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Foreword Poised at the Cusp: LatCrit Theory, Outsider Jurisprudence and Latina/o Self- Empowerment

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Foreword
Poised at the Cusp: LatCrit Theory, Outsider
Jurisprudence and Latina/o Self-Empowerment

Francisco Valdes*

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INTRODUCTION

On Cinco de Mayo weekend of 1996, Latina/o professors from law schools all over the United States gathered for the first-ever LatCrit Annual Conference. The purposes behind this convening were several. First, we were determined to form a regular scholarly venue for the discussion of social and legal issues especially germane to Latinas/os.¹ Second, we were determined to initiate the

¹ The term "Latina/o" encapsulates an amalgam of persons and groups, who in turn embody multiple diversities. See generally Francisco Valdes, *Latina/o Ethnicities, Critical Race Theory and Post-Identity Politics in Postmodern Legal Culture: From Practices to Possibilities*, 9 LA RAZA L.J. 1, 8 n.31 (1996) (Foreword to Symposium, *Representing Latina/o Communities: Critical Race Theory and Practice*). This term therefore necessarily oversimplifies. See *id.* at 6 n.25. While fully cognizant of these limitations, I use "Latina/o" generally to signify persons with nationalities or ancestries derived from countries with

creation of a body of literature whose absence we deemed inexplicable and intolerable.² Third, we ached to meet and know each other as a means of rising beyond the isolation and desolation of our ivoried lives and institutions. By all accounts, the First Annual LatCrit Conference met these purposes, and more.

But "LatCrit I" was not entirely spontaneous. During the preceding few years, the numbers of Latinas/os in the legal professorate had increased,³ but the visibility of Latinas/os in legal discourse and culture remained virtually nonexistent. Our representation at events or within organizations of legal education remained abysmal.⁴ We thus elected to elevate our professional visibility and to pursue the quest for reform and Latina/o self-empowerment through legal scholarship by organizing the first of a series of annual conferences devoted to Latinas/os and the law.⁵

In retrospect, it seems entirely foreseeable that this act of

Hispanic cultures; in the United States, these persons or groups are primarily (but not exclusively) Mexicans or Mexican Americans, Puerto Ricans and Cubans or Cuban Americans.

2 See *id.* at 4-7.

3 For a detailed accounting of Latina/o representation in legal education, see generally Michael A. Olivas, *The Education of Latino Lawyers: An Essay on Crop Cultivation*, 14 CHICANO-LATINO L. REV. 117 (1994). See generally Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537 (1988).

4 See Valdes, *supra* note 1, at 2-6.

5 The genealogy of "LatCrit" legal studies can be traced to two basic decisions. The first was the decision to hold a colloquium devoted to the place and role of Latinas/os in Critical Race theory -- the extant genre of critical legal scholarship with most direct apparent relevance to Latinas/os. This decision was made following the 1995 Critical Race Workshop, which continued a historical pattern of underrepresentation; the 1995 Workshop, for instance, included only 2 Latinas/os among the forty-some workshop participants (one was Trina Grillo and the other was myself). The colloquium was held in October 1995 and is chronicled in Valdes, *supra* note 1. During this colloquium, the second decision was made: to organize the first annual conference on Latinas/os and the law, and to denominate that gathering and its topic as the initiation of "LatCrit" theory. This symposium chronicles that event.

individual and collective will would unleash energies and aspirations long pent up. Indeed, since the time that we adjourned the conference, a movement has been ignited. During the past year, a new sense of dedication to the cultivation of a community and to the cause of self-empowerment has taken hold among the Latina/o legal professorate of this country. Only time will tell where this initiative will lead, but, for now, the way in which Latina/o voices have begun to speak out more assertively in conferences and gatherings, as well as the proliferation of events and projects devoted explicitly to Latinas/os and to LatCrit theory, demonstrates our dedication.⁶ Our determination is also confirmed by the rapid and increasing adoption of a "LatCrit" identification among Latina/o academics (and others) to describe a new and particularized subject position.⁷

Obviously, this subject position, and LatCrit theory more generally, are embryonic; the LatCrit category today is more an emblem than an agenda. With this symposium, we take the first step toward giving substantive meaning and content to LatCrit legal studies.

LatCrit theory follows and in some ways stems from the historical experience with Critical Legal Studies, Feminist Legal theory, Critical Race theory, Critical Race Feminism and Queer

6 During the past two years, five different conferences or symposia have taken place, or are about to take place. See Symposium, *Representing Latina/o Communities: Critical Race Theory and Practice*, 9 LA RAZA L.J. 1 (1996); Symposium, *LatCrit Theory: Naming and Launching a New Discourse of Critical Legal Scholarship*, 2 HARV. LATINO L. REV. 1 (1997); Symposium, *International Law, Human Rights and LatCrit Theory*, 28 U. MIAMI INTER-AM. L. REV. 1 (1997); Symposium, *LatCrit Theory, Latinas/os and the Law*, 85 CAL. L. REV. (forthcoming 1997); Symposium, *Difference, Solidarity and Law: Building Latina/o Communities Through LatCrit Theory*, 19 CHICANO-LATINO L. REV. (forthcoming 1997).

7 The term "subject position" describes the stance or perspective of the author vis a vis the topic. See generally Robert S. Chang, *Essays the End of Innocence, or Politics After the Fall of the Essential Subject*, 45 AM. U. L. REV. 687, 690-91 (1996).

legal theory.⁸ Each of these endeavored to articulate analyses of law and society from particularized subject positions. But each was also experienced and described as analytically incomplete due to excessive focus on one or another construct -- gender, race, sexuality -- and a lack of attention to their legal and social interplay. The weakness in each resided in an essentializing failure to elucidate the sometimes covert, always complex, but nonetheless fundamental interdependence of sexism, racism and homophobia in the construction and practice of social and legal subordination by, within and between various identity categories.⁹

As we take this first step toward the formation of a LatCrit scholarship, the LatCrit movement is and must remain cognizant of its historical circumstance and jurisprudential backdrop. We -- the planners and advocates of this LatCrit mobilization -- have chosen one particular way in which to operationalize this cognizance. As the papers and proceedings that follow attest, the theory of the conference was a careful blending of two key ingredients: 1) a substantive conversation that unequivocally placed Latinas/os at the center, 2) held by a group of scholars that represented the enriching diversity of this nation's many communities. Both the live conference and this published record of its proceedings bring together scholars affiliated with various subject positions to focus on a particular subject.

In this way, LatCrit theory hopes to learn from and to apply lessons learned from recent jurisprudential practice and history and thereby begin to transcend the limitations that have been attributed to, or experienced in, preceding genres or venues of outsider scholarship.¹⁰ LatCrit discourses aim to capture insights that otherwise might be missed and to cultivate a broad community of scholars. By constructing LatCrit projects along these and similar lines, we hope over time to instill a basic sense of coalitional and

8 *See generally* Valdes, *supra* note 1, at 24-30.

9 *See id.*

10 *See id.*

egalitarian sensibilities within and beyond Latina/o scholars and communities.

In short, the symposium that follows demonstrates the structure, nature and spirit of LatCrit theory at its moment of inception. For this published record -- this symposium -- we have to credit the commitment and work of the Harvard Latino Law Review and the authors whose words appear below. Their work informs LatCrit theory's point of origin and provides a point of reference for its subsequent evolution.

The symposium is presented in the form of three articles and five clusters, each containing several essays prefaced by a short introduction. These works were all presented at the LatCrit conference, but are presented in different sequence below due to publication considerations. In this foreword, I endeavor to contextualize them in relation to each other and to the project of inaugurating a LatCrit community and discourse in the legal academy of the United States.

My purposes, then, are dual, and both flow from the fact that this symposium records LatCrit theory at its birth. My first purpose is to identify, summarize and synthesize prominent or recurrent issues and themes in order to make them more accessible for those who were not present at the conference. As such the first two parts of this foreword are devoted to a careful sifting of the articles and essays that follow. My second purpose is to distill further these themes into a succinct but collective "agenda" that captures and reflects the sense of *this* moment for subsequent use by all interested scholars. The final part of this foreword highlights the themes or "guideposts" that I am able to extrapolate from this symposium in order to inform the prospective development of LatCrit projects. In sum, this foreword strives to provide a substantive road map of the origins and perhaps the immediate future of LatCrit theory.

I. OPENING VISIONS: LATCRIT THEORY AND COMMUNITY

This first part of the foreword is devoted to the three articles that open the symposium. These articles, all written by Latina/o legal scholars, reflect both the diversity and accomplishment of the Latina/o legal professorate as we begin to articulate a LatCrit vision of Anglo-American law and society. Not only do they raise concerns that beset Latinas/os today, they also raise issues that will occupy LatCrit theory during its formative years. Moreover, these articles also urge actions and solutions. Most importantly, given the timing of this symposium and the weighty nature of the issues confronting Latinas/os and LatCrit scholars, the opening visions of LatCrit theory projected by the authors of these three articles also point us in directions fertile for further critical investigation. These three articles, both in what they do and in what they suggest needs to be done, demonstrate the bottom-line necessity and viability of this incipient scholarship.

Professor Rachel Moran opens the symposium, appropriately, with a brief but powerful sketch of the changing demographics that make the coming years a propitious time for Latina/o self-empowerment.¹¹ Only during the past quarter century have Latinas/os become numerically significant, and this trend is set to continue well into the next century.¹² Demographic trends of Latinas/os in the United States, Professor Moran notes, help explain why "race relations were . . . defined in Black-White terms" throughout this nation's existence,¹³ but they also demonstrate why this historical definition will not serve critical legal scholars and policy makers well in the future.

To help explain the bipolar paradigm of the past and to begin

11 Rachel F. Moran, *Neither Black Nor White*, 2 HARV. LATINO L. REV. 61 (1997).

12 *See id.* at 61-62.

13 *Id.* at 61.

charting a more sensible future, Professor Moran disaggregates and describes the two models that define both the legal and the social experience of Latinas/os in the United States. The first, the civil rights model, neglects Latinas/os because we are not "Black enough"¹⁴ while the second model, immigration, devalues Latinas/os because we are not "White enough."¹⁵ Latinas/os are served by neither model for different reasons: the civil rights model was designed to redress the nation's era of institutionalized slavery and its aftermath while the immigration model was designed primarily to assimilate White ethnic arrivals from northern and western Europe.¹⁶ Professor Moran urges LatCrit theory to become a means of making Latinas/os visible and empowered in both the civil rights and immigration settings through critiques that defy historical or categorical confines and that seize the demographic moment.

Professor Moran's comparison of these two socio-legal models point to substantive and methodological issues fundamental to LatCrit theory: the interrelationship of race and ethnicity as social or legal constructs and the relevance of this interrelationship to LatCrit legal studies. Whether either of these constructs should be the main substantive target, or the preferred methodological tool, for LatCrit analyses is fundamental because it will determine in great measure how LatCrit discourse is framed and directed. It thus is no surprise that we encounter this question in the essays below.¹⁷

The increasingly outmoded premises of historic binarisms, especially in light of demographic change, open possibilities for outsider self-empowerment that, as Professor Moran urges, Latinas/os must exploit -- but with mutuality, care and sensitivity.¹⁸ This call for mutuality, care and sensitivity acknowledges that ongoing change occasions danger. The increasing presence of

14 *Id.* at 69-72.

15 *Id.* at 77-78.

16 *See id.* at 72-76, 78-85.

17 *See infra* notes 57-61, 76-81 and accompanying text.

18 Moran, *supra* note 11, at 86-89.

Latinas/os (and Asian Americans), Professor Moran shows, presents both opportunities for inter-group cooperation and risks of inter-group conflict. Which of these possibilities actually transpires and how depends in part on LatCrit diligence regarding inter-group issues. Professor Moran's message is compelling: by devoting itself to the reform of the current civil rights and immigration regimes in caring and coalitional ways, LatCrit theory can contribute to the creation of a better social and legal future for Latinas/os *and* other people of color.

