up on the themes I had gathered from my first encounters with him, and my interview in the fall of 2000 where I had first heard his coming out story. But Juan Pablo looked very different on this trip. His flaming red hair was now black, his bushy curls were now contained in a masculine cut and he did not have any make-up on his broad olive skinned face with the toothy grin and dancing eyes. Since he was organizing full-time, he had obviously given up the brief experiment of being a hairdresser out of his home, which he had started with the settlement money from an unfair labor practice claim.

The next day, the delegation of Texans and Mexicans gathered in the home of a worker Juan Pablo and Jorge were hoping to recruit to their movement. The worker, Antonio, his wife and little baby came out of a house typical of the shelter for many *maquiladora* workers—dirt floors, and walls constructed of cement blocks and industrial waste or whatever piece of wood they could afford. Everything self-constructed because they are unable to hire labor with their three to seven dollars a day. There was no

running water; a thin curtain covered the outside water closet. We sat under the shade of a make-shift patio cover that worried Antonio during the heavy rains, and the leaves of a tree he had personally transplanted eleven years before from his native state of Veracruz on Mexico's southeastern coast. We spent the afternoon hearing the workers and organizers talk about problems and strategies developed by taking a few young women who had shown up for the session through a role play encounter with a difficult supervisor. The organizers were supportive, informative, efficient, humorous activists and teachers who came across as people who knew their stuff from experience and who also came across as either straight or at least not obviously gay.

At the day's end, as we settled into the darkness of the van for a long ride back to the hotel, I looked for a respectful way to comment on the stark contrast I had noticed between the feminized Juan Pablo I had often seen among his colleagues back in Piedras Negras and the straight-looking persona he had put forth for the weekend organizing.

Bueno, I am who I am and that is clear once you get to know me better. But this is a new territory for the CFO. And we have to earn the trust of the workers on more important issues, like how to confront the powerful *empresas*. Sometimes you have to make some sacrifices about your personal comfort to do this work. Many of these workers have little education, little exposure to the ways of the city and little trust in who we are and what we are trying to do. I can't just be like you have seen me back at the office in Piedras Negras. First we need their trust.<sup>84</sup>

Juan Pablo's remarks reveal the enigmatic intersection of labor and gay rights politics at the Mexican border. The Mexican border impresses upon anyone who crosses its metaphoric borders, the impact of bordered oppression, especially on the working classes and the poor.<sup>85</sup> Freedom is circumscribed by how close one lives in relation to the border, whether one has money or a job, whether one is male, female, brown, white, rich, poor, a U.S. citizen or not. The more complex the criteria, the higher the risks of

being stripped temporarily or completely of one's civil liberties.<sup>86</sup> Juan Pablo's words were spoken from the identity of a labor activist and someone hardly committed to the notion of a global gay rights agenda. If anything they might be taken as an outright rejection of any such notion of "we are everywhere." Conjuring up the image of his identity as Paola back in Piedras Negras I asked his opinion about Mexican gay politics I had gathered from my research. He said, "I'm not for it. If you're comfortable with who you are that is what matters. You just have to be careful." For example, Juan Pablo is able to be out among his CFO colleagues because as he says, "I am who I am. I don't care what people think of me." "Yes, but you were not out among the workers today," I said. "Yes," replied Juan Pablo, "but that is different. And anyway, I hate the way those people advocate for our rights. They march in skimpy outfits showing all their stuff and that is never going to get us anywhere in terms of people's acceptance."<sup>87</sup>

*Sexual Identity and the Law: A Bordered View of Global Gay Rights?*

Against Juan Pablo's remarks, the conclusions of a recent landmark decision of the 9th Circuit that advanced the theory of political asylum as being available to a Mexican gay man with a "female sexual identity" appear ironic.<sup>88</sup> The court so held on the theory that he forms part of a particular social group that is not safe from persecution in Mexico.<sup>89</sup> It is very interesting to think of this language and decision thwarting the Immigration Court's rejection of Hernandez-Montiel's claim for asylum as applied to someone like Juan Pablo. I would describe him as a Mexican gay male, but probably not in the sense intended by the decision of the 9th Circuit: as someone who identifies with a sexually identified minority group.<sup>90</sup> Juan Pablo's choice to be out as a gay man is contextual and dependent on the existence of a supportive community. Juan Pablo can be openly gay in only two contexts: among his safe closeted network of other gay friends, and among the labor activists who care more that he is a

comrade in struggle than that he has sex with men. The sexual identity articulated in *Hernandez-Montiel* is therefore the byproduct of context: a broad reading of the language in the INS regulations that offer protection to the oppressed. But if you were to ask Juan Pablo if he feels oppressed as a gay man he would probably not understand the question. When I first interviewed Juan Pablo he never alluded to his gayness as having been a factor in his being fired along with a few other women whom the union leaders and company bosses saw as troublemakers. Neither issues of gender nor sexuality, as part of a political agenda, are prominent at the border.

Historically, women who tried to organize in the *maquiladoras* have been viewed as troublemakers. To some, their behavior threatens the Mexican gendered stereotype of women, especially from the lower classes, as being dumb, submissive, quiet, and obedient, the total opposite of an angry, confrontational labor organizer. But gender equity is not an explicit aspect of organizing in the *maquiladoras*, even if at one time the industry almost exclusively employed women, and today women workers are still a majority.<sup>91</sup> What Juan Pablo cares about, for example, is the power of the *maquiladoras* to exploit so many workers, who are mostly female, by working them so hard in return for so little. In this relatively new labor movement he can easily relate to other workers as a worker himself. The huge class-based organizing challenges overwhelm any potential consciousness raising around either gender or sexuality.<sup>92</sup> Cross-border solidarity sometimes has the effect of raising the worker's consciousness, especially if she works for a MNC, about her relationship to workers around the world.<sup>93</sup> Certainly the common survival issues for workers encourage one's thinking of the organizing potential in a globally conscious laborer. That, however, is not the case in arguing for a globally conscious gay subject.

