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Crossover Dreams: The Roots of LatCrit Theory in Chicana/o Studies Activism and Scholarship

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INTRODUCTION

As the century comes to a close, critical Latina/o theory has branched off from Critical Race Theory.¹ This article considers how this burgeoning body of scholarship finds its roots in a long tradition of Chicana/o activism and scholarship, particularly the work of Chicana/o Studies professors. In the critical study of issues of particular significance to the greater Latina/o community, we owe an intellectual debt to the generations of scholarship focusing on Chicana/os in the United States.

This praise might strike some knowledgeable observers as odd. Chicana/o Studies developed with an exclusive focus on the subordination of persons of Mexican ancestry in the United States and still adheres to the view that investigation of the histories of other Latin American

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national origin groups is beyond its scope. In contrast, LatCrit theory from its inception has attempted to focus on the commonalities of persons tracing their ancestry to Latin America. Despite Chicana/o Studies offers important lessons for LatCrit theorists scrutinizing the legal treatment of all Latina/os.

Part I of this article considers the link between Chicana/o Studies activism and Latina/o legal scholarship. Part II analyzes how LatCrit theory finds its intellectual roots in Chicana/o Studies scholarship. In this analysis, we hope to establish the relationship between Chicana/o Studies activism and scholarship, which blossomed as a result of the 1960s Chicano ovement, and LatCrit theory. We also show how the Chicana/o Studies model helps us think about some vexing challenges posed to LatCrit theorists. Finally, we highlight a rich body of Chicana/o Studies scholarship on which future critical Latina/o scholarship may build in critically analyzing how law affects the Latina/o community.

I. GENERATIONS: LATINA/O SCHOLARS, SCHOLARSHIP AND ACTIVISM

This section considers the generations of activism by Chicana/o scholars. In so doing, we go beyond law teachers because of the need to view Chicana/o scholar activists as part of long tradition not limited to legal academics.

A. World War II and Beyond

World War II remains widely recognized as a watershed moment in the history of Mexican-Americans. With changes — good and bad — wrought by war, Mexican-Americans came of age and achieved a new political understanding.

After the war, a group of Mexican-Americans, some of whom had taken advantage of the G.I. Bill, formed a small cadre of scholar/activists. George Sanchez (University of Texas), Ernesto Galarza, Julian

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2. See David G. Gutiérrez, Walls and Mirrors: Mexican Americans, Mexican Immigrants, and the Politics of Ethnicity in the American Southwest 117 (1995). This is not to suggest that Mexican-Americans did not fight for civil rights before World War II; despite poll taxes, literacy tests, and violence designed to limit Mexican-American political power, they fought for equality. See generally Juan Gómez-Quíñones, Roots of Chicano Politics, 1600-1940 (analyzing this history). Nonetheless, World War II, and the surrounding social, political, and economic forces, commenced a resurgence in the insistence on demands for equal rights.


4. See, e.g., George I. Sanchez, Forgotten People: A Study of New Mexicans (1940).

Samora (University of Notre Dame),6 and Quino Martínez (Arizona State University).

In 1951, George Sanchez founded the American Council of Spanish-Speaking People, which filed civil rights lawsuits designed to halt discrimination against Mexican-Americans.7 Sanchez served as of arguably, the most prominent self-help group of his generation, the League of United Latin American Citizens (LULAC).8 LULAC was "middle class, accepted only U.S. citizens for membership, and tended towards assimilation."9 Through a variety of means, Sanchez sought to induce the U.S. government to ensure the full civil rights of Mexican-Americans.10 For example, he took the position that discrimination against Mexican-Americans would hurt U.S. foreign relations with Latin America.11 On the controversial topic of immigration, he argued that Mexican immigrants hurt Mexican-Americans by taking away their jobs and undermining their prospects for assimilating into mainstream society.12 Today, many would criticize his positions, but at the time, these views reflected conventional Mexican-American attitudes about assimilation and immigration.