In this way, Professor Moran effectively makes clear that, even while it is an effort to make Latinas/os visible and significant in social and legal discourse, LatCrit theory is not exclusively a Latina/o concern. LatCrit theory implicates the social and legal interests of Blacks, Asian Americans, Native Americans and other people of color who experience different yet similar forms of subordination under the nation's civil rights and immigration policy schemes. LatCrit theory therefore must take expansive and caring account of its inter-group implications as well as demonstrate its capacity to navigate our society's complex identity terrains, and Professor Moran's article appropriately opens the symposium with a call for LatCrit attentiveness to inter-people-of-color relations and ethics. With this opening article, Professor Moran helps set the stage for the inauguration of LatCrit theory as a complementary and constructive rather than competitive player in existing race/ethnicity scholarship.¹⁹

The following article, by Kevin Johnson, also helps to document and contextualize the genesis and original mind-set of LatCrit theory.²⁰ Like Professor Moran, he identifies the social and legal binarisms of the Black/White Paradigm as one trigger for the initiation of LatCrit theory, critiquing Latina/o invisibility or

19 See Valdes, *supra* note 1, at 26-27.

20 Kevin R. Johnson, *Some Thoughts on the Future of Latino Legal Scholarship*, 2 HARV. LATINO L. REV. 101 (1997).

oppression under civil rights and immigration law.²¹ Professor Johnson also regards these binarisms as socially and legally untenable in light of the nation's increasingly multicultural character.²² He points to language, culture and national origin discrimination as civil rights issues of special interest to Latinas/os.²³ Finally, Professor Johnson inspects the construction of all Latinas/os, even the native-born, as immigrants under the "Latino-as-foreigner" phenomenon.²⁴ This phenomenon operationally excludes Latinas/os from the national community and relegates Latinas/os to spectators of civic life.²⁵

But Professor Johnson additionally focuses LatCrit attention on potential sources of intra-Latina/o conflict as well as solidarity. "Latinos in reality comprise a community of different communities," Professor Johnson observes.²⁶ Latina/o diversities based on national origin, ideological and political differences, or the racialized ramifications of physical appearance, create points of potential intra-Latina/o division, which may offset the intra-group commonalities derived from common struggles with language, culture and immigration. Disregard of varied intra-Latina/o identities, Professor Johnson cautions, may lead to defeat by diversity.²⁷ To promote social justice through legal reform, LatCrit theory therefore must elucidate intra-group commonalities while respecting and vitiating intra-group differences, Professor Johnson explains.²⁸

The efficacy of LatCrit theory, Professor Johnson presciently forecasts, ultimately will depend on our capacity to account for Latina/o heterogeneities in our analysis of social and legal conditions of varying relevance to varied Latina/o communities.

21 *Id.* at 104.

22 *Id.*

23 *Id.* at 106-117.

24 *Id.* at 117-121.

25 *See id.*

26 *Id.* at 129.

27 *Id.* at 105.

28 *Id.*

Intra-Latina/o heterogeneity requires intra-Latina/o accommodation; it means that our work is necessarily coalitional in myriad ways, including the creation of intra-Latina/o coalitions that recognize and marshal diversities. Professor Johnson's article therefore trains attention on intra-group opportunities *and* dangers at this moment of LatCrit origin. This inward precaution in turn counsels against LatCrit indulgence of intra-Latina/o essentialisms, a theme that recurs below.²⁹

The third symposium article, by Steven Bender, focuses on language regulation and "language vigilantism" as sources of Latina/o subordination and targets of LatCrit intervention.³⁰ Professor Bender shows how "popular initiatives" effectively create hostile social, political and legal environments for Latinas/os and in particular how this form of direct lawmaking licenses a broader array of anti-Latina/o microaggressions.³¹ In this way, Professor Bender displays not only the prominence of language-related issues to Latinas/os and LatCrit scholars, he also displays the relationship of law to politics or of rules and doctrines to power and privilege.³²

The terms of the language regulation debate, Professor Bender shows, are riddled with racist and nativist sentiment; the rhetoric and professed aim of the English-Only and Official English movements are monolingual hegemony and English supremacy as adjuncts of Anglo and White dominance. These movements use majoritarian politics to fashion and enact formal legal rules that

29 See, e.g., *infra* notes 58-61, 92-94, and 131-40 and accompanying text.

30 Steven W. Bender, *Direct Democracy and Distrust: The Relationship Between Law Rhetoric and the Language Vigilantism Experience*, 2 HARV. LATINO L. REV. 145 (1997).

31 *Id.* at 149-152. The term "microaggression" refers to everyday social interactions that represent and replicate larger structures of subordination. For a more detailed discussion of the concept of "microaggression", see Peggy C. Davis, *Law as Microaggression*, 98 YALE L.J. 1559 (1989).

32 See Francisco Valdes, *Under Construction: LatCrit Consciousness, Community and Theory*, 85 CAL. L. REV. (forthcoming 1997) (Foreword to Symposium, *LatCrit Theory, Latinas/os and the Law*).

institutionalize this dominance as a matter of law, thereby consolidating the power of historically privileged social groups or forces.³³ In this way, Professor Bender effectively employs a contemporary debate -- language, diversity and conformity -- as a case study that shows the direct link between politics, law and subordination. Given this link, critical analyses of the "law" must be cognizant of the politics that produced the status quo; anti-subordination scholarship must be "political" if it is to account for and counteract the political nature and slant of the law.

With this analysis, Professor Bender brings into sharp relief a recurrent and foundational aspect of LatCrit sensibilities at this time: the relationship of scholarship and theory to law and power.³⁴ This spotlighting acknowledges not only the political nature of legal scholarship but its roots in the political nature of legal institutions, processes and acts. Professor Bender's analysis of language thus elucidates a larger point about LatCrit theory at its moment of origin -- its political consciousness and its sense of commitment to aid the subordinated.

II. FROM INVISIBILITY, TOWARD INDIVISIBILITY: "LATCRIT I" AND LATCRIT THEORY

The second part of this foreword is devoted to five clusters of essays, which represent the bulk of the papers presented at the "LatCrit I" conference in May of 1996. As a set, these essays display the multivocality of this emergent community. At the same time, they corroborate the centrality of recurring themes to LatCrit theory and attest to the number and magnitude of the issues ripe for LatCrit theorizing. In combination with the articles, these essays help to delineate a diversified yet collective road map for LatCrit

33 See Bender, *supra* note 30, at 163-66.

34 In this symposium, see Davis, *infra* note 68; Martinez, *infra* note 99; Cho, *infra* note 141; and Culp, *infra* note 159. In each instance, these scholars articulate the interplay of politics, law, theory and scholarship.

theory in the months and perhaps years to come.

*A. Latina/o Identity and Pan-Ethnicity:
Toward LatCrit Subjectivities*

The first cluster of essays is devoted to the (im)possibility of Latina/o "pan-ethnicity" -- that is, a sense of intra-Latina/o interconnection rooted either or both in the historical and contemporary position of various Latina/o communities within the area now known as the United States. This cluster, cross-disciplinary by design, features works emphasizing various Latina/o positionalities: a specifically Cuban American perspective, a broadly-defined Latina perspective and a broadly-defined Latino perspective. Despite the variance of positionalities conveyed by these works, each author sounds similar themes or alarms, thereby suggesting common ground for LatCrit cultivation of pan-ethnic sensibilities.

The first presentation, by social scientist Professor Max Castro, considers the similarities and differences that must inform any attempt at pan-ethnic identity among Latinas/os before turning specifically to the role of Cuban Americans in a pan-ethnic project.³⁵ The "common strands" that unite Latinas/os in the United States, Professor Castro argues, are many. Historically, Latinas/os share roots in homelands "too close to the United States" for their -- or our -- good.³⁶ Latinas/os "have in common that we were all partially or wholly incorporated, that in some fashion the border moved over us all," Professor Castro emphasizes.³⁷ Moreover, "[w]e Latinos, who inhabit this turbulent border zone, can respond to *el norte* with defiance or compliance, with rebellion or identification, but we can hardly ignore it."³⁸ It might be added, this

35 Max Castro, *Making "Pan Latino"*, 2 HARV. LATINO L. REV. 179 (1997).

36 *Id.* at 179.

37 *Id.* at 180.

38 *Id.*

location is precisely where LatCrit theory can operate -- at the junctures of varied responses to the historical and current conditions of Latinas/os living under the shadow or jurisdiction of Anglo-American power. A threshold task of LatCrit theorists, this essay effectively asserts, is to help develop strategies of resistance to past and present inequalities in light of the long and complex histories and forces that define(d) the Latina/o position yesterday as well as today.

Professor Castro next highlights several other sources of potential Latina/o pan-ethnicity. Latinas/os "are heirs of syncretic cultures, children of a deep *mestizaje*" marked by racial admixtures of varied sorts.³⁹ The constellation of syncretic cultures comprising today's Latina/o communities, Professor Castro continues, have been consistently devalued and stigmatized by the "Latinophobia" of America's Anglocentric norms.⁴⁰ Thus, the cultural and racial diversities of Latinas/os as well as the Anglo-American effort to devalue them serve as common strands of a potential Latina/o pan-ethnicity. The construction and navigation of sameness and difference⁴¹ represent threshold tasks for LatCrit theory because they are a prerequisite to mutual understanding of, and collaboration on, legal issues that affect the social, material and political positions of Latina/o-identified persons and communities throughout the United States.

The Cuban position in the Latina/o and LatCrit equation is

39 *Id.*

40 *Id.* at 141.

41 Issues of sameness and difference have occupied other genres of outsider or critical legal scholarship in recent years. See generally MARTHA MINOW, MAKING ALL THE DIFFERENCE: INCLUSIÓN, EXCLUSION, AND AMERICAN LAW (1990). See also Regina Austin, *Black Women, Sisterhood and the Difference/Deviance Divide*, 26 NEW ENG. L. REV. 877 (1992); Berta Esperanza Hernández-Truyol, *Building Bridges -- Latinas and Latinos at the Crossroads: Realities, Rhetoric, and Replacement*, 25 COLUM. HUM. RTS. L. REV. 369 (1994); Joan C. Williams, *Dissolving the Sameness/Difference Debate: A Post-Modern Path Beyond Essentialism in Feminist and Critical Race Theory*, 1991 DUKE L.J. 296.

potentially problematic to the construction of a Latina/o pan-ethnicity, as the second section of Professor Castro's essay indicates. The Cuban American establishment tends to self-identify racially as White, economically as upwardly mobile middle-class, and politically as conservative.⁴² These identifications add immeasurably to the explosiveness of intra-Latina/o differences and coalitions because other influential Latina/o constituencies tend to identify in diametrically contrary terms in each of these categories. Charting and navigating these fault lines to produce self-empowerment is therefore a key challenge for LatCrit theory in its exploration of Latina/o pan-ethnic possibilities.

Professor Castro also notes the complex, paradoxical relationship of Cuban Americans to Cuba and Cubans. Professor Castro describes: Cuban Americans have "succeeded splendidly" at becoming seemingly permanent fixtures in the United States, yet they have failed to achieve their goal -- engineering a return to the homeland.⁴³ This mix of success and failure is crucial to understanding the Cuban American subject position, Professor Castro contends, because it problematizes the exile "master narrative" that informs -- indeed, pervades -- Cuban American consciousness and politics.⁴⁴

But this exile mind-set also points to a more general sensibility, which can be extended to other Latina/o groups in the United States: a continuing care for the people and the society of our ancestral or original homelands. Whether of Mexican, Puerto Rican, Cuban, Dominican, Nicaraguan, Salvadoran or other Latinidad, every Latina/o community in the United States harbors a special interest in relations between this nation and its homeland and a continuing concern for the impact of American policies on its homeland kin.

42 See Castro, *supra* note 35, at 192, 196.

43 *Id.* at 195.

44 *Id.* at 195-96. This exile narrative prompts Cuban Americans to filter their understanding of domestic politics through the lens of homeland politics, Professor Castro explains. *Id.*

This more general sense of linkage makes for a certain political sensibility, but the particulars of these linkages could also undermine Latina/o pan-ethnicity. The task awaiting LatCrit theory consequently must be to generate frameworks and postulates of inquiry, understanding and action designed to yield intra-Latina/o cooperation, accommodation and coordination in varied social or legal contexts.

Professor Castro's opening essay thus brings to light numerous issues awaiting and demanding LatCrit interrogation. It shows that issues of sameness and difference within or among Latinas/os, as well as between Latinas/os and Anglos, represent foundational inquiries for LatCrit theory. LatCrit treatment of these inquiries in turn control the measure of our contribution to Latina/o self-empowerment through Latina/o pan-ethnicity. Subsequent essays further demonstrate both the richness and the limits of this terrain.

The next essay, by Professor Berta Esperanza Hernández-Truyol, advances a Latina perspective on the potential of LatCrit theorizing.⁴⁵ In doing so Professor Hernández-Truyol elects to write from a subject position that makes gender, rather than nationality or any other aspect of human identity, salient. The salience of gender in this essay, however, does not yield a unidimensional analysis. On the contrary, Professor Hernández-Truyol demonstrates the LatCrit ideal: the possibility of balancing subjectivity and diversity.

After recounting the multiple diversities of Latinas/os -- race, religion, sex, sexual orientation, class, ethnicity, ability and others -- as well as the failure of extant legal discourses to address Latina/o concerns, Professor Hernández-Truyol issues a challenge for LatCrits to go beyond platitudes in our cultivation of Latina/o pan-ethnicity as a means toward Latina/o self-empowerment.⁴⁶ Latina/o

45 Berta Esperanza Hernández-Truyol, *Indivisible Identities: Culture Clashes, Confused Constructs and Reality Checks*, 2 HARV. LATINO L. REV. 199 (1997).