One commentator has recently urged legal scholars to re-examine the whole question of "gay globalization," and especially of the exportability of

the notion of the substitutive gay identity, the suspect class so to speak, seeking to invoke the mantle of protection from unequal treatment.<sup>94</sup> Indeed, the more I think about individuals like Juan Pablo and see them in the context of their experiences as workers and as activists who oppose globalization, the more I see the need to interrogate how the gay sexual identity concept has been constructed on a transnational global scale. One may ask: is Juan Pablo just being a strategic assimilationist? Is he just in denial about his internalized homophobia? Arguably, it is neither, but as Sonya Katyal suggests, it is evidence that a Westernized global gay rights agenda is hardly global at all. Rather, to assume that everyone in the world who departs from strict heterosexuality in either behavior or identity is “gay,” without being careful to contextualize conduct and identity from a cultural standpoint,<sup>95</sup> invites the criticism that the concept of a global gay identity is culturally imperialist. It would be very difficult to piece together from the life of Juan Pablo and his friendship networks, anything like an exportable “gay identity” whether as to Mexican “gay” culture or even as to Juan Pablo’s personal identity. Much more would have to change to diversify his world before he would see himself as part of a broader sexual minority.

What Juan Pablo offers the workers then is a strong identity as a worker who has found dignity in the comradeship and that sense of *familia*, characteristic of Mexican culture and of the community ties formed among activists in the struggle for justice. Among his CFO comrades, he can present the female identity of Paola and he can look into my camera and say in his broken English “hot Mexican girl.” But that aspect of his identity is personal, not professional or political. He can cross-dress and tease his colleagues, and it is all in the family. It is performative and playful transvestism. It is not a political cause. His organizing tactics and his courage have little to do with his need to be accepted as a gay man. Assimilation to the dominant heterosexism of his culture is just part of the job of accomplishing a more important cause—to enlighten workers to the

movement for justice in the *maquiladoras*. To him it is about being accepted as a person and that is it. I understood a little more of his courage when he responded to the question from a U.S. visitor, “aren’t you afraid of what could happen to you for organizing the workers from some of these factories?” “Well, I’m here today, and tomorrow I might not be and that is the risk and that is life. But this work must and will continue.”<sup>96</sup>

#### QUEER PERSPECTIVES ON GENDER AND THE HEAVY INFLUENCE OF AMERICAN CORPORATE CULTURE AT THE MEXICAN BORDER

Cultural and economic imperialism by the U.S.A. is a fact of life in Mexico’s border towns.<sup>97</sup> Cultural dominance brings with it a pressure to assimilate or to preserve conservative and idealized images of family, identity, and community. One example of the pressure to accept and assimilate into American cultural dominance has been displayed in the trend of new Mexican parents to name their babies with Anglo names.<sup>98</sup> It would seem odd unless understood as part of the impact of massive industrializing in Mexico’s border towns that exposes its residents and workers to everything that is American—and presumably better—whether it is their fast food, their music, the products assembled by the workers in their factories, etc. It is a culturally dominant pressure that blends well with some of Mexico’s own conservative gendered values.

I have written elsewhere how gender, race, class, and sexuality combine in the *maquiladoras* to produce various social and economic pressures that unfairly impact mostly women workers.<sup>99</sup> However, Mexico’s entry into the global economy has arguably created pressure not just on sex and gender roles for women but also on the presumed completely private, segregated and non-threatening (to heterosexism) nature of homosexuality. New sex and gendered conflicts are defining the nation’s rapid social changes resulting from contact with or participation in global movements,<sup>100</sup> whether they be for free trade *or* sexual liberation. Women’s continued participation in the *maquiladoras* certainly threatens the roles associated



with the Mexican family as a tightly bound social network held together by male patriarchs and their strong obedient women. The watchful eyes of American factory owners reinforce rigid sex and gender attitudes in the workplace and reward traditional female sex roles.<sup>101</sup> At the same time classist and sexist attitudes combine to exploit youthful female labor by working them on schedules that make it impossible to be both a good worker and a good mother in the traditional sense.<sup>102</sup> Female participation continues in majority numbers as compared to men, challenging the strict gender roles that have historically kept the Mexican woman in domestic servitude and slavery.<sup>103</sup> At the extremes, the exploitation of the female body has also produced a particularly violent form of resistance to the gendered conflicts and change in areas boasting the largest number of *maquiladoras*.<sup>104</sup> For example, Ciudad Juárez, which neighbors El Paso, Texas, leads not only in *maquiladora* investment, but also in drug trafficking and numbers of unsolved murders of young poor women between the ages of fifteen and twenty-five, a number of whom worked in the *maquiladoras*.<sup>105</sup> Meanwhile in Mexico City, another gendered conflict has surrounded open efforts to push a homosexual civil rights agenda. Arguably, an extreme form of violent resistance to the gendered conflict of trying to publicize what has always been relegated to secrecy or public indecency and immorality is the spate of violent homosexual murders in recent years.<sup>106</sup>

A few months ago, I came across an article from an online journal addressing Mexican border issues. The headline of the article referred to a recent clean sweep of gay male prostitutes effected by the city fathers of a border town in which *maquiladoras* have a significant presence. The government had ordered a police crackdown against the perceived breakdown of morality.<sup>107</sup> I found it easy to associate this morality sweep with the need to sanitize the environment within which local politicians seek to attract more foreign investment. Maybe it is not an explicit promise, like that of the mayor of Ciudad Acuña, Coahuila, who is rumored to

promise investors that there will not be any problems with unions.<sup>108</sup> But such official conduct can provide an implicit promise to make the socially conservative investors feel comfortable with a home away from home: one where a specific image of “family values” prevails and the sex industry is confined to the proper venues. What I found interesting from a historic vantage point was the gay sweep’s analogy to the 1950s era when North American cities were characterized by a layer of heterosexist dominance superimposed upon gay subcultures that a generation later provided the base for a politicized “sexual minority.”<sup>109</sup> The industrializing patterns in Mexico’s border cities might be effecting a little of the same as they embrace free trade, expanded consumerism, and a family values lifestyle that is decidedly heterosexist in its image of family and sexual morality. Although another view would be that the transvestism of individuals like Juan Pablo is both an accommodation to and resistance to the imposition of heterosexist norms by the dominant culture. This would be a mirroring of the kind of gendered identities and gay subcultures that mark the pre-civil rights history of the U.S. gays and lesbians.<sup>110</sup> Those historic examples of gendered identities, structured along perceptions of femininity and masculinity and often found among the working classes, reflected the intensity of the heterosexism that defined all of American life during the 1950s.<sup>111</sup> It is the same kind of intense heteronormativity that is alive and well today at the U.S.-Mexico border.