Like George Sanchez, Ernesto Galarza also dealt with the issue of immigration, but in the specific context of its impact on farmworkers.13 He argued that dominant society created negative stereotypes about undocumented workers that reinforced racism against Mexican-Americans.14 As part of his activism, Galarza established the National Farm Workers Union in the mid-1940s, which served as a precursor to the

8. See GUTIERREZ, supra note 2, at 131.
10. See id. at 125.
11. See GUTIERREZ, supra note 2, at 132. Similar arguments later eventually facilitated successful desegregation efforts by African Americans. See Mary L. Dudziak, Desegregation as a Cold War Imperative, 41 STAN. L. REV. 61 (1988); see also Derrick A. Bell, Jr., Brown v. Board of Education and the Interest-Convergence Dilemma, 93 HARV. L. REV. 518, 524 (1980) ("[T]he [Brown] decision helped to provide immediate credibility to America’s struggle with Communist countries to win the hearts and minds of emerging third world people. At least the argument was made by lawyers for both the NAACP and the federal government. And the point was not lost on the news media.") (footnotes omitted); Mary L. Dudziak, The Little Rock Crisis and Foreign Affairs: Race, Resistance, and the Image of American Democracy, 70 SO. CAL. L. REV. 1641 (1997) (analyzing the relationship between U.S. foreign affairs and civil rights during the Eisenhower administration).
12. See GUTIERREZ, supra note 2, at 144-45.
13. See supra note 5 (citing Galarza’s work in the area).
14. See GUTIERREZ, supra note 2, at 158 (reviewing Galarza’s writings and personal papers).
United Farm Workers Union of César Chávez, and which opposed the immigration of Mexican workers that undercut the wage scale. In addition, Galarza helped establish the Mexican-American Legal Defense and Education Fund (MALDEF), which ultimately became perhaps the most potent weapon for protecting the legal rights of Mexican-Americans (and, ironically enough, in light of Galarza's views on Mexican immigrants, for Mexican immigrants).

Julian Samora pioneered the field of Mexican-American studies by constructing a sociological perspective on Mexican-Americans. Through his scholarship, he sought to influence policy toward Mexican-Americans and improve their condition. As a scholar-activist, Samora helped found the Southwest Council of La Raza, an advocacy group supporting full civil rights for Mexican-Americans.

A specialist in historical linguistics, Quino Martínez actively supported a number of major Mexican-American community projects in Arizona. For example, he supported the Guadalupe Organization, an important activist group that advanced the interests of the Mexican-American community of Guadalupe, Arizona. In addition, Martínez served as a mentor to the Chicana/o student activists at Arizona State University in the 1960s and 1970s.

Scholars of this generation generally believed that Mexican-Americans should assimilate into the mainstream. Viewing undocumented labor as thwarting full integration of Mexican-Americans, they advocated restrictive immigration laws. Though these views are antithetical to today's Chicana/o Studies and LatCrit scholar activists, these pioneers understood that dominant society demanded assimilation as a prerequisite to Mexican-American membership. They also saw, more generally, the relationship between Mexican immigration and the domestic civil rights of the Mexican-American community.

This generation of scholar activists eventually learned that restric-
tive immigration laws and policies failed to help, and indeed adversely
affected, the Mexican-American community.\textsuperscript{21} For example, the U.S.
government in 1954 embarked on “Operation Wetback” and deported
many long-time U.S. residents, breaking up Mexican-American families,
and resulting in U.S. citizens of Mexican ancestry leaving the country.\textsuperscript{22}
“The Mexican American community was affected because the campaign
was aimed at only one racial group, which meant that the burden of
proving one’s citizenship fell totally upon people of Mexican descent. Those unable to present such proof were arrested and returned to Mex-
ico.”\textsuperscript{23} This experience caused Mexican-American scholar activists to
reconsider their positions on immigration and assimilation.\textsuperscript{24}