46 *Id.* at 205. In fact, Professor Hernández-Truyol cites the birthing and nurturing of LatCrit theory itself as evidence of Latinas/os' capacity to envision

pan-ethnicity in light of multiply-diversified Latina/o populations raises the challenge for LatCrit theory to learn through difference as a chief method of negotiating the culture clashes that await.⁴⁷ For Professor Hernández-Truyol, one predicate of a LatCrit ability to learn through difference is acceptance of the "indivisibility" of Latina/o (and other) identities. By invoking this concept of indivisibility and illustrating its operation in daily life with various vignettes Professor Hernández-Truyol properly emphasizes that multiplicitous identities cannot be segmented and atomized in LatCrit theory or LatCrit practice.

For LatCrit theorists and fellow travelers, Professor Hernández-Truyol's emphasis on indivisibility urges a ready acceptance of identity complexities so that we can get on with the business at hand: overcoming Latina/o marginality and invisibility. Rather than fret and fracture over the relevance of particular points of sameness/difference, Professor Hernández-Truyol optimistically urges LatCrit theorists to embrace our diversities and to employ them as a tool of self-knowledge and self-empowerment.⁴⁸ In this way, Professor Hernández-Truyol indirectly raises a critical notion: LatCrit theory must be informed by and proceed resolutely from the valuable methods and lessons to be gleaned from the historical and substantive experience of outsider jurisprudence.⁴⁹

Professor Hernández-Truyol then brings us to the chief concern of her essay: the operation of androcentric cultures to elide Latina interests and issues in social and legal discourses. This elision, Professor Hernández-Truyol notes, is executed by the operation of

and call into existence a sense of inter-group commonality and solidarity despite the many intra-Latina/o differences that we already have voiced at LatCrit gatherings. *Id.* at 203-04.

47 *Id.* at 205.

48 *Id.*

49 The term "outsider" scholarship or jurisprudence was coined by Professor Mari Matsuda and refers to the body of literature generated during the past decade or so by scholars who identify with traditionally subordinated communities. See Valdes, *supra* note 1, at 4 n.10.

both Anglocentric and Latina/o normativity.⁵⁰ If LatCrit theory fails to engage and resist the perpetuation of the "gendered inequality" that emanates from Latina/o cultures as well as Anglo structures,⁵¹ Professor Hernández-Truyol warns, "the Latinos in our midst [will have made] Latinas truly olvidadas."⁵² In this way, Professor Hernández-Truyol focuses this symposium on gender -- an integral aspect of LatCrit attentiveness to issues of sameness and difference, questions of inclusion and erasure and concerns about hierarchy and its replication.

In closing, Professor Hernández-Truyol focuses on the use of international law to shore up domestic civil rights struggles -- an approach thus far left generally unexplored by outsider discourse. Due to recent contraction in civil rights protections, she urges LatCrit theory to explore international human rights discourse.⁵³ A global perspective or model, she concludes, not only can reinvigorate domestic civil rights law but also can expand LatCrit recognition of the manifold interests that Latinas/os have in common.⁵⁴ This essay thus closes with a crucial reminder: LatCrit anti-subordination analyses must be consciously and consistently transnational because Latina/o interests and communities uniformly transcend the territorial borders that asymmetrical power politics have imposed upon us.⁵⁵ This closing emphasis on transnationality,

50 *Id.* at 209. Anglo culture marginalizes Latinos as well as Latinas, Professor Hernández-Truyol notes, but Latina/o culture compounds the marginalization specifically of Latinas. This compoundedness is furthered by various cultural practices associated specifically with Latina/o cultures, and even by the explicitly gendered structure of the Spanish language: "I am not Latino. I am Latina," Professor Hernández-Truyol asserts. *Id.* at 211.

51 *Id.* at 209. The phrase is borrowed and adapted from Elvia Arriola, *Gendered Inequality: Lesbians, Gays and Feminist Legal Theory*, 9 BERKELEY WOMEN'S L.J. 103 (1994).

52 Hernández-Truyol, *supra* note 45, at 226.

53 *Id.* at 226.

54 *Id.* at 226-29. See also Castro, *supra* note 35, at 197.

55 See Hernández-Truyol, *supra* note 45, at 226-29. See also Valdes, *supra* note 32.

new to outsider legal scholarship, demonstrates the capacity and potential of LatCrit theory to make a difference in extant legal discourse.

The final essay in this first cluster is by Professor Juan Perea.⁵⁶ Professor Perea identifies Latina/o invisibility in the Black/White Paradigm, the centrality of Anglocentrism to American life and law and the consequential silencing of Latina/o voices within the status quo as the themes underlying his analysis. In effect, these experiential themes of subordination and struggle provide the raw materials from which LatCrit theory can help to develop pan-ethnic sensibilities among Latinas/os.

Professor Perea posits that current understandings of race, civil rights and national origin are of limited or no utility for LatCrit theory and its promotion of Latina/o self-empowerment. Race as presently understood is not helpful due to the prevalence of Latina/o *mestizaje* -- Latinas/os' multiraciality -- and because arguments by analogy to race have not succeeded in improving the lot of Latinas/os.⁵⁷ This latter reason segues into the limits of civil rights as presently conceived, which Professor Perea holds unhelpful because they are forged in Black/White terms not easily transferrable to other race/ethnicity contexts.⁵⁸ Similarly, national origin as presently conceived is not helpful because it focuses on place-of-birth, working a "symbolic deportation" for all U.S.-born Latinas/os.⁵⁹ Professor Perea thus concludes that understandings of race, civil rights and national origin must be amplified to include important aspects of "ethnic" identity.⁶⁰ Professor Perea calls for LatCrit theory to shift analytical emphasis away from "race" and toward "ethnicity" as the most efficacious strategy for Latina/o self-empowerment.

56 Juan Perea, *Five Axioms in Search of Equality*, 2 HARV. LATINO L. REV. 231 (1997).

57 *See id.* at 236.

58 *Id.* at 237.

59 *See id.* at 240.

60 *Id.* at 241.

While both "race" and "national origin" are relevant to LatCrit theory, the point to be drawn from Professor Perea's analysis is that LatCrit theorists must shoulder the task of making them useful to the anti-subordination project of LatCrit scholarship. In doing so, Professor Perea effectively demands that LatCrit theory deconstruct and reconstruct both concepts from a Latina/o subject position, drawing on Latina/o histories and experiences to inform this reconceptualization. This essay thereby displays why and how the intersection of race, national origin and ethnicity constitutes a key site of LatCrit investigation.

Moreover, Professor Perea's analysis invites discursive mutuality from existing outsider discourses. His points are an invitation to expand existing discourses on race and nationality in mutual and multilateral ways that can broaden and deepen critical understandings of racisms and nativisms. The cultivation of discursive reciprocity is a fragile and oftentimes frustrating undertaking, history teaches, but one that Latina/o legal scholars must make central to LatCrit theory and its intellectual grounding.⁶¹

*B. Races, Nationalities, Ethnicities:
Mapping LatCrit (Dis)Continuities*

The second cluster of essays focuses LatCrit attention on the (dis)continuities posed by race, nationality and ethnicity for Latinas/os *vis a vis* dominant culture as well as other marginalized groups. Whereas the first cluster focused on potential Latina/o and LatCrit pan-ethnicity, this cluster considers some of the constructs that might impede its realization. This cluster, like the first, brings together authors writing from varied subject positions.

Professor Keith Aoki's opening essay raises and connects issues related to Latina/o religious, racial, spatial, and re/presentative

⁶¹ See Valdes, *supra* note 1, at 25-29.

interests.⁶² He smoothly combines pithy observations on these macroscopic topics to display the manifold and inter-related complexities of Latina/o lives and, therefore, LatCrit endeavors. Through his observations Professor Aoki trains LatCrit attention on the bottom line of our endeavors: mobilizing Latina/o self-empowerment through the potency and potential of sophisticated critical legal scholarship.

Professor Aoki astutely notes that "issues of religion and spirituality are submerged not far below the surface of emerging [LatCrit]" discourses⁶³ and that these issues require a broad scholarly anti-subordination interrogation of Latina/o identities and communities. He is correct on both counts. Religion is a strong force in Latina/o communities and during informal LatCrit discussions has thus far run as a strong undercurrent; religion repeatedly is vocalized as a pending concern for LatCrit theory.

However, the law review literature by and large has not yet addressed Latina/o social or legal interests in religion or spirituality. In addition to Latinas/os' opportunity to exercise religious beliefs, these interests include the role of religion or spirituality in the configuration and operation of Latina/o identities and identifications, both individually and collectively, from within and beyond. More concretely, they include the relationship of Latina/o religious identities and practices to the politics of subordination and self-empowerment in the United States.

Professor Aoki timely reminds us that Latina/o religious beliefs and communities extend to non-Judeo-Christian tenets.⁶⁴ Furthermore, many of the non-Judeo-Christian Latina/o traditions are also non-White and/or non-Anglo. Santería, for instance, is an African-Caribbean religion that combines African traditions and

62 Keith Aoki, *(Re)presenting Representation*, 2 HARV. LATINO L. REV. 247 (1997).

63 *Id.* at 247.

64 *Id.* at 249 n.6, 250 (discussing religious systems like Haitian Voodoo, Brazilian Candomblé and African-Caribbean Santería).

Christian icons to produce a distinct, and non-Judeo-Christian, Latina/o belief system. LatCrit interrogation of Latina/o religious and spiritual interests therefore must carefully avoid inadvertently essentializing Latina/o religiosity or spirituality on the basis of Judeo-Christianity and its orientation since assuming a uniformly Judeo-Christian religiosity runs the risk of overlooking important features of Latina/os social and legal interests.

Such oversights in turn run the risk of replicating and compounding the racialized or ethnicized power relations reflected in the organization of religion among racially, ethnically and religiously diverse Latina/o communities throughout the United States. Doing so is antithetical to LatCrit theory's anti-subordination principles, because it tends to further marginalize non-White, non-Anglo religious customs or spiritual values. Rather than overlook or reinforce the power relations that meet at the intersection of race, ethnicity and religion, LatCrit theory ought to examine *both* the oppressive and liberational aspects of these constructs and their interplay among or across Latina/o communities and cultures existing amid white-identified Anglo norms and biases.

The pending question for LatCrit theorizing, then, is whether "religion" and/or spirituality provide sources of Latina/o resistance to subordination or whether they serve as sources of Latina/o accommodation of disempowerment. In varied instances or contexts, the answer could be either or both. The task, then, is not a LatCrit assessment of the "correctness" or value attributed or imputed to any particular article of faith or dogma, but a searching analysis of religion's impact on Latina/o lives to help fulfill the LatCrit goal of advancing Latina/o liberation from social or legal oppression. The lesson therefore, is that LatCrit projects focused primarily on religion and spirituality, like those focused primarily on race, ethnicity, class, gender or sexuality, should manifest a broadly-defined anti-subordination sensibility and purpose.

Next, Professor Aoki urges LatCrit theorists to employ cultural geography to map the causes and conditions of Latina/o subordination and to chart the ways and means toward Latina/o self-

empowerment.⁶⁵ The material construction and confinement of Latina/o communities provides a ready site for LatCrit anti-subordination excavations, a project that necessitates employment of tools and insights devised through the work of other disciplines. This urging thus elucidates and points to a larger LatCrit imperative: the deployment of transdisciplinary anti-subordination analyses on behalf of Latina/o social and legal interests. Professor Aoki is right — cultural geography is one tool among many disciplines from which LatCrit theory must draw to center Latinas/os in social and legal anti-subordination discourses.

Finally, Professor Aoki turns to LatCrit theory, Latinas/os and re/presentation. Professor Aoki describes three basic notions or practices of “representation”.⁶⁶ The first is the depiction or portrayal of self and group. The second is the political concept of selecting a “representative” to advance self interests, either group or individual. The third is the legal practice of re/presenting one’s self or group, or a client, before a tribunal or other legal decisionmaker. With this outline, Professor Aoki effectively warns LatCrit scholars carefully to conceive our work and its functions; he effectively urges us to think carefully about the way(s) in which various forms of “re/presentation” may be implicated both in our individual scholarly projects as well as in the LatCrit enterprise as a whole. With this re/presentational outline Professor Aoki implicitly reminds LatCrit theory at the moment of its inception that Latina/o self-empowerment is the baseline against which to measure our work’s multiple re/presentational dimensions, effects and possibilities.

The next essay, by Professor Adrienne Davis, employs the metaphorical “body” and anthropomorphism as a lens for critical analysis of subordination through law and rhetoric.⁶⁷ The body represents not only a “singular and unified entity” but a hierarchy;

65 *Id.* at 258.