Altogether, the assimilation, the naming of new babies with Anglo names, and the gender policing of gay men announce a changing world under free trade policy and a globalizing economy. They are patterns and phenomena that evoke for me the image of postwar America. Historians often think of the fifties as a period of resurgence of consumerist culture through massive industrializing which brought American consumers an abundance of gadgets and appliances. These were marketed to families who were imbued with the image of normalcy as living and growing up heterosexual in a nuclear family, and certainly not gay or queer. Thus,

contemporary American—and Mexican—corporate culture, working in tandem have re-industrialized Mexico and brought with it a new urge for consumerism by glutting the American outlet shopping malls with thousands of products, appliances, and gadgets. It is the same family values mentality that embraces a very conservative view of sex and gender identities whether in the U.S. or Mexico. The pressure to rid the border cities of the gay men, or, in the U.S., the growing acceptance of gay men and lesbians but continued hostility to transsexuals, offset by movements for sexual and gender liberation in both countries, suggests a competition for the spokesperson for family values. For Corporate America the image is decidedly based on traditionalist gendered values that I have called the “Disney-fication of culture.”<sup>112</sup>

#### CONCLUDING REMARKS

I began this essay by suggesting that my travels and observations of the two Paulas and my relationships with each of them triggered an internal struggle of “borders.” As I witnessed the changes in Paula, I wondered at times whether I was being a friend, an advisor, or just a comrade in the struggle for gendered justice in this world. Being among Juan Pablo and his mostly female comrades in the labor movement, I also wondered if I was being a friend, a researcher and boring academic, or an activist who had her own concerns and fears to deal with as she crossed the Mexican border, meeting every time the rules and regulations of the INS Border Patrol. With every visit, it seemed that Juan Pablo became a better organizer, and the issue of his gayness faded into the background unless I brought it up in casual conversations. As time passed, back at home in Austin, Paula became more and more womanly to me. And, as the time passed from the interviews and the travels, I became more and more comfortable saying to people that the social justice issues that had caught my interest in the research on the *maquiladoras* had in fact turned me into a scholar/activist.<sup>113</sup> As I physically crossed the Mexican border and

experienced occasional hostility or feared harassment from the INS who enforce the policies that overwhelmingly target brown-skinned travelers, whether citizens or not,<sup>114</sup> I became aware of how real the metaphoric borders can affect one's sense of freedom. As a lesbian and part of a perceived sexual minority in the United States, my own political concerns seemed insignificant in comparison to the daily threats faced by the *maquiladora* workers. I was thus constantly straddling the borders of privilege and power. Of course, the reality of the physical border constantly reminded me of the threats to my freedom if I hesitated at all in my answer to the INS agent's question, "what was the purpose of your visit into Mexico?" Not about to reveal my contact with organizers seeking to destabilize the raw power of the U.S. owned factories, I would just pretend to be a tourist in for a day of shopping.

Watching the Paulas negotiate the resistance to their identities and the relaxation into their non-conforming identity among friends and allies made me appreciate Leslie Feinberg's notions of the "transgender warrior." This is the person who battles societal oppression courageously and in the comradeship of other warriors who in this case must overcome the intimidation of those who seek to reinforce the values of patriarchy, capitalism, heterosexism, and white male privilege. How one's identity is constructed by society has one level of impact we see daily in the forms of discrimination recognized, or not, by the legal system. But the forces of construction also deeply influence an internal and self-accepted construction.<sup>115</sup> It was the idea of the self-constructed identity in the face of systemic prejudice that fed my silent yet constant comparison and contrast especially given the context within which I was making these observations. I was a border crosser every time I went into a part of Mexico that is a unique borderlands because of the massive presence of thousands of U.S. owned factories. As they create new jobs, they also are the conveyors of American cultural dominance, new economies, company towns, and

marketplaces, in essence a social environment heavily imbued with the desire to mimic the “American” way of life.

Because I saw each Paula more “herself” in the company of supportive allies or a chosen community in which they felt accepted, I thought a lot about the ways in which we all negotiate our identities to create a personal sense of safety. Every time I crossed the Mexican border going into Mexico, I could feel the privilege of my U.S. citizenship. But while coming back, and if I encountered hostility from the INS, especially if I had traveled alone, I could feel the vulnerability created by my skin color and ethnicity which made me feel unsafe despite all my privileges as an educated, upper middle class U.S. citizen. If I traveled alone, I could feel the vulnerability of my gender. So I too learned to negotiate those metaphoric borders for a personal sense of safety. The fact is that the borders of gender and sexuality are simply more firm or porous based on the places where they meet the borders of race, class, sexuality, citizenship, etc. While Paula does not live in a city like San Francisco where there is more social and legal legitimization of the queer identities, she does live in Austin, Texas, which has some opportunities for her openness as a socially reconstructed white lesbian. Meanwhile, her *tocaya*,<sup>116</sup> Paola, can live more openly as a gay male in the community of worker-activists-colleagues who often risk their personal safety and threats to livelihood by daring to confront the power structures of the MNCs and their *maquiladoras*.

The stories about each of these Paulas are vantage points for examining how sex and gender are uniquely shaped by the social, economic, historical, civil and legal context of a person’s life. While the two Paulas greatly differed in the means and purposes associated with their use of the female gender, both still transgress the metaphoric borders of their own societies in ways that show the equal impact of male supremacy, gender oppression, and heterosexual privileging in Western culture. The situation of each of these Paulas in their lives and in their countries confirms the insistence of

Eurocentric cultural imperialism and law to enforce a rigid and bipolar sex and gender duality for all human beings.

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<sup>1</sup>Associate Professor of Law, Northern Illinois University. My thanks to Ed Campbell for his research assistance and Todd Rayan for excellent editorial commentary. All errors are mine. Special thanks to my partner Donna J. Blevins, Esq. and to Paula Buls.

<sup>2</sup>The term *maquiladoras* is Spanish for the largely U.S.-owned assembly factories that number in the thousands in border cities and small towns all along the 2,000 mile U.S.-Mexico border. See Elvia R. Arriola, *Voices from the Barbed Wires of Despair: Women in the Maquiladoras*, *Latina Critical Legal Theory and Gender at the U.S.-Mexico Border*, 49 DEPAUL L. REV. 729, 731-32 (2000) (further defining the term *maquiladora(s)*).

<sup>3</sup>AUDRE LORDE, *The Master's Tools Will Never Dismantle the Master's House*, in THIS BRIDGE CALLED MY BACK: WRITINGS BY RADICAL WOMEN OF COLOR 98, 99 (Cherrie Moraga & Gloria Anzaldúa eds. 1984).

<sup>4</sup>GLORIA ANZALDÚA, BORDERLANDS: LA FRONTERA: THE NEW MESTIZA 3 (1987).