B. The Chicano Movement of the 1960s

Providing powerful leadership, the post-World War II generation of
scholar activists made important contributions to the advancement of
Mexican-American civil rights. They set the stage for Chicano activists
of the 1960s and 1970s. Building on previous generations of Mexican-
American activism and inspired by the civil rights and anti-war move-
ments, the farm worker movement in the west, and the efforts by Mexi-
can-Americans to recover land in New Mexico, activism grew in the
1960s among politicized Mexican-American communities throughout
the United States.\textsuperscript{25} Chicana/o youths voiced concerns with racial dis-
crimination, poor education, and the lack of equal opportunity. The Chi-
cana/o student movement saw Mexican-Americans dramatically walk
out of schools throughout the southwest. Activists constructed a new
“Chicano” self-identity, which represented an effort to redefine them-
selves by their own standards. As LatCrit theorists would later put it,
they sought to “name [their] own reality.”\textsuperscript{26} Political leader Corky Gon-
zales’s epic poem “I Am Joaquin” became the anthem for the Chicana/o

\begin{itemize}
\item \textsuperscript{21} See Gutierrez, supra note 2, at 163. LatCrit scholars have analyzed how immigration
law and policy disparately impacts the Mexican-American community. See, e.g., Kevin R.
Johnson, Public Benefits and Immigration: The Intersection of Immigration Status, Ethnicity,
Gender, and Class, 42 UCLA L. Rev. 1509 (1995); Elvia R. Arriola, LatCrit Theory,
International Human Rights, Popular Culture, and the Faces of Despair in INS Raids, 28 U.
\item \textsuperscript{22} See generally Juan Ramon Garcia, Operation Wetback: The Mass Deportation of
\item \textsuperscript{23} Id. at 230-31.
\item \textsuperscript{24} See Gutierrez, supra note 2, at 164-68. For a general historical analysis of the Chicana/
o movement see Carlos Muñoz, Jr., Youth, Identity, Power: The Chicano Movement
(1989).
\item \textsuperscript{25} See generally Rosales, supra note 9.
\item \textsuperscript{26} See Richard Delgado & Jean Stefancic, The Latino/a Condition: A Critical
\end{itemize}
movement and the effort to create a new identity. The expression "Chicano," the core to the new self-identity, symbolized pride in Mexican ancestry and traditions. "Long used as a slang or pejorative in-group reference to lower-class persons of Mexican descent, in the 1960s the term Chicano was adopted by young Mexican-Americans as an act of defiance and self-assertion and as an attempt to redefine themselves by criteria of their own choosing."28

Chicana/o Studies also promoted the idea of “Chicanismo,” which was then used by activists in establishing Mexican-American solidarity.29 The Chicano movement gave dignity to a positive self-identity, and helped redefine Mexican-American heritage as something to be proud, not ashamed of, as past generations had been.30

With the goal of Chicana/o pride, activists drew up a “Spiritual Plan of Aztlan”: a separatist vision of a Chicana/o homeland.31 In setting out this plan, they rejected assimilation into the mainstream on the ground that it reinforced subordination.32

Activism was closely linked to Chicana/o Studies scholarship. Indeed, “[t]he most visible vestige of the [Chicano movement] is to be found in academia in the many university Chicano studies programs and departments that exist throughout the Southwest.”33 Through Chicana/o Studies courses, many Mexican-Americans became aware of the significance of the Treaty of Guadalupe Hidalgo to the subordinate status of Mexican-Americans.34 Fernando Gomez explored how the Treaty of Guadalupe Hidalgo could be used to advance the civil rights of present-day Mexican-Americans.35 Showing the link between scholarship and

27. See Muñoz, supra note 24, at 61-62; Rosales, supra note 9, at 180.
28. See Gutierrez, supra note 2, at 184.
30. See Rosales, supra note 9, at 252-53.
31. See Rosales, supra note 9, at 183-84; see also Muñoz, supra note 24, at 75-78 (1989) (discussing 1969 conference in Denver at which the plan was developed).
32. See Gutierrez, supra note 2, at 185.
33. Rosales, supra note 9, at 253; see Muñoz, supra note 24, at 127-69 (analyzing demands by activists for Chicana/o Studies departments on campuses and the evolution of the field over time).
35. See Griswold del Castillo, supra note 34, at 145.
activism, Reies López Tijerina relied heavily on the Treaty in his fight to reclaim land for persons of Mexican ancestry in New Mexico.36