66 *Id.* at 259-266.

67 Adrienne Davis, *Identity Notes Part II: Metaphoric Redemption of the Body Politic*, 2 HARV. LATINO L. REV. 267 (1997).

bodies are "composed of discrete, hierarchical, discernible parts with a direct correlation between [each part] and its status in the hierarchy."⁶⁸ Each body has "one head" while other bodily parts are "conceived as appendages, the things that we might lose, but without which we can go on."⁶⁹ The body as symbol joins unity, hierarchy and disposability.

The "body politic" that is the United States, Professor Davis suggests, is no different. Here, the metaphorical body politic historically extended both to White and Black "parts," but the White operated as the "head" and the Black as the (disposable) appendage. This configuration of the "body" politic, Professor Davis notes, treated blackness as a threat to the body as a whole, a threat controlled by Whites and the regimented supremacy of whiteness.

Today, Latinas/os are portrayed as a threat to the integrity of the nation and its political corpus. A similar professed concern for the body's well-being justifies the politics of backlash that attack and subordinate Latinas/os through immigration and related policy choices.⁷⁰ But this body metaphor can reveal more than the analogs between Black and Latina/o positionalities regarding White supremacy and its role in the consolidation of national identity. It permits a constructive examination of the Black/White Paradigm, an examination that "will be one of the early challenges for LatCrit theory."⁷¹ Professor Davis's essay thus proffers a unique analytical

68 *Id.* at 268.

69 *Id.*

70 *See id.* at 274. Witness English-Only laws pioneered in Florida, anti-immigrant referenda like California's Proposition 187 or, more recently, the disentanglement mood of federal lawmakers, which thus far has been brought to bear on "disposable" parts of the American national body. *See id.* In each instance, backlash politics have been depicted simply as the body politic protecting its self, its purity, its vitality, by rejecting the intrusion of foreignized, and hence disposable, matter. The use of metaphorical body politics, and the rhetorical use of the body politic, in these instances, Professor Davis argues, is part and parcel of the continuing effort to consolidate the national identity of the United States as white. *See id.*

71 *Id.*

lens for an interrogation of race relations that both includes Latinas/os and tests the effects of the dominant paradigm.⁷²

Thus, not only can the metaphor help LatCrit theorists better understand and unravel the dynamic and rhetoric of today's politics of backlash,⁷³ it helps us visualize our position in relation to that of other groups, enabling reconstruction. Rather than acquiesce to disposability under White national identity, Professor Davis advises LatCrits should join the ranks of the "disposable" to reconfigure the designation and desecration of national body parts. LatCrit theory, Professor Davis concludes, can and should help to conceive and launch a revolt of the body parts.

With this call, Professor Davis draws well-warranted attention to the interplay of law, theory, power and politics, underscoring the politicized and polarized nature of the social and legal environment into which LatCrit theory is born.⁷⁴ Her imaginative and provocative metaphor reminds LatCrit scholars of the inevitably political and politicized "legal" controversies that demand the vocal and forthright intercession of outsider jurisprudence. Professor Davis, in short, calls upon LatCrit theorists never to shirk the responsibilities that majoritarian politics bestow on outsider scholars, especially during eras of backlash.

The third essay of this cluster, by Professor Ian Haney López, directly addresses the question of "race" and "ethnicity" as

72 However, Professor Davis also argues that the use of the body can serve to inspire alliances among those rendered disposable by the politics of White national identity. These alliances, Professor Davis also makes clear, need not be organized around racial lines. Reminding us of the oppression experienced by poor farmers, exploited factory workers and other besieged laborers, including White ones, Professor Davis points to class and economic interests as alternative platforms for the construction of anti-subordination coalitions through the articulation of critical legal theory. *Id.* at 274-77.

73 For further discussion of backlash politics and their consequences on legal theory, see Keith Aoki, *The Scholarship of Reconstruction and the Politics of Backlash*, 81 IOWA L. REV. 1467 (1996).

74 For further discussion of this point, see Valdes, *supra* note 32.

competitive or complementary in LatCrit theory.⁷⁵ In contrast to Professor Perea's suggestion that LatCrit theory relinquish "race" and employ "ethnicity" as the main analytical construct for the articulation of LatCrit scholarship, Professor Haney López argues that, while both race and ethnicity are closely related, they are not fungible and neither should be abandoned as a means of examining or explaining Latina/o experience. Because Latina/o identities have been racialized, Professor Haney López resists Professor Perea's call for a shift from race to ethnicity, contending that "race remains indispensable to understanding Latino/a experiences and to improving the welfare of Latino/a communities."⁷⁶

Professor Haney López suggests that both race and ethnicity incorporate an amalgam of identity characteristics, including national origin, ancestry, religion, history, tradition, values and symbols of culture.⁷⁷ But they are distinguishable because the political and legal deployment of the two entail differentials vital to the conceptualization of emancipatory theories and strategies.⁷⁸ Professor Haney López argues that, while ethnicity often indicates distance from Anglocentric norms, race implies innate, immutable dissimilarities from White characteristics. This distinction, Professor Haney López explains, permits identity maneuvers in the context of ethnicity that are foreclosed in the context of race.

Consequently, Professor Haney López argues that "LatCrit theorists must look to a broad array of factors [including both race

75 Ian F. Haney López, *Retaining Race: LatCrit Theory and Mexican American Identity in Hernandez v. Texas*, 2 HARV. LATINO L. REV. 279 (1997) [hereinafter Haney López, *Retaining Race*]. See also IAN F. HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* (1996); Ian F. Haney López, *The Social Construction of Race: Some Observations on Illusion, Fabrication and Choice*, 29 HARV. C.R.-C.L. L. REV. 1 (1994) [hereinafter Haney López, *Social Construction of Race*]; Ian F. Haney López, *Race and Erasure: The Salience of Race to LatCrit Theory*, 85 CAL. L. REV. (forthcoming 1997).

76 Haney López, *Retaining Race*, *supra* note 75, at 280.

77 *Id.* at 280-82.

78 See *id.* at 282-83.

and ethnicity]... to understand and advocate on behalf of Latinos/as."⁷⁹ For Latinas/os and LatCrit theorists, this approach facilitates broader and deeper explorations of Latina/o identities and the dynamics of Latina/o subordination. For outsider jurisprudence, it enables LatCrit theory to help Critical Race Theory "rework the very meaning of [race]."⁸⁰

The juxtaposition of Professor Perea's and Haney López's essays brings into view both the riches and the complexities surrounding the range of Latina/o identities and interests that await LatCrit interrogation. Professor Perea's position stems from the limitations that race in a Black/White Paradigm imposes while Professor Haney López's response shows that race nonetheless informs Latina/o issues because racialization pervades American society and its laws in general and Latina/o lives in particular. Both are right; both approaches produce knowledge, and therein lies the promise of a diversified LatCrit discourse. This exchange thus captures the kind of theoretical interventions and contributions that LatCrit discourse can generate to enrich and expand outsider jurisprudence in the months and years to come.

The next essay, by Professor Michael Principe, carries us beyond the racialized and ethnicized boundaries of the American national body, reminding us again that LatCrit issues have a transnational and transcultural ambit.⁸¹ Professor Principe etches a comparative analysis of international reaction to terrorism, how this reaction implicates constitutional protection of individual liberty and how it can (and does) operate further to subordinate the most vulnerable members of a society. This comparative analysis points to another site of engagement for LatCrit theory.

Professor Principe's essay considers developments in the United

79 *Id.* at 282.

80 *Id.* at 294.

81 Michael Luis Principe, *A Reason for LatCrit Unification: Reflections on Comparative Efforts to Curtail Political Opposition and Terrorism*, 2 HARV. LATINO L. REV. 297 (1997).

States, Latin America, Europe and the Middle East.⁸² In each setting, Professor Principe finds efforts to narrow constitutional rights as part of the establishment's anti-terrorism strategy. But this strategy can be turned against any kind of political opposition, Professor Principe notes, and it oftentimes results in the victimization or harassment of "populations without political power."⁸³ The contraction of constitutional rights to combat terrorism, Professor Principe thus suggests, can operate as a license for state suppression of dissent.

Applying these observations to the domestic scene, Professor Principe notes that the World Trade Center and Oklahoma City bombings brought international terrorism to the doorstep of American policy. These incidents and their aftermath, Professor Principe asserts, are likely to fuel the ongoing insurgency of backlash in American political discourse, thereby providing LatCrit and other outsider scholars even more reason to unify in resistance of any further civil rights retrenchments.⁸⁴ Professor Principe's internationalist emphasis thereby illustrates Professor Hernández-Truyol's point that LatCrit theory must be transnational in scope; LatCrit theory must be a bridge between "domestic" and "foreign" domains of study.⁸⁵

Professor Principe's call for Latina/o unity based on resistance to civil rights retrenchment indirectly underscores a basic point: that civil rights and liberties are a key concern of LatCrit theory. This concern of course is magnified by the ongoing sense of "cultural war" and backlash,⁸⁶ but the LatCrit commitment to social and legal equality must be viewed as organic and permanent. The anti-subordination project and the attainment of social justice through legal reform are at the core of LatCrit theory, its creation and its

82 *Id.* at 299-303.

83 *Id.* at 303.

84 *Id.* at 298.

85 *See supra* notes 53-55 and accompanying text.

86 *See generally* Principe, *supra* note 81. *See also* Valdes, *supra* note 1, at 12.

foreseeable future.

The final essay of this cluster, by Professor Stephanie Wildman, articulates from a White subject position the privileges of White identity and their relevance to LatCrit scholarship.⁸⁷ Professor Wildman's project is the "exposition...of White privilege" to advance the deconstruction of racialized hierarchy and oppression in two ways. First, by focusing on "privilege" rather than "subordination."⁸⁸ Second, by examining the privileging of whiteness in multicultural, rather than Black/White terms.⁸⁹ In this way Professor Wildman effectively highlights interrelated themes of importance to LatCrit theory and outsider scholarship more generally: the operation of whiteness as the common tool of oppression against all peoples of color and the operation of the Black/White Paradigm to perpetuate White privilege. Professor Wildman employs two key concepts to elaborate these points.

The first of these concepts is "whiteness unmodified," which signifies the dominant set of cultural norms associated with Anglocentrism.⁹⁰ Professor Wildman notes that some Latinas/os, like some Jews, may appear phenotypically "White" but that Whites perceive them as tainted, colored, or modified by non-White or disfavored attributes, like non-Anglo ethnicity, non-Western European national origin or non-Christian faith. Modified whiteness therefore carves out a category for the analysis of non-White, non-Black positionalities embodied by persons who physically may appear White but who culturally, legally and politically are marked as other. Understanding whiteness as a feature that is sometimes modified and sometimes not enables the exposition of more accurate and incisive anti-subordination critiques in multicultural and multiracial contexts.

87 Stephanie Wildman, *Reflections on Whiteness and LatCrit Theory*, 2 HARV. LATINO L. REV. 307 (1997).

88 *Id.* at 308.

89 *See id.* at 314-15.

90 *See id.* at 309.

Professor Wildman's second concept is "strategic essentialism," a means of tempering the essentializing tendency of a moniker such as "Latina/o," which embraces many different persons and communities.⁹¹ The very notion of Latina/o pan-ethnicity in the context of an Anglocentric and White supremacist environment can exert a pull conducive to essentialism. That pull, Professor Wildman reminds us, can be productive only if it is instrumental: "strategic essentialism recognizes that we have to name things in order to talk about them" but that such naming is not tantamount to the reality that it signifies.⁹² LatCrits' use of essentialism, if any, must be carefully strategic rather than mistakenly or inadvertently substantive.⁹³

Appropriately, Professor Wildman closes with a defense of multiculturalism, emphasizing the vital role of Latinas/os in its operation: "The failure to acknowledge the importance of multiculturalism... is the failure to acknowledge or value Latina/o existence."⁹⁴ Professor Wildman encourages Latina/o opposition to compulsory assimilation while underscoring the need to transcend

91 *Id.* at 311-12.

92 *Id.* at 311.

93 *See id.* at 312. This reminder, Professor Wildman continues, underscores the centrality of gender and androcentrism to LatCrit theory. A particular virtue of the "Latina/o" rubric, Professor Wildman explains, is that it turns topsy turvy the usual use of language to occlude gender variances and to valorize androcentric normativity. The "Latina/o" designation entails a recurrent and salutary foregrounding of gender via language. This discursive foregrounding, Professor Wildman states, is important because it serves as a further reminder in the lessons and rewards of sameness and difference, of solidarity and recognition: the "Latina/o" self-designation not only reminds us that gender matters but that it is linked to racial discourse. The very act of our self-naming is at once a historical artifact of LatCrit sensibilities at inception and a continuing reminder of our commitment to an intra-Latina/o politics of identification. *Id.* at 311-12. Professor Wildman thereby reinforces Professor Hernández-Truyol's call for LatCrit resistance of gendered inequality. *See supra* notes 45-52 and accompanying text.