<sup>5</sup>*Id.*

<sup>6</sup>Margaret Montoya, *Border Crossings in an Age of Border Patrols: Cruzando Fronteras Metaforicas*, 26 N. MEX. L. REV. 1, 3 (1996).

<sup>7</sup>See Arriola, *supra* note 2.

<sup>8</sup>Following the publication of *Voices*, Arriola *supra*, note 2, I embarked on travels to the border to try to document the health hazards associated with the working conditions of women in the *maquiladoras*. Thus, shorter essays were being produced from those research trips. See, e.g., Elvia R. Arriola, *Looking Out from a Cardboard Box: Workers and their Families in the Maquiladoras of Ciudad Acuña, Coahuila* (Dec. 2000), available at [www.womenontheborder.org/articles\\_tables.htm](http://www.womenontheborder.org/articles_tables.htm).

<sup>9</sup>See Elvia R. Arriola, *Becoming Leaders: The Women in the Maquiladoras of Piedras Negras, Coahuila* (Oct. 2000) at <http://www.nmsu.edu/~frontera/oct00/feat5.html>; also available at [www.womenontheborder.org/articles\\_tables.htm](http://www.womenontheborder.org/articles_tables.htm).

<sup>10</sup>Elvia R. Arriola, *Of Woman Born: Courage and Strength to Survive in the Maquiladoras of Reynosa and Rio Bravo, Tamaulipas* (Apr. 2001), at <http://www.nmsu.edu/~frontera/>, also available at [http://www.womenontheborder.org/Articles/of\\_woman\\_born.htm](http://www.womenontheborder.org/Articles/of_woman_born.htm).

<sup>11</sup>ANZALDÚA, *supra* note 4, at 63.

<sup>12</sup>See Arriola, *supra* note 2.

<sup>13</sup>The North American Free Trade Agreement (NAFTA), Dec. 17, 1992, 32 I.L.M. 289.

<sup>14</sup>North American Agreement on Labor Cooperation, Sept. 13, 1993, 32 I.L.M. 1499 (entered into force Jan. 1, 1994).

<sup>15</sup>See, e.g., INTERNATIONAL HUMAN RIGHTS: LAW, POLICY, AND PROCESS 926 (David Weissbrodt et. al. eds., 3d ed. 2001). "...[T]he failure of any nation to adopt humane conditions of labor is an obstacle in the way of other nations which desire to improve the conditions in their own countries..." *Id.* (citing the CONST. INT'L LABOUR ORG. pmbl. (1994)).

<sup>16</sup> Organizing in the *maquiladoras* is courageous, risky, dangerous, and very hard work. The emergent labor movement has been faced with attitudes of racism, sexism, classism, indifference by wealthy elites and politicians, as well as outright despite by comfortably entrenched union bosses. Women are harassed regularly, misogyny is institutionalized, workers can't feed their families on the paltry wages they earn, and the image of the tightly knit Mexican familia is quickly disappearing with fathers and mothers having to work twelve to fourteen hour workdays. And they must do so without complaining too loudly for fear of being fired or blacklisted from other potential work throughout the city. Organizing on behalf of workers in a free trade zone is to enter a resistance movement against some of the most powerful elements in the global economy. See generally Arriola, *supra* note 2, and articles in notes 8-10.

<sup>17</sup> See, e.g., NORMA IGLESIAS PRIETO, BEAUTIFUL FLOWERS OF THE MAQUILADORA: LIFE HISTORIES OF WOMEN WORKERS IN TIJUANA (Michael Stone & Gabrielle Winkler, trans. 1997) (The classic 1970s study on early efforts by women to organize in the *maquiladoras*).

<sup>18</sup> See, e.g., MAQUILAS: A TALE OF TWO MEXICOS (Saul Landau & Sonia Angulo 2000) (This educational film gives an excellent overview of the massive migration of rural peasants and farmers from Mexico's remote terrains that has been induced by the proliferation of maquila factories). A review is available at <http://www.womenontheborder.org/films.htm> (last visited Apr. 30, 2003).

<sup>19</sup> See Arriola, *supra* note 8.

<sup>20</sup> Some information on the Comité Fronterio de Obreras (Women Workers at the Border) or CFO, the organization through which I met several dozen workers for my interviews, is available at [http://www.womenontheborder.org/activists\\_on\\_border.htm](http://www.womenontheborder.org/activists_on_border.htm) (last visited Apr. 30, 2003).

<sup>21</sup> See Arriola, *supra* note 9.

<sup>22</sup> Currently the CFO employs the term "obrer@s" with the "@" to signify a gender inclusive attitude of helping female and male workers in the *maquiladoras*.

<sup>23</sup> The CFO worked almost exclusively with women for many years because in fact the industry almost exclusively hired women in the early years of the border industrialization program. Today women represent approximately 58% of the *maquiladora* employees. See Arriola, *supra* note 2 at 767-68. The organization, which grew out of a project of the Quaker-based peace and education organization, the American Friends Service Committee, relies on a theory and practice of "*manos abiertas*," that is of approaching the workers with the simple question of "what do you need?" While they may get involved in classic labor organizing activities, the CFO is not a union and its functions are a classic example of the kind of popular education envisioned in the pedagogy of Paolo Freire. See PAOLO FRÉIRE, PEDAGOGY OF THE OPPRESSED (Myra Bergman Ramos trans., Continuum Publishing 2000) (1970).

<sup>24</sup> See generally Arriola, *supra* note 8; Arriola, *supra* note 9.

<sup>25</sup> See generally Arriola, *supra* note 2.

<sup>26</sup> Even assuming one is able to develop a substantial evidentiary record linking the specific conduct and/or policies of a "deep pocket" multi-national parent corporation with specific acts of workplace discrimination or abuse committed by its Mexican-based subsidiary, substantial legal hurdles will still remain. Foremost among these would be

the often interrelated considerations of proper jurisdiction, venue, and choice of laws, potential claim or issue preclusion, and the sensitive political matters courts may address out of concern for international comity. See Memorandum from Ed Campbell, to Elvia Arriola (Mar. 25, 2003) (on file with Seattle Journal for Social Justice). See also Jacques DeLisle, *Human Rights, Civil Wrongs and Foreign Relations: A "Sinical" Look at the Use of U.S. Litigation to Address Human Rights Abuses Abroad*, 52 DEPAUL L. REV. 473 (2002).