The important work of other Chicana/o Studies scholars had activist ends. A renowned activist, Rodolfo Acuña developed new theoretical approaches for understanding the situation of Chicana/os and specifically argued that Chicana/os had been colonized by the United States in a way that parallels the colonization of third world countries.37 In analyzing the intersection of race and class in Chicana/o subordination in the Southwest, Mario Barrera allowed Chicana/os to better understand the complexity of immigration law and the Mexican-American community.38 He also offered a new political theory of Chicana/os in the United States.39

Chicanas also have been instrumental in creating a body of Chicana Studies scholarship. For example, Roxanne Dunbar Ortiz studied the history of Chicana/o resistance to loss of land in New Mexico.40 In revisiting Chicana/o history, Vicki Ruiz documented the important activist role that Chicanas played and how they defied the stereotype that women of Mexican ancestry are passive.41 Mary Romero studied the lives of Mexican-American women in the domestic service industry in the Southwest.42 Most recently, Carla Trujillo has edited a book of scholarship on Chicana theory.43

Besides political activism, the Chicana/o movement resulted in efforts to bring change through traditional means. The creation of the Mexican-American Legal Defense and Educational Fund (MALDEF) and the Southwest Voter Registration and Educational Project (SWVREP), are important examples.44 SWVREP helped register new Mexican-American voters and facilitate political action. MALDEF has vindicated the rights of persons of Mexican ancestry in the legal process

36. See Rosales, supra note 9, at 154.
37. See generally Acuña, supra note 3. Until Acuña's pathbreaking first edition of his book in 1972, the standard in the field was Carey McWilliams, North from Mexico: The Spanish-Speaking People in the United States (1948). An activist in his own rite, McWilliams was involved in the successful overturning of the conviction in the infamous Sleepy Lagoon case in which Chicano youths were wrongly accused of murder. See Gutiérrez, supra note 2, at 128.
38. See Mario Barrera, Race and Class in the Southwest (1979).
44. See Rosales, supra note 9, at 264.
in cases such as *White v. Regester*, a voting rights action, and *Plyler v. Doe*, which protected the right of undocumented Mexican children to a public education. MALDEF also helped strike down California’s Proposition 187, which stripped public benefits from undocumented immigrants.

In sum, Chicano movement leaders combined activism with scholarship in fighting for land rights, educational reform, language rights, and equality. As Chicana/o Studies began to define itself, it produced new scholar activists. Chicana/o Studies began to serve as the place where people could learn their history and become “active” within the community.

C. *Latina/o Legal Scholars, Scholarship and Activism*

Against this background of the Chicano movement, we encounter the Chicana/o law professors of the 1970s and early 1980s. As with the formation of Chicana/o Studies, student activists demanded for law schools to hire Latina/o law professors. Among these first Chicana/o law professors are scholar activists, including but not limited to Leo Romero, Cruz Reynoso, and Richard Delgado. For example, an early article by Delgado and Vicky Palacios argued that Mexican-Americans should be recognized as a “class” for purposes of bringing civil rights actions. (Such “class” actions are most effective in bringing about structural reform.) An article by Romero, Delgado and Reynoso identified problems that Chicana/o students face in studying law, especially the cultural conflict faced by them in law school. As scholar activists, they made concrete suggestions to make legal education more

49. Leo Romero began his law teaching career in 1970. He has taught for many years at the University of New Mexico School of Law, including six years as its dean.
50. Cruz Reynoso entered the legal academy in 1972 and later served for five years as a Justice on the Supreme Court of California. He now teaches at the UCLA School of Law and is a member of the U.S. Commission on Civil Rights.
51. Richard Delgado began teaching law in 1974. A founder of the Critical Race Theory movement, Delgado is currently teaching at the University of Colorado School of Law. Among his many books and articles, he is co-editor with Jean Stefancic of *The Latina/o Condition*, supra note 26, an anthology of readings on LatCrit Theory.
hospitable for Chicana/s, including recommendations that law professors should analyze the racial interests at stake in legal rules to make law relevant to Chicana/s.