94 Wildman, *supra* note 87, at 315.

Black/White polarities to dismantle White privilege.⁹⁵ In this way, Professor Wildman confirms the need for LatCrit interrogation and reconstruction of race and race relations. Professor Wildman's analysis of whiteness in a multicultural setting thereby confirms both Professor Perea's insistence on LatCrit expansion of race scholarship through the use of ethnicity as well as Professor Haney Lopez's call to retain race.⁹⁶ In this essay, Professor Wildman reminds all LatCrit scholars of the power that both race and ethnicity exercise over Latina/o populations.

C. *Teaching, Scholarship and Service: Practicing LatCrit Theory*

The third cluster of symposium essays turns attention to the nexus that ideally ties together scholarship, teaching and practice. This blending of theory and practice, or praxis, is very much on the critical agenda; it is a task and a challenge that increasingly occupies the energy of outsider scholars seeking to protect vulnerable communities from backlash politics. For Latina/o communities besieged by backlash,⁹⁷ this cluster defines a LatCrit priority.

95 Professor Wildman's discussion also juxtaposes three familiar concepts -- multiculturalism, sameness and difference -- provocatively. Casting ethnic assimilation as appeasement of majoritarian demands for ethnocentric sameness and multiculturalism as a strategy of resistance to such assimilation, Professor Wildman calls for a "multicultural perspective that honors difference and does not require assimilation." One objective of LatCrit theory, Professor Wildman effectively tells us, must be the development of a non-assimilationist model of equality and self-empowerment in the context of a demographically multicultural yet normatively and legally Anglocentric society. *Id.* at 314-15.

96 See *supra* notes 75-80 and accompanying text.

97 It bears emphasis that politicians preaching backlash have targeted Latina/o groups. For instance, California's Proposition 187 targets most of all Mexicans and Chicanas/os for special scrutiny, which in turn is intended to prompt a deprivation of access to state public benefits. See generally Linda S. Bosniak, *Opposing Prop. 187: Undocumented Immigrants and the National Imagination*, 28 CONN. L. REV. 555 (1996); Nancy Cervantes, *Hate Unleashed: Los Angeles*

The first essay, by Professor George Martinez, provides a substantive analysis of Mexican Americans *vis a vis* whiteness and shows how this analysis can inform litigation efforts in an era of backlash.⁹⁸ Professor Martinez notes that "race" and "ethnicity" are confused constructs today precisely because Anglo-American society long has lumped them, along with national origin, nationality and ancestry, into a catch-all "other" category.⁹⁹ In his sketch of this continent's colonization by European invaders, Professor Martinez emphasizes that the "White self and the racial Other are coconstructed as discursive products... it is precisely by means of a construction of a range of racial Others that the White self constitutes itself."¹⁰⁰ In the several cases Professor Martinez uses to illustrate the juridical process of racial construction and denomination,¹⁰¹ we encounter yet again another construct central to the LatCrit enterprise: the Black/White paradigm, which casts race relations into its two polarized extremes in order to

in the Aftermath of Proposition 187, 17 CHICANO-LATINO L. REV. 1 (1995); Ruben J. Garcia, Note, *Critical Race Theory and Proposition 187: The Racial Politics of Immigration Law*, 17 CHICANO-LATINO L. REV. 118 (1995); Kevin R. Johnson, *An Essay on Immigration Politics, Popular Democracy, and California's Proposition 187: The Political Relevance and Legal Irrelevance of Race*, 70 WASH. L. REV. 629 (1995); Jeffrey R. Margolis, *Closing the Doors to the Land of Opportunity: The Constitutional Controversy Surrounding Proposition 187*, 26 U. MIAMI INTER-AM. L. REV. 363 (1995). Likewise, the federal Immigration Reform Act and Immigrant Responsibility Act of 1996 targets mostly Cubans, Nicaraguans, Salvadorans, Dominicans and other Latinas/os legally in this country who have not yet become "citizens" for a deprivation of access to federal public benefits. See Marcus Stern, *Sweeping Immigration Bill is Passed by House*, THE SAN DIEGO UNION-TRIB., Sept. 26, 1996, at A-1.

98 George A. Martinez, *Mexican-Americans and Whiteness*, 2 HARV. LATINO L. REV. 321 (1997).

99 *Id.* at 329. This catch-all category not only commingled distinct communities, it also served as a foil for the construction of whiteness and for the further construction of whiteness' supremacy. See *id.*

100 *Id.* at 344-45.

101 *Id.* at 325-29.

operationalize White supremacy over all other colors.¹⁰²

Importantly, Professor Martinez also documents historical Latina/o complicity in the maintenance of this paradigm and its biases. The Latina/o objective in these "race" cases was not to challenge the superiority of whiteness, but to escape the dangerous burdens of blackened identity.¹⁰³ This strategy may be understood as a last resort when contextualized by time and place, but by working within the parameters and prejudices of this paradigm, Latina/os historically have contributed to the legitimacy and continuation of White supremacy. This historical mistake, Professor Martinez argues, should not and cannot continue. He urges LatCrit theorists to resist identity labelings that tend to cast Latinas/os as White regardless of the professed motive behind such labelings.

To support his position, Professor Martinez notes how the judicially constructed "race" of Mexican Americans, even when formally decreed to be "White," failed to secure them usual social privileges of whiteness. Instead, like Blacks, Mexican Americans "were excluded from public facilities and neighborhoods and were the targets of racial slurs . . . were segregated in public schools . . . [and] have also faced significant discrimination in the area of employment."¹⁰⁴ Professor Martinez thus takes effective note of the phenomenon that Professor Wildman described as "unmodified" whiteness.¹⁰⁵ Even when legally defined as racially "White," Mexican Americans remained ethnically of color; their "ethnicity" modified their "race" to preclude the attachment of White

102 Professor Martinez thereby provides another reminder that race and color are of common concern to LatCrit and RaceCrit scholars: unpacking the supremacy of whiteness and neutralizing its ideology socially and legally is central to both genres.

103 *See id.* at 322-23.

104 *Id.* at 336-37.

105 *See Wildman, supra* note 87, at 309.

privileges.¹⁰⁶ This observation should remind Latinas/os that identification with whiteness is a dangerous route to liberation and equality and that both “race” and “ethnicity” are indispensable to our work.

Professor Martinez next turns to the connection of theory with practice. Focusing on litigation, Professor Martinez stresses that advocates of Latina/o equality must forego the temptations of whiteness in crafting antidiscrimination claims.¹⁰⁷ Moreover, Latina/o advocates (or LatCrit scholars) “should not hesitate to challenge harmful legal definitions establishing Mexican-Americans [or other Latinas/os] as White,”¹⁰⁸ labelings that may tend to seduce Latinas/os into a self-defeating complacency. Our work as LatCrit theorists and activists is to remain always mindful of this history and to avoid in the present and future the seductions of assimilationist self-delusions. In short, Professor Martinez argues, the prize is not whiteness, nor is whiteness the means toward the attainment of the LatCrit prize. LatCrit energies and eyes must always stay on the substantive prize: equality, safety and dignity in law and fact for Latinas/os and other subordinated populations.

106 *Id.* at 336-38. This gap exists due to the “marginality” of law to social reality. *See id.* at 335-37. This “principle of marginality” serves as a sobering reminder of the limits of theory and praxis: if this marginality is true, the use of law as an engine of social reform will be limited by this principle as well. But this recognition should not -- cannot -- alleviate the LatCrit community of its responsibilities to the larger set of Latina/o communities that we seek to serve. On the contrary, this discussion of law’s marginality permits LatCrits to approach our tasks with a conscious sense of the limits within which we work; it permits us to acknowledge at the outset that subordination is entrenched, resilient and perhaps even permanent. *See generally*, DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* (1992); Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323 (1987). Put to constructive use, this reminder of law’s marginality can and should prompt a redoubling of LatCrit commitment to self-empowerment as a long-term struggle, one that will be replete with adversities and setbacks that may at times discourage us but which we cannot permit to deflect or defeat us.

107 *See* Martinez, *supra* note 98, at 338-39.

108 *Id.* at 339.

In the following essay, Professor Margaret Montoya employs Latina/o *mestizaje* as a metaphor for the practice of LatCrit theory.¹⁰⁹ To elaborate this metaphor and to demonstrate praxis by example Professor Montoya begins her essay in Spanish, continually shifting back and forth between her native language and English to “denounce and counteract” the linguistic subordination of Latinas/os and the devaluation of our bilingualism.¹¹⁰ This expression of bilingualism is a reminder to the LatCrit community that our academic *mestizaje* stems in part from the combination of Latina/o background with Anglo education. This essay cautions Latina/o scholars to avoid disconnection from roots and origins, a disconnection potentially promoted by our Anglo education. Emphasizing that the subordinated communities from which we hail must “create the principal epistemic site” of LatCrit theorizing and activism,¹¹¹ Professor Montoya’s use of Spanish in this essay displays the practice of anti-subordination theory; with this opening, Professor Montoya unabashedly claims her native tongue “as a primary mode of expression for public and intellectual discourse”¹¹² and underscores the connection of theory to community.

But this act of bilingualism also poses the potential exclusion of scholars, whether or not “Latina/o,” who are not fluent in Spanish. Professor Montoya therefore cautions that LatCrit uses of language cannot be permitted “to create barriers or boundaries among . . . us.”¹¹³ Nonetheless, Professor Montoya insists that LatCrit theory

109 Margaret E. Montoya, *Academic Mestizaje: Re/Producing Clinical Teaching and Re/Framing Wills as Latina Praxis*, 2 HARV. LATINO L. REV. 349 (1997). Drawing from the work of Latina/o scholars in the social sciences, Professor Montoya invokes Latina/o racial intermixing, or *mestizaje*, to emphasize “the melding together of traditional discourses with Latino/a experience.” *Id.* at 352. Professor Montoya proposes that this hybridity, including the mixing of languages and disciplines, in LatCrit theory can serve “as a correction to and subversion of the repressive and stultifying character of traditional legal discourse.” *Id.*

110 *Id.* at 351.

111 *Id.* at 370.

112 *Id.* at 351.

113 *Id.*

must work to "linguistically reterritorialize" public or legal discourse because bilingualism "is a cry of resistance against the monolingualism that has been imposed on [Latinas/os], on our parents and on our communities."¹¹⁴ Professor Montoya's opening therefore effectively points to the reclamation, assertion and preservation of Latinas/os' linguistic heritage as part and parcel of the LatCrit agenda, while also cautioning us that our embrace of this inheritance must be executed without sowing division amongst Latinas/os or between Latinas/os and other subordinated groups. Professor Montoya's analysis thereby instills a healthy reminder of the need for LatCrit self-critique; the balance to be struck between affirming expressions of Latina/o and LatCrit bilingualism on the one hand and affirmative inclusion of monolingual scholars in LatCrit discourse and venues on the other, requires constant self-awareness and critical evaluation.

Professor Montoya's essay is above all a call to effective and ethical LatCrit theorizing -- effective because it is grounded in and responsive to the social realities of contemporary lawyering in Anglocentric settings and ethical because it remains self-aware of separatist or assimilationist tendencies that might confuse or compromise this grounding and responsiveness. In particular, Professor Montoya challenges LatCrit theory to remain true to its cultural roots in Latina/o communities while exploiting our toeholds within Anglo institutions to advance the improvement of the material conditions that delineate Latina/o lives. To do both, she reminds us, entails self-awareness, self-critique and self-adjustment.

In the final essay of this cluster, Professor Laura Padilla addresses LatCrit praxis by exploring the notion of "wholeness" for Latinas/os, both as individuals and as communities.¹¹⁵ Addressing the fragmentation of Latina/o law professors' lives as institutional and scholarly others, Professor Padilla's essay identifies another

114 *Id.*

115 Laura Padilla, *LatCrit Praxis to Heal Fractured Communities*, 2 HARV. LATINO L. REV. 375 (1997).

LatCrit objective: cohering both our selves and our communities. Professor Padilla's essay does the LatCrit movement a service in reminding us that the Latina/o legal professorate, too, is among the beneficiaries of LatCrit's potential. Like Professor Montoya's essay, Professor Padilla's opening underscores our personal implication in this new enterprise; while Professor Montoya reminded and warned us of the danger in failing to realize and critique this implication, Professor Padilla reminds and invites us of the rewards we can accrue as a result of it.

Turning to advocacy, practice, community involvement and teaching, Professor Padilla singles out the importance of education in the creation of Latina/o self-empowerment.¹¹⁶ In doing so, Professor Padilla situates LatCrit legal scholars in a particularly crucial locale: the intersection of education, law and power. Focusing on LatCrit praxis, Professor Padilla rightly pinpoints "concrete steps"¹¹⁷ to make praxis an integral feature of anti-subordination scholarship and pedagogy. After this essay, the LatCrit community is in no position to defer praxis.