<sup>27</sup> See U.S. DEP'T. OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES (2001): MEXICO at § 5, ¶ 1 (Mar. 2002), (stating that "[t]he [Mexican] Constitution grants equal status to men and women before the law, and that education should avoid 'privileges of race, religion, groups, sexes, or the individual;'... On August 14, [2001], a third paragraph was added to Article 1 of the Constitution, which establishes for the first time the constitutional prohibition against any form of discrimination, including discrimination against persons on the basis of: ethnic or national origin, gender, age, different abilities, social condition, health conditions, religion, opinions, *preferences*, civil status, or any other basis that goes against human dignity and attempts to annul the rights and liberties of persons." (Emphasis added) available at [www.state.gov/g/drl/rls/hrrpt/2001/wha/8320.htm](http://www.state.gov/g/drl/rls/hrrpt/2001/wha/8320.htm)).

<sup>28</sup> See INT'L GAY & LESBIAN ASS'N, WORLD LEGAL SURVEY, available at [http://www.ilga.org/Information/legal\\_survey/americas/mexico.htm](http://www.ilga.org/Information/legal_survey/americas/mexico.htm). ("Beginning Oct. 1, [1999] Penal Code Article 281, will prohibit discrimination 'based on age, sex, pregnancy, marital status, race, language, religion, ideology, sexual orientation, skin color, nationality, social origin or position, work or profession, economic status, physical features or health.' The penalty for violation of the law will be one to three years in prison and/or a fine equal to 50 to 200 days' salary and/or 25 to 100 days of community service.") Two other states, Aguascalientes and Chiapas also have amended their penal codes to prohibit discrimination on the basis of sexual orientation. See Brief of Amici Curiae International Human Rights Organizations et al. app. II at 81, *Goodridge v. Dep't of Pub. Health*, SJC No. 08860 (Mass. 2002), available at [http://www.ilga.org/Information/Legal\\_survey/list\\_of\\_international\\_treaties.htm](http://www.ilga.org/Information/Legal_survey/list_of_international_treaties.htm).

<sup>29</sup> On Valentine's Day, February 14, 2002, same-sex couples in Mexico City performed commitment ceremonies (wedding-like vows) publicly as part of an activist agenda to demand legislation recognizing same sex "marriages." See Lesbian & Gay Equality Project, at <http://www.equality.org.za/news/2002/02/19mexmar.htm>.

<sup>30</sup> See, e.g., *Brown v. Bd. of Educ.*, 349 U.S. 294 (1955); *Bolling v. Sharpe*, 347 U.S. 497 (1954) (ending enforced racial segregation in public school education in Washington, D.C.).

<sup>31</sup> The classic historical example of massive resistance is illustrated in the facts surrounding *Cooper v. Aaron*, 358 U.S. 1, (1958) (resistance to racial segregation following *Brown v. Bd. of Educ.* in Little Rock, Arkansas).

<sup>32</sup> See INT'L GAY & LESBIAN ASS'N, *supra* note 28. Chapter IV, article 205 of the Aguascalientes Penal Code sets forth punishments of six months to two years in prison and a fine of fifteen to fifty days to anyone who, on the basis of age, sex, pregnancy, marital status, race, language, religion, ideology, sexual orientation, skin color, nationality, origin or social position, work or profession, economic status, physical



character, disabilities or health status, provokes or incites hate and violence; in the exercise of his professional, trade or business activities, refuses services to a person who is entitled to it; ostracizes or excludes a person or group with those actions causing material or emotional harm; denies or restricts work rights. “Discriminacion”, C.P.AGUASCALIENTES, 11 de marzo de 1991.

<sup>33</sup> Wendy Patterson, *A Life of Fear for Gays: For Homosexual Men in Mexico, Every Day Brings Threat of Danger*, S.F. CHRON., Oct. 12, 2000, at A12 (stating that Patricia Jiménez, an openly lesbian legislator, was elected to the Federal Chamber of Deputies in 1997); see also INT’L LESBIAN & GAY ASSOC., WORLD LEGAL SURVEY at ¶ 2, available at [www.ilga.org/information/legal\\_survey/americas/mexico.htm](http://www.ilga.org/information/legal_survey/americas/mexico.htm). (identifying Ms. Jiménez as also being a representative of the U.S.-based Latino Lesbian and Gay Association and describing her efforts to build Mexico City’s first Gay-Lesbian-Transgendered Community Center),

<sup>34</sup> See generally THE SEXUALITY OF LATINAS (Norma Alarcón et. al. eds., 1998).

<sup>35</sup> ANNICK PRIEUR, MEMA’S HOUSE, MEXICO CITY: ON TRANSVESTITES, QUEENS, & MACHOS (1998).

<sup>36</sup> See *id.* at xiii–xiv.

<sup>37</sup> *Id.* at 24–31.

<sup>38</sup> *Id.* at 24–27.

<sup>39</sup> *Id.* at 149.

<sup>40</sup> *Id.* at 25–26. The term “*bisexuales*” refers to those men who have an androgynous appearance, not hiding that they are men with a feminine characteristics like a flowered shirt, or a certain haircut or pair of pants that is a little more high in the waist. *Id.*

<sup>41</sup> As Prieur notes, “[p]oor people cannot afford to separate economic considerations from emotions.” *Id.* at 55.

<sup>42</sup> An excellent contemporary example is the Cedar Springs neighborhood of Dallas, Texas, where my partner and I lived for more than a year, and is the known gay neighborhood very near downtown. Within a two-mile radius, one will find humble working-class homes, modest middle class homes, and expensive townhouses and condominiums. The weekend nightclubs on Cedar Springs Road are filled with a racially-diverse mix of guests.

<sup>43</sup> PRIEUR, *supra* note 35, at 149.

<sup>44</sup> *Id.* at 25–26.

<sup>45</sup> “Mema’s House” refers to the home of an older ex-prostitute whose home had become the haven for young outcast homosexual boys and “girls” who were exploring their homosexuality. *Id.* at 6–12.

<sup>46</sup> *Id.* at 55–59.

<sup>47</sup> In Mexico, as in all of Latin America, the term “homosexual” generally refers to the individual who takes an effeminate role, i.e., penetration by other men. Another extension of this identity is the transvestite homosexual who not only takes the passive sexual role, but also adopts feminine characteristics in varying degrees. Both of these identities are minority expressions, and few men who practice homosexuality would identify openly with the effeminate role. See PRIEUR, *supra* note 35, at 28–29 and studies of male homosexuality cited therein. This definition of homosexual and homosexuality differs from the concept and practices in the U.S. that we associate with

the socially constructed homosexual identity. See MICHEL FOUCAULT, *THE HISTORY OF SEXUALITY: AN INTRODUCTION: VOLUME I*, 43 (Vintage Books 1990) (1978).