Another person who fits within this long history of Mexican-American scholar activists is Michael Olivas (roughly of this generation), considered to be the "Dean" of Latina/o law professors, who began teaching law in 1982. He pushed law schools to hire Latina/s and helped them gain tenure and promotion. When Olivas began teaching there were only 22 Latina/o law professors, and, due in no small part to his efforts, there were 125 in the spring of 1998. The first Latinas, including Rachel Moran and Berta Hernández, two prominent LatCrit scholars, joined the academy in the 1980s. To pressure law schools to increase the number of Latina/o law professors, Olivas, with the backing of the Hispanic National Bar Association, established the so-called "Dirty Dozen" list, i.e., a select list of law schools in areas with a significant Latina/o population but with no Latina/o faculty. The well-publicized list placed pressure on law faculties to hire Latinos/as; some schools did. Olivas also conducted workshops for lawyers interested in law teaching at the annual Hispanic National Bar Association convention. Besides his activism in academia, Olivas helped establish a law student clinic to help Central American immigrant children detained by the Immigration and Naturalization Service in South Texas.


D. The Latina/o As Scholar Activist Continues with LatCrit Theory.

Activism generated Chicana/o studies. Activism created LatCrit Theory. Due to the hard work of activists, a critical mass of Latina/o legal scholars has been established. Critical Latina/o theory is the result. LatCrit has emphasized the need for connection between theory and practice. This focus fits comfortably within a well-established tradition of Chicana/o scholar activists. For example, contending that “all legal scholarship is necessarily and fundamentally political,” Frank Valdes has argued that LatCrit theorists must view themselves as activists.

More importantly, LatCrit theory has generated powerful perspectives and analysis important for activists. For example, LatCrit theorists recognize that perhaps the key area for activists to focus on is cultural preservation and retention of language rights. There is a long history in this country of attempted forced assimilation, such as the infamous “Americanization” programs in the 1920s designed to teach Mexican-Americans the values of Anglo Saxon society. Interestingly, these efforts do not stop at our border. Thus, the North American Free Trade Agreement (“NAFTA”) may be viewed as a way to “Americanize Mexico.” The philosophical ideal of authenticity requires Latina/os to be true to that history. For this reason, Chicanas/os suffer severely in attempting to assimilate. Traumatic attempts to lose Spanish language skills and accents, for example, have injured Mexican-Americans.

59. See Valdes, supra note 1, at 53.
61. See Martínez, supra note 20.
63. See Martínez, supra note 20.
64. See Johnson, supra note 20, at 1281-86 (analyzing limits imposed by society on Mexican Americans seeking to assimilate).
Activists must resist the English-only movement that represents an effort to use the law to force abandonment of the Spanish language. Similarly, activists must resist those who contend that the immigration should be restricted because Latina/os fail to assimilate.66

Similarly, society often treats Latina/os as foreigners,67 which contributes to the perception that they are racially and culturally different. Activists must combat this perception. Beyond this, LatCrit theorists have called us to recognize the importance of coalitions with other subordinated groups.68 For example, Rachel Moran and Bill Piatt have urged African Americans and Latina/os to work together in order to preserve remedial programs like affirmative action.69

Careful study of school desegregation efforts by LatCrit scholars also have benefited activists.70 Activists should promote a multicultural approach in areas like education and immigration. If, as Nathan Glazer has proclaimed, “we are all multiculturalists now,”71 it is time to work to realize that ideal.

LatCrit theorists also have noted that legal self-definition is important. For example, the Mexican-American’s legal definition as “white,” while superficially appealing, may actually serve to allow for continued oppression of Mexican-Americans and create barriers to coalitions with other non-Whites.72 As Chicanismo recognized, activists understand the importance of group self-definition and challenge how white definitions of Chicanismo may reinforce subordination.