But Professor Padilla brings to light another opportunity for praxis which is usually not prominent in our thoughts: private funding of praxis-oriented projects. This final point notes the availability of funding sources, such as foundations, that LatCrit theorists and activists can tap to bridge the gaps between theorizing and practicing legal reform. In this way, as Professor Padilla's

116 *Id.* at 382-87.

117 *Id.* at 388. Strategic or early interventions, like talks to Latina/o students still in their primary education, or participation in local school board proceedings, or development of programs supported through local bar groups, are well suited to the knowledge, skills, prerogatives and time of the Latina/o legal professorate, Professor Padilla notes. *Id.* at 388-89. In our teaching, Professor Padilla continues, we can employ the academic flexibility of our classes to expose students to the social realities that cases and casebooks often omit or edit; face-to-face confrontations with poverty and exploitation, such as visits to nearby ghettos or border maquiladoras, quickly communicate the relationship of theory to practice, or of law to life. *Id.* at 390-91.

opening comments promise, LatCrit praxis can “make a difference in our communities” as well as in our personal and professional lives.¹¹⁸

*D. Multiplicities and Intersectionalities:
Exploring LatCrit Diversities*

The fourth cluster of essays re/turns our attention to the diversities within and beyond Latina/o communities. These essays thus take up concepts pioneered by Critical Race and Feminist legal scholars -- multiplicity, multi-dimensionality and intersectionality -- in a LatCrit context.¹¹⁹ Authored by scholars writing from varied subject positions, this cluster illustrates LatCrit commitment to inclusivity and nuance.

The first essay, by Professor Elvia Arriola, fittingly begins by taking up the question of outsiders in an outsiders' conference.¹²⁰ Recounting her “fear and distrust” of scholarly gatherings that purport to be, but oftentimes are not, havens of safety, Professor Arriola focuses on the ways in which gender and sexual orientation,

118 *Id.* at 388.

119 Scholars identified with Critical Race Theory specifically, and outsider jurisprudence generally, have devised various concepts to help unpack the complexities of social and legal positions based on characteristics such as race, sex and sexual orientation. See Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991); Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139; Angela P. Harris, *The Unbearable Lightness of Identity*, 11 BERKELEY WOMEN'S L.J. 207 (1996); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990); Hernández-Truyol, *supra* note 41. See also Francisco Valdes, *Sex and Race in Queer Legal Culture: Ruminations on Identities and Inter-connectivities*, 5 S. CAL. REV. L. & WOMEN'S STUD. 25, 49 (1995) (articulating, in a sexual minority context, the concept of interconnectivity as a jurisprudential complement to multiplicity and intersectionality).

120 Elvia R. Arriola, *Welcoming the Outsider to an Outsider Conference: Law and the Multiplicities of Self*, 2 HARV. LATINO L. REV. 397 (1997).

as well as class and biculturalism, work to marginalize Latinas/os and "others" both within the socio-legal mainstream as well as outsider communities. Professor Arriola's essay provides a personal and critical account of the gendered and sexualized structure not only of legal education, legal culture and Anglo-American society, but also of the norms that people of color acquire and internalize.¹²¹ She analyzes the androsexism, heterosexism, classism and ethnocentrism both of Anglo and Latina/o normativities and the way in which these biases invidiously skew opportunity and agency to undermine social and legal equality.

Professor Arriola thus demonstrates the inward and outward critique that defines the scope of LatCrit theory and its critical missions. Professor Arriola effectively throws down the gauntlet: to achieve political and substantive efficacy, LatCrit theory must create occasions for scholars and activists, as well as students, to "integrate the multiplicities" of our selves, lives and communities.¹²² To do so, she urges that LatCrit theorists "examine the ways in which we too fail our idealistic pronouncements if we do not seek to become conscious of the interconnections between our ideas, our experiences and our fears."¹²³ This examination must "connect our theorizing to some kind of practice."¹²⁴ In this way Professor Arriola confirms LatCrit commitment to self-critique and praxis.

Professor Arriola's essay also invokes another crucial aspect of the LatCrit venture: the act and process of community building. Before now the Latina/o legal professorate had no regular venue devoted specifically to the critical discussion of Latina/o concerns by and among outsider scholars. The creation of such a venue fosters not only the production of knowledge but the cultivation of professional and personal bonds between conference participants and attendees. These bonds, as Professor Arriola's essay poignantly

121 *Id.* at 403-12.

122 *Id.* at 398.

123 *Id.* at 401.

124 *Id.*

recounts, can be nurtured only if these conferences actually create spaces of safety and growth. That is, our coming together physically every year can generate a new LatCrit community and consciousness within and beyond the Latina/o legal professorate only if LatCrit conferences, projects and events can create and maintain conditions conducive to mutual acceptance, respect, trust and collaboration among a diverse group of scholars whose responses to the "experience of outsidersness [constitute] a unique and complex self-creation."¹²⁵

This inter-group mutuality and its generation of inter-group safety and solidarity, Professor Arriola points out, depends on a "continuing commitment to fight the wrongness of all forms of prejudice."¹²⁶ With this statement Professor Arriola succinctly captures a basic tenet of the LatCrit experience thus far -- a capacious conception of the anti-subordination struggle -- and a key method of LatCrit theory -- the articulation of a consciously coalitional jurisprudence. Professor Arriola's essay thus distills a sensibility involving the practice of diversity, inclusivity, equality, community, solidarity and self-empowerment, which underlies the first LatCrit conference.

Professor Arriola concludes with a compelling vision. The LatCrit conference and by extension LatCrit theory, she explains, occasioned and can serve to heal the "fear and distrust" that prior experience ingrained in us.¹²⁷ LatCrit conferences and analyses can construct a home where the politics of healing merge theory and practice. The LatCrit community must consider the nurturing of *all* outsiders as integral to Latina/o self-empowerment.¹²⁸ In this way, Professor Arriola situates her analysis and the emergence of LatCrit theory in the larger historical context of outsider scholarship,

125 *Id.* at 402.

126 *Id.* at 403.

127 *Id.* at 421.

128 *See generally*, HARLON DALTON, RACIAL HEALING: CONFRONTING THE FEAR BETWEEN BLACKS AND WHITES (1995).

highlighting why LatCrit theory must learn from, but also go beyond, the lessons and insights of the recent jurisprudential past.¹²⁹

The following essay, by Professor Robert Chang, provides a keen analysis — and serves as a prime example — of the new critical discourse necessary to community and coalition beyond the confines of current identity politics.¹³⁰ Using the metaphor of racial cross-dressing to unpack the essentialist premises and substantive limitations of identifications based on skin color or other such attributes, Professor Chang argues for a decisive shift from identity politics to political identities. This shift is fundamental to LatCrit theory.

Beginning with the provocative observation that he is not “Latino” but could be, Professor Chang draws on the history of migration and intermarriage that has given rise to a population that accurately could be described as Asian Latinas/os. Professor Chang asks us to consider the ramifications of his claim to a Latina/o or LatCrit subject position.¹³¹ This claim, he continues, can be considered in light of similar “cross-dressing” claims, such as the claim of a gay man to lesbian identity¹³² or the claim of a post-operative male-to-female transsexual to female identity.¹³³ These claims, he observes, encapsulate a real tension: they enable the misappropriation of identity and subjectivity but they may be a source of solidarity. That is, “moments of cross-dressing contain within them oppressive as well as emancipatory possibilities. The difficulty lies in telling these representations apart.”¹³⁴ Professor

129 For further discussion of this point, see Valdes, *supra* note 1, at 24-30.

130 Robert S. Chang, *Racial Cross-Dressing*, 2 HARV. LATINO L. REV. 423 (1997).

131 *Id.* at 423-24.

132 *Id.* at 424. See also Valdes, *supra* note 119, for further discussion of such claims.

133 See Chang, *supra* note 130, at 426-27. See also Elvia R. Arriola, *Law and the Gendered Politics of Identity: Who Owns the Label “Lesbian”?*, 8 HASTINGS WOMEN’S L.J. 1 (1997).

134 Chang, *supra* note 130, at 425.

Chang's challenge to LatCrit theorists is to go beyond reliance on essentialized identity labels . . . to reach as far as the insights of postmodern discourse permit and demand.¹³⁵ The challenge is to trigger "category crisis" as critical method.¹³⁶

Category crisis, Professor Chang shows, raises the opportunity to redraw categorical boundaries in ways that counteract traditional ideological and material hierarchies. It is this focus -- the careful defiance of essentialized categories with the specific aim of disrupting oppressive power relations -- that reduces the danger of misappropriation and facilitates constructive engagement with the tensions that underlie such crises. Acts of "cross-dressing" that reshuffle categories and frontiers in race, ethnicity, sex or sexual orientation contexts thus "might be sensible as claims to political identities, rather than to essential identities."¹³⁷ It is this very point -- the cognition of identity positions as political acts rather than essential conditions -- that animates the spirit and potential of LatCrit theorizing.

This essay thereby crystallizes and explicates the current moment in the continuing evolution of outsider jurisprudence. Professor Chang, like other symposium authors, situates LatCrit theory within the present discursive moment and refuses to deny or ignore its permeation with politics. This moment, inevitably defined by the contentious discourses and hard lessons of recent years,¹³⁸ calls for precisely the elasticity of identity affinities that Professor Chang prescribes as one ingredient of self-empowerment for traditionally subordinated communities. This essay makes a bottom line point exceedingly clear: LatCrit theory must help craft the ongoing shift from rigid essentialisms and divisive exercises of antiquated identities to a sophisticated understanding of the political

135 See generally Anthony E. Cook, *Reflections on Postmodernism*, 26 NEW ENG. L. REV. 751 (1992). See also *supra* note 41 and sources cited therein on sameness and difference as one aspect of postmodern critical legal discourse.

136 See Chang, *supra* note 130, at 427.

137 *Id.* at 429.

138 See generally Valdes, *supra* note 1, at 5-8.

dimensions that all identity claims and hierarchies possess.¹³⁹

The next essay of this cluster, by Professor Sumi Cho, reinforces the message that LatCrit theory must heed today and tomorrow: the inescapably political and politicized nature and consequences of legal "scholarship" and law itself.¹⁴⁰ Professor Cho opens with a brief exposition of an intriguing and explosive proposition. Outsider scholars, she suggests, might require of themselves a "political impact determination" prior to their articulation of any particular analysis or position.¹⁴¹ This prerequisite would provide for an open and honest evaluation of the complete fusion of political reality and legal theory. At the least, Professor Cho's idea is a reminder that legal scholarship always is implicated in the operation of domination and subordination through the use of law, despite its supposed detachment and neutrality.

Professor Cho's first ambition is to expose judicial perpetuation of injustice through disingenuous analysis.¹⁴² She rightly points out that LatCrit scholarship can become an effective means of exposing the disingenuity of unprincipled judicial pronouncements. LatCrit and other outsider scholars, Professor Cho reminds us, have the skills and positions that are necessary to an incisive exposition of

139 Moreover, Professor Chang continues, scholarly development and recognition of these claims acknowledges and advances the agency of identity dissidents seeking to overturn the ideology of various social and legal supremacies. The agency implicit in and bolstered by these claims in turn helps establish "the groundwork for developing a collective political identity" willed into existence by and among outsider scholars in the common anti-subordination quest. Chang, *supra* note 130, at 429. This collectivity is rooted in common, though different, historical experiences with oppression as well as in common, though different, struggles against such oppression. "The challenge for us is how to articulate this political identity or identities to serve a progressive anti-subordination agenda," Professor Chang concludes. *Id.* at 432. See generally Angela P. Harris, *Foreward: The Jurisprudence of Reconstruction*, 82 CAL. L. REV. 741 (1994).

140 Sumi Cho, *Essential Politics*, 2 HARV. LATINO L. REV. 433 (1997).

141 *Id.* at 435.

142 *Id.* at 435-41.

courts' intellectual and doctrinal dishonesties. LatCrit theory — and praxis — are tools for combating judicial complicity in backlash politics but, Professor Cho emphasizes, only if we proactively approach and consciously develop our work as part of a larger social justice movement.