<sup>48</sup> Mexican homosexuals, especially effeminate gay men, have been the targets of violence and abuse. See, e.g., *Violence and Harassment Persist As Mexico Learns to Accept Gays*, WALL ST. J., Nov. 14, 2000 (“Since being formed in 1995, Mexico’s [Citizens’ Commission Against Hate Crimes] says it has documented more than 200 homophobia-driven murders. ‘Some of these people have been cut up over and over. Others have been dismembered, their genitals cut off, or forced to get down on their knees, tied up and executed,’ said Arturo Diaz, one of the gay council members, who headed the study. ‘That’s hatred.’”), available at <http://www.globalgayz.com/mexico-news2k.html> (last visited Apr. 26, 2003).

<sup>49</sup> Interview with Juan Pablo, labor activist, in Piedras Negras, Coahuila, Mex. (Oct. 23, 2000) (transcript on file with the author). I have removed references to his last name because he risks retaliation from the exposure of his identity.

<sup>50</sup> *Id.*

<sup>51</sup> See Kevin Johnson, “*Aliens*” and the U.S. Immigration Laws: *The Social and Legal Construction of Nonpersons*, 28 U. MIAMI INTER-AM. L. REV. 263, 276–79 (1997) (criticizing the impact of the pejorative term “illegal alien”).

<sup>52</sup> DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (DSM IV) 532-38 (4th ed. 1994). While there have probably been people we would today call “transgendered” or “transsexual” throughout history, see generally JONATHAN N. KATZ, *GAY/LESBIAN ALMANAC: A NEW DOCUMENTARY* (1983), the medical condition of transexualism addressed by the medical treatment of sex reassignment has been around little more than a generation. Medically it is defined as “[t]he desire to change one’s anatomic sexual characteristics to conform physically with one’s perception of self as a member of the opposite sex.” Steadman’s Medical Dictionary (Marjory Spraycar ed., 26th ed. 1995) (1841).

<sup>53</sup> In fact, as of this writing Paula has fully paid for an anticipated genital reconstruction surgery scheduled in Thailand for July 2003.

<sup>54</sup> The City of Austin is not listed among the forty-one cities that currently have transgender-inclusive language in their anti-discrimination ordinances that may already protect against sexual orientation discrimination. In fact, currently only two states have statutes that prohibit discrimination against transgender people (Minnesota and Rhode Island). See MINN. STAT. ANN. § 363.01 (2003); R. I. GEN. LAWS ANN., §. 11-24, § 28-5, and § 34-37 (2002); see also Kylar Broadus, *Statutes Prohibiting Discrimination Against Transgender People* (2003) (handout at workshop of the Section on Sexual Identity and Gender Issues of the Ass’n of American Law School (AALS), Jan. 5, 2003, Washington, D.C.) (on file with author). Lobbyists from the Austin Lesbian Gay Political Caucus and the City of Austin have joined forces to try to influence the Texas Legislature to broaden coverage of protection throughout the State of Texas. See Press Release, Austin Lesbian/Gay Political Caucus, ALGPC Endorses Candidates for May 3rd Austin Mayoral and City Council Election (Mar. 25, 2003) available at <http://www.outaustin.org> (on file with Seattle Journal for Social Justice)

<sup>55</sup> *Ulane v. Eastern Airlines, Inc.*, 742 F.2d 1081 (7th Cir. 1984).

<sup>56</sup> In *Ulane*, an Eastern Airlines pilot took a leave of absence and returned to the job as a woman. She was fired, and then she sued for sex-based discrimination under Title VII of the Civil Rights Act of 1964 and had her claim resoundingly rejected by the federal courts. *Id.* Cases following *Ulane* left the court's holding in *Ulane* (that "[t]he words of Title VII do not outlaw discrimination against a person who has a sexual identity disorder, i.e., a person born with a male body who believes himself to be female...." *Id.* at 1085.). See, e.g. *James v. Ranch Mart Hardware, Inc.*, 881 F. Supp. 478, 481–82 (D. Kan. 1995). See also *Sommers v. Budget Marketing*, 667 F.2d 748, 750 (8th Cir. 1982); *Holloway v. Arthur Andersen & Co.*, 566 F.2d 659, 663 (9th Cir. 1977); *Powell v. Read's Inc.*, 436 F. Supp. 369, 371 (D. Md. 1977); *Voyles v. Ralph K. Davies Medical Center*, 403 F. Supp. 456, 457 (N.D. Cal. 1975).

<sup>57</sup> The hearing on the petition for change of name was held on Jan. 19, 2001 before the Hon. Scott Jenkins of the Travis County Municipal Court in Austin, Texas. Now that Paula is closer to the date of genital surgery (March 28, 2003), my co-counsel on the petition, Donna J. Blevins, Esq., re-submitted the petition for change of sex identification on the birth certificate before the Hon. Laura Livingston in the same courthouse. Arguing that Texas law did not prohibit such a move, my co-counsel was able to convince the judge that the petition should be kept "pending" on the docket and that the sex identity change should be made immediately following Paula's return with a female body from Thailand in August 2003.

<sup>58</sup> Colloquy with Hon. Scott Jenkins, in Austin, Tex. (Jan. 19, 2001).

<sup>59</sup> Interview with Paula Buls (Mar. 9, 2002).

<sup>60</sup> MAURICE KENNY (MOHAWK), *Tinselled Bucks: A Historical Study in Indian Homosexuality*, in *LIVING THE SPIRIT: A GAY AMERICAN INDIAN ANTHOLOGY* 15, 15-31 (Will Roscoe ed., 1988).

<sup>61</sup> See Frank Valdes, *Queers, Sissies, Dykes and Tomboys: Deconstructing the Conflation of "Sex," "Gender," and "Sexual Orientation" in Euro-American Law and Society*, 83 CAL. L. REV. 1, 211-223 (1995).

<sup>62</sup> See Buls interview, *supra* note 59.

<sup>63</sup> See MICHAEL HULL, *SUN DANCING: A SPIRITUAL JOURNEY ON THE ROAD 2-5* (2000) (discussing, in part, Chief Leonard Crow Dog and his background)

<sup>64</sup> Buls interview, *supra* note 59. The *winkte* is the male counterpart of the mannish woman known among the Lakotas as the *koskalaka*, or what we might refer today as the "Indian dyke." The *winkte* in the Lakota tradition was known as a half-man, half-woman, who may have even been a hermaphrodite (today the "intersexual"), and who held special powers in the tribe. See Paula Gunn Allen, *Lesbians in American Indian Cultures*, in *HIDDEN FROM HISTORY: RECLAIMING THE GAY AND LESBIAN PAST* 106, 115 (Martin Duberman et al., eds., 1989).