In pursuing social change, we must not forget that, as LatCrit theorists have emphasized, there are limits to the utility of litigation. Courts often exercise their discretion against Mexican-Americans.73 Legal success often does not translate into meaningful change. This suggests that

68. See Kevin R. Johnson, Civil Rights and Immigration: Challenges for the Latino Community in the Twenty-First Century, 8 LA RAZA L.J. 42, 66-67 (1995); Valdes, supra note 1, at 53-54.
71. See NATHAN GLAZER, WE ARE ALL MULTICULTURALISTS NOW (1997).
activists need to supplement litigation efforts with political movements. A well-known success story in Chicana/o Studies circles illustrates this point. In successfully resisting an effort to segregate the public schools in Lemon Grove, California in the 1930s, Mexican-Americans combined political action with litigation. More recently, the "Mothers of East Los Angeles," a group composed of Mexican American women, successfully organized to fight the placement of toxic waste sites through grassroots activism combined with litigation. Chicana/o Studies and LatCrit activism is inextricably linked to scholarship. The next section analyzes this relationship.

II. Chicana/o Studies and the Emergence of Critical Latina/o Legal Scholarship

Critical Latina/o theory, the subject of five symposia in the last couple of years, represents the first sustained critical consideration of legal issues of particular significance to the Latina/o community. The development of LatCrit scholarship is attributable in no small part to the new generation of Latina/o legal scholars. This new generation has focused on issues of particular concern to the Latina/o community, and has contributed a growing body of scholarship on Latina/o legal issues. The group added to the relatively small body of scholarship that previously existed on issues such as the impact of the immigration laws on the Latina/o community, national origin discrimination against persons of Latin American ancestry, and language discrimination. This new scholarship has been long in coming. For example, not until the 1970s did Latina/o scholars analyze the fundamental question whether Mexican-Americans might be able to bring class action, an important tool in civil rights litigation.

Much of this new Latina/o scholarship is "critical." How could you be Latina/o in the United States and look at the status quo on certain legal issues important to the Latina/o community and not be critical?

74. See Johnson, supra note 68, at 55-56.
75. See id. at 48-49 (summarizing events); Robert R. Alvarez, Jr., The Lemon Grove Incident: The Nation's First Successful Desegregation Case, 32 J. SAN DIEGO HIST. 116 (1986); see also Westminster School Dist. v. Mendez, 161 F.2d 774 (9th Cir. 1947) (holding that public school system had unlawfully segregated Mexican American students).
77. See supra note 1 (citing symposia).
78. See Delgado & Palacios, supra note 52. Indeed, not until the 1950s was it clear that the Equal Protection Clause applied to persons of Mexican ancestry, see Hernandez v. Texas, 347 U.S. 475 (1954); see also Ian F. Haney López, Race and Erasure: The Salience of Race to LatCrit Theory, 85 CAL. L. REV. 1153 (1997), 10 LA RAZA L. J. 57 (1998) (analyzing significance of Hernandez).
Even some deeply conservative Mexican-Americans, for the most part disowned by Chicana/o activists, are critical of how this society treats Mexican-Americans. Linda Chavez has expressed concern with the anti-Mexican undercurrent to the immigration debate in the 1990s.79 Richard Rodriguez and Ruben Navarette are critical of how Mexican-Americans have been treated in the United States.80

Latina/o legal scholarship has responded to the perceived need to study specific issues of particular relevance to Latina/os that have not been squarely addressed in the civil rights scholarship, including Critical Race Theory. To address these issues, LatCrit theorists must grapple with some difficult questions. In doing so, we should look to the teachings of our Chicana/o Studies predecessors.