Professor Cho's second ambition takes an inward turn as she questions how the LatCrit community can help to make the legal academy safer for outsider critical scholars. Injustice and claims founded upon its occurrence, Professor Cho sharply reminds us, can be found both throughout society and within the law schools that employ us. Why do we not speak out, she asks.¹⁴³ Professor Cho then points to the many factors that can cow resistance to in-house injustice: a fear of retaliation by still-dominant forces within legal education, the internalization of oppressive premises or precepts and the indeterminate nature of our substantive work, she suggests, can cause "capitulation to subordination."¹⁴⁴

Professor Cho's essay succinctly combines various key points. Among these are the inevitably political elements or results of law and legal scholarship, the importance of understanding both the strengths and limitations that adhere in our occupation as legal scholars, the indispensability of praxis to avert the complacency or irrelevance of disengaged anti-subordination theory and the necessity of self-critique to ensure the integrity of our work. Professor Cho powerfully asks that LatCrit theory practice what we hope it will preach, both within our institutional settings and beyond.

The final essay of this cluster, by Professor Mary Coombs, further advances the discussion of multiplicities and intersectionalities.¹⁴⁵ Focusing on the interplay of scholarship,

143 *Id.* at 442.

144 *Id.* at 447.

145 Mary Coombs, *LatCrit Theory and the Post-Identity Era: Transcending the Legacies of Color and Coalescing a Politics of Consciousness*, 2 HARV. LATINO L. REV. 457 (1997).

identity and politics at this juncture of American history, Professor Coombs uses examples from Miami's contemporary civic life to illustrate how and why LatCrit theory's mission must include the "problematization of the black/white continuum and thus of race itself."¹⁴⁶ A Black American city council member, Professor Coombs recounts, objected to the appointment of a Black Costa Rican to a citizen board because the prospective appointee was not "literally African-American."¹⁴⁷ In Miami, Professor Coombs points out, lawmakers cannot evade the hard facts of multiculturalism; the collision of politics, race, identity and law is embodied by that city's diverse Black population, which encompasses Caribbean and Central American as well as African American Blacks. This anecdote therefore illustrates why interrogations of both "Black" and "White" identities are at the center of LatCrit discourse today and why they likely will stay so for some time.

Professor Coombs then considers the interplay of groups that might be denominated "woman" and "feminist" or "Hispanic" and "Latina/o" or "gay" and "queer."¹⁴⁸ In each instance, the former represents an essentialized grouping and the latter signifies a political position that might be associated with it. The latter thus is more likely to be experienced and perceived as elective.¹⁴⁹ The complex interplay of these constructs creates issues of "authenticity" and "representation," Professor Coombs rightly explains, creating the danger that voices speaking from the political position may claim to represent the larger group, or that such voices may be interpreted in this manner.¹⁵⁰ In the self-reflective mode of earlier essays, Professor Coombs calls on LatCrit theorists to "problematize our own often implicit claims of representational authority" in order to secure the integrity of our work.¹⁵¹ This essay thus confirms

146 *Id.* at 458

147 *Id.*

148 *Id.* at 459-60.

149 *See id.* at 460.

150 *Id.* at 461.

151 *Id.* at 462.

LatCrit's embrace of self-critique to secure the grounding and integrity of LatCrit theorizing.

LatCrit theory, Professor Coombs implies, can provide a "place from which to understand the various forms of . . . subordination and exclusion that operate in our society" through or despite the law.¹⁵² If so, LatCrit theory will have met today's fondest hopes of our future. Professor Coombs thus embraces and confirms the LatCrit need for analytical nuance and discursive particularity, the LatCrit ideal of political commitment and coalitional consciousness, and the central role of self-critique in ensuring the substantive value and success of LatCrit theorizing.

*E. Latinas/os and Inter-Group Jurisprudence:
Building LatCrit Communities and Coalitions*

The final cluster of essays closes the symposium by training attention on the use of critical legal scholarship and praxis as a vehicle for threading coalitions among the traditionally subordinated groups that outsider jurisprudence seeks to serve and empower. In doing so, these essays, again voiced from diverse subject positions, invoke themes and values sounded in earlier essays. But this cluster advances the discussion by focusing specifically on inter-group relations and on the utility of our work as acts of coalition-building.

The first essay, by Professor Barbara Cox, tackles an issue that vexes outsider scholars and which LatCrit theory must engage: the balancing of specificity and inclusivity in the articulation of theory and in the coalescing of communities.¹⁵³ How do outsider scholars balance the need for group-specific spaces against the need for self-empowering coalitions between that subject position and others with probable affinity?¹⁵⁴ While affirming the need to construct spaces

152 *Id.* at 464.

153 Barbara J. Cox, *Coalescing Communities, Discourses and Practices: Synergies in the Anti-Subordination Project*, 2 HARV. LATINO L. REV. 473 (1997).

154 *See id.* at 473-75.

of safety for focused discussion of particularized issues, Professor Cox also acknowledges the importance of including "in our conversations those who are wanting to build coalition with us."¹⁵⁵ Each time that LatCrit scholars plan a project or event, this question must be among the considerations held uppermost in mind¹⁵⁶ because our work must simultaneously build an intra-Latina/o community and forge inter-group connections with similarly situated communities to be a source of Latina/o self-empowerment.¹⁵⁷

Professor Cox then underscores three key points: the primacy of praxis as method; the entwining of scholarship and politics; and the indispensability of reciprocation as the basis of inter-group alliances. The message is plain: unless LatCrit theory practices its preaching, unless LatCrit scholars understand and invoke the relationship between scholarship and politics, and unless outsider scholars mutually support allied critiques of subordination, we surely will undercut critical legal scholarship's potential to function as a platform for self-empowerment and social change. Professor Cox's essay therefore challenges LatCrit scholars to resist our potential peril.

155 *Id.* at 475. At LatCrit I, as noted earlier, this balance was struck by organizing a program that focused substantively on Latinas/os but that incorporated the voices of non-Latinas/os. In this way, the organizers of the first LatCrit conference sought to create the conditions for a focused yet diversified ongoing conversation. This was the way we sought at the outset to traverse the continuing tension between specificity and inclusivity. Though that effort appears to have been deemed successful, Professor Cox's essay is a reminder that this tension is perpetual and that, therefore, our commitment to a balance must be proactive and unflagging.

156 Fortunately, the planning of the LatCrit II conference displays a similar commitment to balance. For the published papers and proceedings of the LatCrit II conference, see Symposium, *Difference, Solidarity and Law: Building Latina/o Communities Through LatCrit Theory*, 19 CHICANO-LATINO L. REV. (forthcoming 1997).

157 And as Professor Cox also points out, these connections need not -- indeed, should not -- be delimited only by race, color or ethnicity; Feminist and Queer discourses and communities also present opportunities for mutual connection and empowerment. See Cox, *supra* note 153, at 475.

The second essay, by Professor Jerome Culp, advances a similar outlook while emphasizing different aspects of these themes.¹⁵⁸ Professor Culp highlights the concept of "other" to the articulation of outsider scholarship, including LatCrit theory. Anglo-American society and traditional legal scholarship, he points out, have benefited socially dominant forces by constructing "others" and rationalizing their subordination.¹⁵⁹ As the ranks of outsider scholars grow, as we rebel increasingly against this status quo, and as we marshal our skills to critique the rationalization of subordination, we inevitably "define ourselves" in ways that risk the construction of new "others" and new oppressions. But "[w]e will not build a theory for change if we replicate the structures of the other created by society," Professor Culp warns.¹⁶⁰

Rather than view inter-group relations and struggles as a coalition of "us" and new "others," Professor Culp urges that outsider scholars consider common histories under the hegemony of White supremacy to animate our present commonalities and energize our commitment to broad-based anti-subordination praxis in the current social and legal milieu.¹⁶¹ For Professor Culp, the foundational query is: "How do we as African Americans, we as White Americans, we as Asian Americans, we as Latino/Latina Americans participate together in struggles that involve people who are not ourselves?"¹⁶² Thus, in striving to create new ways of creating power for the traditionally subordinated, Professor Culp urges that LatCrit and other outsider scholars "not accept the racial or identity status quo as a starting point for discussion."¹⁶³ Rather, we must "define ourselves as an organizing force for change."¹⁶⁴

158 Jerome McCristal Culp, Jr., *Latinos, Blacks, Others, and the New Legal Narrative*, 2 HARV. LATINO L. REV. 479 (1997).

159 *Id.* at 479-80.

160 *Id.* at 479.

161 *Id.*

162 *Id.* at 481.

163 *Id.* at 480.

164 *Id.* at 479.

This rejection of the status quo, Professor Culp adds, entails critical resistance of the "scholarship of dismissal" generated in recent years by traditionalist scholars in reaction to the methods and insights of outsider jurisprudence.¹⁶⁵ This sort of backlash scholarship, Professor Culp points out, accused outsider scholars of failing to adhere to traditionalist norms of scholarship -- an accusation that Professor Culp argues we should embrace rather than disdain.¹⁶⁶ Professor Culp is right.

The accusation that outsider work is "non-scholarly" because it expresses care for a connection of theory to practice springs in part from mainstream fear that our forthright acknowledgment of our conscious intention to repudiate business as usual will actually transform the parameters of contemporary legal scholarship. Our objective *is* the production of knowledge with new methods and values to improve the living conditions of oppressed communities and to animate the nation's formal commitment to justice and equality. The powerful counter-norm that underpins outsider jurisprudence is that our work is "scholarship" precisely because it refuses the complacency fostered by a false detachment from social or legal realities. Outsider jurisprudence, including LatCrit theory, therefore assumes a monumental responsibility: turning upside down the conventional belief that "scholarship" is "scholarly" only when it disclaims any stake in or concern for the consequences triggered by the knowledge it creates or disseminates.

The LatCrit agenda must include the unmasking of politics within traditional legal scholarship. Our work, Professor Culp emphasizes, is to persevere in illuminating the fact that *all* scholarship is influenced by subjective experiences, ideological orientations and politicized objectives. The scholarly, in short, is the political. Thus, among LatCrit contributions to the production of knowledge at the turn of this century -- and from our positions within legal culture -- is a frontal challenge to the "White supremacy

165 *Id.* at 480.

166 *Id.*

that is buried in traditional legal analysis" and that is perpetuated through the norms of traditional legal "analysis."¹⁶⁷ Reinforcing similar urgings throughout this symposium, Professor Culp's essay makes clear that the LatCrit project includes not just the rejection, but also the dismantlement, of traditionalist conventions that code scholarship as either "White" or suspect.

The third essay of this cluster, by Professor Ediberto Román, brings us full circle by retraining our sights on intra-Latina/o issues of sameness and difference.¹⁶⁸ Cautioning LatCrit theorists to avoid the danger of "undue emphasis on [our] differences," Professor Román urges LatCrit scholars instead to "search for a common ground" as a means of Latina/o self-empowerment.¹⁶⁹ The former represents a strategy for self-defeat and the latter a path toward self-empowerment, he cautions. Thus framed, the choice for LatCrit theory is not difficult, but it is not simply theoretical, Professor Román warns. Citing the need broadly to reach diversely disempowered Latina/o communities, Professor Román stresses the importance of LatCrit commitment to praxis.¹⁷⁰ This essay thereby reminds us that LatCrit theory must be practiced on behalf of Latinas/os (and others) in egalitarian and caring ways if it is to possess cultural relevance, social utility and political force both within and beyond Latina/o communities.

The final essay of this cluster, by Professor Eric Yamamoto, concludes the symposium with a forward-looking focus on the improvement of color/color relations as a means toward outsider self-empowerment.¹⁷¹ The current situation, Professor Yamamoto notes, is marked by a "tense mix of intergroup distrust and hope," a mix that combines sentiments of affinity with the reality of

167 *Id.* at 481.

168 Ediberto Román, *Common Ground: Perspectives on Latino-Latina Diversity*, 2 HARV. LATINO L. REV. 483 (1997).

169 *Id.* at 484.

170 *Id.*

171 Eric K. Yamamoto, *Conflict and Complicity: Justice Among Communities of Color*, 2 HARV. LATINO L. REV. 495 (1997).

disunity.¹⁷² A critical interrogation of this mix can facilitate an expansion of the "justice inquiry beyond white-on-black or even white-on-color paradigms . . . to encompass color-on-color" grievances.¹⁷³ Professor Yamamoto's aim, therefore, is to develop a meaningful way of acting upon justice claims among or between non-White racial groups,¹⁷⁴ an aim he denominates "interracial justice."¹⁷⁵ Its attainment is important, Professor Yamamoto insightfully notes, because it constitutes a "predicate to forging intergroup alliances and building coalitions."¹⁷⁶

To contextualize this aim Professor Yamamoto cites several current examples of political conflict between Asian American, Latina/o and African American communities or interests in the ongoing struggle over affirmative action and other policy debates related to race/ethnicity relations.¹⁷⁷ In each instance, Professor Yamamoto captures one or another community of color effectively aligning itself with majoritarian backlash politics to create or exploit opportunities for advancement that undermine the interests or progress of another subordinated racial/ethnic group. In the face of this explosive – and ultimately self-defeating – posturing, Professor Yamamoto asks LatCrit theorists to "comprehend the notion of racial group complicity in the subordination of other racial groups . . . [and] . . . of situational racial group redeployment of oppressive socio-legal structures."¹⁷⁸

LatCrit theory is in part a product of the yearning amongst Latina/o and other outsider scholars for better interracial group relations. It is an effort not only to place Latina/o voices, communities and interests on the discursive table, but an exercise in building the "politically potent interracial alliances and coalitions"

172 *Id.* at 495.