<sup>65</sup> It is possible that things are changing with pressure, but for years leaders in the transgender rights movement have complained publicly to the Human Rights Campaign Fund about its failure to include the transgender in its campaigns, and in particular to propose a version of the Employment Non-Discrimination Act (ENDA), H.R. 2692 and S. 1284, that is inclusive of the rights of the gender-variant individual. H.R. 2692, 107th Cong. (2001); S. 1284, 107th Cong. (2001).

<sup>66</sup> See Elvia R. Arriola, *Staying Empowered by Recognizing Our Common Grounds: A Reply to Subordination and Symbiosis: Mechanisms of Mutual Support Between Subordinating Systems*, by Professor Nancy Ehrenreich, \_\_\_ U. MO. KAN. L. REV (forthcoming 2003).

<sup>67</sup> The groundbreaking study of Jonathan Katz first established this important historical fact. See KATZ, *supra* note 52.

<sup>68</sup> See generally, LESLIE FEINBERG, *TRANSGENDER WARRIORS: MAKING HISTORY FROM JOAN OF ARC TO RUPAUL* (1996)

<sup>69</sup> Littleton v. Prange, 9 S.W.3d 223 (Tex. App. 1999), *cert denied*, 531 U.S. 872 (2000).

<sup>70</sup> Littleton, 9 S.W. 3d at 230–31.

<sup>71</sup> Neonatal surgeons at Johns Hopkins University Medical Center were apparently common until recently. BROADUS, comment at AALS Conference, *supra* note 54. See also Julie Greenberg, *Defining Male and Female: Intersexuality and the Collision Between Law and Biology*, 41 ARIZ. L.R. 265 (1999) (especially material in footnote 31).

<sup>72</sup> PRIEUR, *supra* note 35, at 30-31.

<sup>73</sup> *Id.*

<sup>74</sup> See generally Phyllis R. Frye, *The International Bill of Gender Rights v. The Cider House Rules: Transgenders Struggle with the Courts Over What Clothing They are Allowed to Wear on the Job, Which Restroom They are Allowed to use on the Job, Their Right to Marry, and the Very Definition of Their Sex*, 7 WM. & MARY J. WOMEN & L. 233 (2000).

<sup>75</sup> Buls interview, *supra* note 59.

<sup>76</sup> Littleton v. Prange, 9 S.W.3d 223 (Tex. App. 1999), *cert denied*, 531 U.S. 872 (2000).

<sup>77</sup> See *Sodomy Laws: Laws in the U.S.A.*, (2003) (states with sodomy laws which apply to heterosexuals and homosexuals: Alabama, Florida, Idaho, Louisiana, Michigan, Mississippi, North Carolina, South Carolina, Utah, Virginia (Puerto Rico does as well); states with sodomy laws that apply only to homosexuals: Kansas, Missouri, Oklahoma, Texas) available at [www.sodomylaws.org/usa/usa.htm](http://www.sodomylaws.org/usa/usa.htm).

<sup>78</sup> Conversation with Juan Pablo (May 22, 2002) (on file with author). Prieur discusses similar examples of police harassment as common throughout Mexico, under public disorder and public indecency laws, disparate application of “corruption of youth” and age of consent statutes, etc. See PRIEUR *supra* note 35, at 86–87.

<sup>79</sup> See generally EVELYN LAPOVSKY KENNEDY & MADELINE D. DAVIS, *BOOTS OF LEATHER, SLIPPERS OF GOLD: THE HISTORY OF A LESBIAN COMMUNITY*, (1993).

<sup>80</sup> See GEORGE CHAUNCEY, *GAY NEW YORK: GENDER, URBAN CULTURE, AND THE MAKING OF THE GAY MALE WORLD 1890–1940* (1994).

<sup>81</sup> See *infra* Part III C.

<sup>82</sup> See Arriola, *supra* note 2 (Primarily Part III, which examines problems of sexual harassment and pregnancy discrimination in the workplace).

<sup>83</sup> As we learned later, Jorge and Juan Pablo had once been lovers back in the days when Juan Pablo was first getting involved in union activism. His work then had put stress on their relationship and they broke up. Their friendship healed and now Jorge found himself getting as involved as Juan Pablo had been in Piedras in the new city he moved to after they split up. They briefly told us this history when in the Q & A someone asked

Jorge why he had gotten involved as an organizer for the CFO and they gave a blunt and honest answer.

<sup>84</sup> Juan Pablo conversation, *supra* note 78.

<sup>85</sup> See Arriola, *supra* note 2, (primarily Part IV on human rights concerns raised by the power of the Border Patrol to define and enforce the borders based on profiles of “transgressors” based on race, ethnicity, class and citizenship).

<sup>86</sup> *Id.*

<sup>87</sup> Juan Pablo conversation, *supra* note 78.

<sup>88</sup> See *Hernandez-Montiel v. INS.*, 225 F.3d 1084 (9th Cir. 2000).

<sup>89</sup> *Id.* at 1094.

<sup>90</sup> *Id.* at 1091–93.

<sup>91</sup> See Arriola, *supra* note 2, at 767–68.

<sup>92</sup> Ironically, Juan Pablo himself had benefited from the cultural sexist patterns in Mexican employment. Juan Pablo undoubtedly fit the gender stereotype of gay men in that his job duties involved “women’s work,” i.e., he repaired completed pants that were headed for expensive stores—but he earned as a male worker what was clearly a higher wage than his mostly female co-workers.

<sup>93</sup> On one of my first delegations to the border in June 2000 with the Austin-based group *Austin Tan Cerca de La Frontera* (ATCF) or “Austin So Close to the Border”) I served as a Spanish interpreter for the U.S. allies who had traveled to Piedras Negras to learn more about workers’ lives and working conditions in the *maquiladoras*. I have never forgotten the powerful closing roundtable conversation between workers for an ALCOA plant with over 10,000 workers in Mexico, and U.S. travelers who were labor activists. The topic turned not only to the strengthening of solidarity connections between Texans who worked for the ALCOA factories in Texas, but also to the potential for overcoming management’s fear tactics against them with a new awareness that their complaints of unjust treatment and nonliving wages by ALCOA was part of a problem for workers in more than sixty countries worldwide that have ALCOA operations.

<sup>94</sup> See generally Sonya Katyal, *Exporting Identity*, 14 *YALE J.L. & FEMINISM* 97 (2002).