173 *Id.*

174 *Id.*

175 *Id.* at 498.

176 *Id.* at 495.

177 *Id.* at 495-98.

178 *Id.* at 498.

that Professor Yamamoto correctly regards as necessary to race/ethnicity liberation.¹⁷⁹ Professor Yamamoto's essay thereby serves as a reminder that interracial justice and collaboration is at the heart of the intellectual and political energy that generated the enterprise now denominated "LatCrit theory," and that this spirit should remain central to its articulation in the years to come. Engagement of these issues might fracture efforts at superficial solidarity, but no substitute exists for constructive engagement of perilous questions. At the same time, this essay reminds us of the gains we might reap through the alliances that such an engagement can help us realize. For LatCrit theorists, this essay could well serve as a manifesto.

III. CHARTING THE FUTURE: LATCRIT GUIDEPOSTS FOR CRITICAL LEGAL SCHOLARSHIP

The contributors to this symposium have raised numerous yet recurrent themes and issues. The analyses proffered within these recurring areas of LatCrit interest represent some points of broad agreement, coupled with other varied -- even opposed -- points of emphasis. As such, the articles and essays reviewed above reflect and project a diverse yet collective sense of the conditions and impulses that underlie LatCrit theory as a new subject position within existing critical legal discourses. The closing part of this foreword therefore synthesizes these common refrains to assemble a list of eight "guideposts" or themes that may assist the next stage of LatCrit growth and evolution.

179 *Id.* at 499. See also Eric Yamamoto, *Rethinking Alliances: Agency, Responsibility and Interracial Justice*, 3 ASIAN PAC. AM. L.J. 33 (1995).

*A. Recognizing and Accepting the Political Nature of
"Scholarship"*

Perhaps the foundational message that resonates through the works in this symposium is that all legal "scholarship" is necessarily and fundamentally "political" because law is used to structure society and theory helps to construct law. Consequently, recognizing the political dimensions and ramifications of legal scholarship can only sharpen our ability to employ theory as an engine for social progress. LatCrit theory thus declines at its moment of inception any pretense to the contrary, acknowledging the political nature of all scholarship, including our own. Recognizing and not fearing the political nature of legal scholarship therefore serves as the first guidepost in this initial articulation of LatCrit theory.

B. Praxis!

Following from the recognition that all legal scholarship is political is that LatCrit scholars must conceive of ourselves as activists both within and outside our institutions and professions. Time and again, the authors urge that praxis must be integral to LatCrit projects because it ensures both the grounding and potency of the theory. Praxis provides a framework for organizing our professional time, energy and activities in holistic ways. Praxis, in short, can help cohere our roles as teachers, scholars and activists. The proactive embrace of praxis as organic in all areas of our professional lives thus emerges as elemental to the initial conception of LatCrit theory. Praxis therefore serves as the second LatCrit guidepost.

*C. Building Intra-Latina/o Communities and Inter-Group
Coalitions*

The combination of politics and praxis in LatCrit theory in turn

implicates community and coalition-building. The works presented in this symposium have made clear that a core aspect of the original LatCrit agenda is to cultivate communities within and among diverse Latina/o groupings in (and outside) of the United States. They also demonstrate that another cornerstone of LatCrit theory is scholarly dedication to the development of frameworks and vocabularies for inter-group accommodation, collaboration and justice. A LatCrit commitment to transnationalism, internationalism, multiculturalism and multiracialism that is expressed and practiced in caring, egalitarian, nuanced and cautious ways therefore serves as the third guidepost for the evolution of LatCrit theory.

D. Finding Commonalities While Respecting Differences

In order to help craft a progressive conception of egalitarian transnationalism and sophisticated multiculturalism, LatCrit theory must devise ways to balance sameness and difference both within and beyond Latina/o groups. The symposium authors have shown how this balancing includes negotiation of the tension between specificity and inclusivity in LatCrit discourse and at LatCrit gatherings. It also includes the cultivation and celebration of both pan-ethnic and poly-ethnic identifications among Latinas/os and overlapping racialized, ethnicized, gendered and sexualized groups. The challenge posed by politics, praxis, intra-Latina/o community formation and inter-group coalition building is finding commonalities while respecting differences. This symposium therefore teaches that a threshold and continuing component of LatCrit theory must be the perception and interpretation of "sameness" and "difference" in contextual and constructive ways. A sustained commitment to the acceptance of difference, coupled with a sustained commitment to the mobilization of commonality, thus serves as the fourth original LatCrit guidepost.

E. Appreciating, Incorporating and Applying the Jurisprudential Past

To illuminate and navigate sameness/difference divides, LatCrit analyses must cross-interrogate constructs like color, race, ethnicity, culture, nationality, ancestry, gender, class and sexuality. The symposium authors generally agree that these interrogations require LatCrit theorists to employ cross-disciplinary analysis as well as critical concepts like multiplicity, multi-dimensionality and intersectionality, which come from outsider legal scholars.¹⁸⁰ This symposium thereby demonstrates that LatCrit scholars must use the lessons of the past as our point of departure, acknowledging the work of scholars from various disciplines and subject positions who precede, or collaborate with, us. Incorporating the lessons of the jurisprudential past is crucial to the inauguration of LatCrit theory as well as to the substantive and political efficacy of LatCrit theorizing in the immediate future, but this symposium also suggests that LatCrit theory must situate itself -- and be cognizant of its role and impact -- as a new force within the larger jurisprudential landscape. LatCrit theorists must see ourselves as inheritors of and collaborators within an activist and expansive community of outsider scholars. Animated by this original self-conception, LatCrit projects can strive to advance both the substantive and political vibrancy of LatCrit theory and outsider jurisprudence. Being constantly aware of the past and its lessons while striving to apply those lessons progressively, therefore serves as the fifth inaugural guidepost.

F. Continual Engagement in Self-Critique

The symposium authors also have urged that LatCrit theorizing must entail continual self-reflection and a willingness to self-correct. This introspection includes critical self-examination of our

180 See *supra* note 119 and sources cited therein.

(in)actions within our institutions. The symposium authors show that this theme informs the emergence of LatCrit theory; they call upon all LatCrit scholars to think critically and constantly about the ethics of our work, whether as teachers or scholars or activists, and to modify our conduct to ensure the grounding and integrity of it. The perpetual need for self-awareness and self-critique in all fields or areas of our work therefore serves as another preliminary guidepost for the continuing growth of LatCrit theory as a new force within outsider jurisprudence.

*G. Specificity and Diversity:
Balancing Subjects and Subject Positions*

The penultimate guidepost or theme evident in this initial postulation of LatCrit theory is the blending of diversity and specificity in the construction of critical legal discourse. This symposium addresses a relatively specific subject -- the place and prospects of Latinas/os and LatCrit theory in Anglo-American law and society. This specific topic is addressed, however, by a diverse group of scholars representing and advancing varied viewpoints from varied subject positions. This variety represents both intra-Latina/o as well as inter-people of color diversities. A commitment to balancing specificity and diversity in inclusive and constructive ways and as a guard against the indulgence of false essentialisms within or beyond Latina/o populations, therefore stands out as another key guidepost in the inception and conception of LatCrit theory.

H. LatCrit Theory and Critical Race Theory

The guideposts noted above, drawn from the express or implied messages of this inaugural LatCrit symposium, evidence the intellectual and political debt that LatCrit theorizing owes to Critical Race theorists. Indeed, the methodologies, stances and emphases voiced by the symposium authors consistently employ the

pioneering work registered during the past ten years in Critical Race legal discourse: the embrace of subjectivity, particularity, multiplicity and intersectionality; the acceptance of legal scholarship's inevitable implication of power politics; the emphasis on praxis, social justice, reconstruction and transformation; the navigation of sameness and difference to build self-empowered communities; and the recognition of self-critique's continuing importance to intellectual integrity, all reflect key theoretical advances posted by the outsider sensibilities articulated in and through Critical Race scholarship.¹⁸¹ Though these advances do not describe the totality either of Critical Race or LatCrit theory, they do indicate that the two stand in close relationship to one another;

181 Critical Race theorists have produced milestone works on these points. For a (certainly not exhaustive) sampling, see John O. Calmore, *Critical Race Theory, Archie Shepp, and Fire Music: Securing an Authentic Intellectual Life in a Multicultural World*, 65 S. CAL. L. REV. 2129 (1992); Robert S. Chang, *Toward an Asian-American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space*, 81 CAL. L. REV. 1241, 1 ASIAN L.J. 1 (1993); Kimberlé Crenshaw, *Race, Reform and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 102 HARV. L. REV. 1331 (1988); Jerome McCristal Culp, Jr., *Voice, Perspective, Truth, and Justice: Race and the Mountain in the Legal Academy*, 38 LOY. L. REV. 61 (1992); Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PA. L. REV. 561 (1984); Neil Gotanda, *A Critique of "Our Constitution is Color-Blind"*, 44 STAN. L. REV. 1 (1991); Haney López, *Social Construction of Race*, *supra* note 75; Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707 (1993); Charles R. Lawrence, III, *The Word and the River: Pedagogy as Scholarship as Struggle*, 65 SO. CAL. L. REV. 2231 (1992); Matsuda, *supra* note 106; Harris, *supra* note 139; Gerald Torres, *Critical Race Theory: The Decline of the Universalist Ideal and the Hope of Plural Justice – Some Observations and Questions on an Emerging Phenomenon*, 75 MINN. L. REV. 993 (1991); Patricia J. Williams, *Alchemical Notes: Reconstructing Ideals from Deconstructed Rights*, 22 HARV. C.R.-C.L. L. REV. 401 (1998); For further Critical Race readings, see Richard Delgado & Jean Stefancic, *Critical Race Theory: An Annotated Bibliography*, 79 VA. L. REV. 461 (1993). See also CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberlé Crenshaw et al. eds., 1996); CRITICAL RACE THEORY: THE CUTTING EDGE (Richard Delgado ed., 1995).

against this backdrop, it is plain that LatCrit theory emerges not only from the need to center Latina/os identities, interests and communities in critical legal discourse, but from the analytical and conceptual paths imprinted by Critical Race theory. As these guideposts suggest, LatCrit theory is closely related to, and affirmatively should ally itself with, the burgeoning literature of Critical Race theory.

This final observation thereby underscores the close substantive and methodological relationship and the ideal discursive affinity that should be mutually cultivated between and among LatCrit and Critical Race scholars. Thus,

LatCrit theory is supplementary, complementary, to Critical Race theory. LatCrit theory, at its best, should operate as a close cousin -- related to Critical Race theory in real and lasting ways, but not necessarily living under the same roof. Indeed, and ideally, each would be a favorite cousin of the other -- both always mutually present at least in spirit, and both always mutually welcome to be present in the flesh.¹⁸²

The realization of this ideal -- and mutually-reinforcing -- collaboration and interaction, in both discursive and political planes, of course depends on the acts and works that LatCrit and Critical Race scholars produce in the coming months and years; on whether future projects manifest a mutual engagement with sometimes divergent, sometimes convergent social justice agendas; and on whether LatCrit and RaceCrit discourses recognize and explore the overlapping though not identical impulses of ongoing racial and ethnic anti-subordination quests in reciprocal, synergistic and transformative ways. This final observation, serving as the end note of this Foreword, is an expression of that prospect not only as ideal

182 Valdes, *supra* note 1, at 26-27.

and aspiration but as imperative.¹⁸³ This final LatCrit guidepost — acknowledging the relationship of LatCrit to Critical Race theory — therefore emphasizes the substance and roots of the others.

CONCLUSION

The First Annual LatCrit Conference was a milestone event. So is the publication of this symposium, which captures much of the substance of the live event. These two actions mark the launching and naming of a new voice in critical legal scholarship. As the works of this symposium illustrate, this new voice — LatCrit theory — is committed both to the placement specifically of Latinas/os at the center of legal analyses as well as to the nurturing of outsider jurisprudence more generally. To fulfill these dual high aspirations, LatCrit theory must persist in the face of inevitable limitations and shortcomings. Our commitment must be to the vision and to its perpetual evolution and implementation in the quest for equality, dignity, safety and prosperity.

183 See also Francisco Valdes, *Queer Margins, Queer Ethics: A Call to Account for Race and Ethnicity in the Law, Politics and Theory of "Sexual Orientation"*, 48 HASTINGS L.J. (forthcoming 1997) (expressing similar points in the context of Queer legal theory and Critical Race theory).