<sup>95</sup> *Id.*

<sup>96</sup> Juan Pablo conversation, *supra* note 78.

<sup>97</sup> The idea of cultural imperialism is threatening to advocates of international gay rights who seek to promote tolerance for sexual difference and non-heterosexual identity. Conversation with James Wilets, internationalist gay scholar (Sept. 2002) (conversation occurred at the conference for his symposium). While I respect the agenda and sensitivity of the internationalist activist, there is the harsh fact that American capitalism and its spread through global expansion necessarily advances things “Americana” in everything from cultural production to cultural consumption. When the world is indeed “McDonaldized” it is difficult to escape the impact of a world power’s cultural values and cultural/sexual/gendered wars. See GEORGE RITZER, *THE MCDONALDIZATION OF SOCIETY* 1 (1993) (defining McDonaldization as, “. . .the process by which the principles of the fast-food restaurant are coming to dominate more and more sectors of American society as well as of the rest of the world”); see generally Katyal, *supra* note 94.

<sup>98</sup> *Bryan and Leslie, the Most Popular Names in Ciudad Juárez* (Aug. 9, 2001) available at <http://www.nmsu.edu/~frontera>.

<sup>99</sup> See, e.g., Arriola, *supra* note 2.

<sup>100</sup> A few border cities have become metropolitan centers, but overall their character is defined by the presence of American corporate investors and tourism. Having lived and traveled extensively in the interior, and now visited several border cities in the past three years for research, I have a difficult time equating the socio-economic character and culture of these northern "frontier" type cities to that of the international metropolis of Mexico, D.F., the nation's capital: a difference that may further explain the lack of any "gay rights" movement along the 2,000 mile Mexican border. Border cities contain important physical elements of Mexico's participation in the global economy, but the socio-economic and political character of these areas also embodies the nation's despair for economic improvement, witnessed in the stream of immigrants who arrive daily in search of work at the border. They do not however, arrive to cities that have the necessary infrastructure to accommodate large new populations of residents. What were once small sleepy tourist towns are suddenly turned into cities almost overnight, creating pressures from the rapid industrialization in everything from health and safety to gender role expectations and family cultural values.

<sup>101</sup> See generally Arriola, *supra* note 8.

<sup>102</sup> It is not unusual for *maquiladora* workers to work not only long days but also at extremely late and early hours. Somehow they must work out their needs for childcare with spouses, older children, grandparents, or neighbors if they have young school-aged children. Many of my own interviews with women were conducted when they'd gotten up for the day, usually midday after having gotten off the night shift that ended at 2 a.m. See, e.g., Arriola, *supra* note 8 (particularly the story of Rosy beginning in paragraph 1).

<sup>103</sup> See, e.g., Arriola, *supra* note 10.

<sup>104</sup> See generally Debbie Nathan, *Missing The Story*, TEX. OBSERVER, Aug. 30, 2002 (a critique of the documentary "Señorita Extraviada" on the Juárez murders of young women, which argues that the violence against women is part of the gendered conflict that has accompanied globalization at the border), available at [www.womenontheborder.org/articles\\_tables.htm](http://www.womenontheborder.org/articles_tables.htm); see also Julia Monárrez Fragoso, *Feminicidio Sexual Serial en Ciudad Juárez: 1999-2001*, 25 DEBATE FEMINISTA (Abril 2002) (Spanish version available under articles and tables link at <http://www.womenontheborder.org>) (offering a feminist interpretation of the cause of the murders as rooted in misogyny).

<sup>105</sup> See, e.g., SEÑORITA EXTRAVIADA (YOUNG MISSING WOMAN) (Lourdes Portillo 2002) (this film aptly documents this horrific problem). Information on the film available at <http://www.lourdesportillo.com>.

<sup>106</sup> As noted in human rights reports, about three persons per month are killed in Mexico because of their sexual orientation: 217 occurred between 1995 and 2000 (103 killings occurred in Mexico City alone and 29 in Mexico State and Veracruz). Gay rights groups report that the police are notoriously negligent in their duties to investigate gay hate crimes. See U.S. DEP'T OF STATE, *supra* note 27 § 5, ¶ 2.

<sup>107</sup> Alma Jiménez Rodríguez & Doris Acevedo Barajas, *Gay Prostitutes Targeted and Arrested in Reynosa, Same Planned for Juárez* (Aug. 24, 2001), available at <http://www.nmsu.edu/~frontera/sep01/matamorosnews.html>.

<sup>108</sup> Arriola, *supra* note 8, at 6.

<sup>109</sup> JOHN D'EMILIO, *SEXUAL POLITICS, SEXUAL COMMUNITIES: THE MAKING OF A HOMOSEXUAL MINORITY IN THE UNITED STATES, 1940–1970* (1983).

<sup>110</sup> *See generally* KENNEDY & DAVIS, *supra* note 79.

<sup>111</sup> *Id.*

<sup>112</sup> This phenomenon has also been referred to as the “McDonaldization” of society. *See* RITZER, *supra* note 97. I call it the “Disney-fication” of the world because of the obvious parallels in the expansion of family-style entertainment “a la Americana” throughout Europe or wherever the global economy has ripened for such cultural expansion. *See, e.g.*, Euro Disney S.C.A. website at <http://www.eurodisney.com>.

<sup>113</sup> Once I began to record the stories of workers with the intention to publicize their cause I felt I crossed a presumed boundary set for scholars and intellectuals, to produce research and theory for the sheer end product of theory and new research. It is my hope in fact to have the work I produce about justice in the *maquiladoras* to be part of their empowerment. It is this intention that makes me a scholar as well as an activist.

<sup>114</sup> *See generally* ANZALDÚA, *supra* note 4.

<sup>115</sup> Lat Crit (Latina/Latino Critical Legal) scholars have noted this as it applies to race and ethnicity; specifically in the examples of the ironies created by the classification of Mexicans as “white.” From the legal historical standpoint, the construction benefited Mexicans only a little. But the social prejudices directed at Latinos/Mexicanos despite the legal construction as Caucasian encouraged many to internalize that label and cling to it out of the need or desire to pass as white. *See generally* IAN F. HANEY LOPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* (1996); KEVIN R. JOHNSON, *HOW DID YOU GET TO BE A MEXICAN? A WHITE/BROWN MAN’S SEARCH FOR IDENTITY* (1999). For some appreciation of LatCrit theory, visit <http://www.latcrit.org>.

<sup>116</sup> Spanish for the person who shares her name in Mexico.