A. The Need for a Distinctive Chicana/o Legal Scholarship

LatCrit scholars have begun to address internal issues, namely the deep diversity within the pan-Latino community.81 Far from homogeneous, Latina/os are a “community of different communities.”82 There are differences among many Latina/os in terms of national origin, ancestry, language, skills, immigration status, class, skin color and physical appearance, “race” (as that term is traditionally used), and other characteristics. At the same time, there are many commonalities to the Latina/o experience in this country, including discrimination, perpetual treatment as foreigners, and devaluation of culture and language. Latina/os thus face the difficult task of focusing on commonality while recognizing difference.83

Though important to emphasize commonality to build community, each national origin sub-group of the Latina/o community must be afforded the space to critically study its specific history in the United States. For example, Mexican-Americans in the Southwest have a distinctly different experience in this country than other Latina/o groups, such as Cubans and Puerto Ricans.84 This history has been explored in

79. See Linda Chavez, Immigration Not About Race, USA TODAY, May 31, 1995, at 13A (objecting to restrictionist claims that immigrants of color are somehow transforming United States).
80. See RUBEN NAVARRETTE, JR., A DARKER SHADE OF CRIMSON (1993); RICHARD RODRIGUEZ, HUNGER OF MEMORY (1982).
81. See Johnson, supra note 67, at 129-38.
82. See id. at 129.
83. See Valdes, supra note 1, at 54.
84. Indeed, the Mexican-American communities in Texas, New Mexico, Arizona, and California developed differently based on historical, economic, and political circumstances peculiar to each state. See Iris H.W. Engstrand, The Impact of the U.S.-Mexican War on the Spanish Southwest, in CULTURE Y CULTURA: CONSEQUENCES OF THE U.S.-MEXICAN WAR, 1846-1848 at 18-24 (1998). The different experiences between Cuban American and other Latina/os are
the Chicana/o Studies scholarship, which has focused on the Chicana/o experience in the United States as opposed to the experiences of other sub-groups of the greater Latina/o community. Nor are the experiences of all persons of Mexican ancestry in the United States identical. Mexican-Americans and Mexican immigrants live different lives. Tension, as suggested by some early Chicana/o scholars’ views on immigration, exists between these groups.

The different experiences necessarily affect scholarly inquiry. Mexican-Americans must be permitted to explore their own histories and analyze how the law has operated to reinforce their subordination. Some LatCrit theorists have embarked on the study of the Mexican-American experience. Mexican-Americans indeed may have a distinctive “voice” in analyzing issues concerning the Mexican-American experience in the United States.

Some of the differences of perspective were brought out at a conference in 1998 marking the 150th anniversary of the Treaty of Guadalupe Hidalgo, which ended the United States-Mexican War in 1848. Divisions of opinion between leading Chicana/o Scholars in the United States and scholars from Mexico, including the prominent Mexican intellectual Jorge Castañeda, became evident. Chicana/o scholars, including Rudy Acuña, pointedly accused the Mexican intellectuals of not being even remotely concerned with the status of Chicanos in the United States. The Chicana/o Studies experience suggests that LatCrit Theory should encourage — or, at a minimum, should not discourage — distinctive scholarly inquiry into the histories and realities of subordination of Chicanos. This study should not be considered as a threat to Latina/o unity but should be viewed as essential to a full understanding of racial subordination in the United States. One interesting aspect of implicit in Castro, supra note 60, which analyzes the potential for integrating Cubans into a larger Latina/o community in light of the specific historical experience of Cuban Americans.

85. See supra text accompanying notes 12, 13, 15, and 16.
86. See GUTIERREZ, supra note 2 (analyzing tensions among Mexican-Americans on issue of immigration). Some of the differences and tensions are explored in Kevin R. Johnson, Immigration and Latino Identity, 19 UCLA CHICANO-LATINO L. REV. 197 (Spring 1998).
87. See, e.g., Arriola, supra note 21 (studying impact of immigration enforcement on Mexican-American community); Martínez, supra note 73 (analyzing Mexican-American litigation experience); Haney López, supra note 78 (analyzing racialization of Mexican-Americans in Texas); Margaret E. Montoya, Mascaras, Trenzas, y Greñas: Un/Masking the Self While Un/Braiding Latina Stories and legal Discourse, 17 HARV. WOMEN’S L.J. 185, 15 UCLA CHICANO-LATINO L. REV. 1 (1994) (analyzing how Chicanas adopt “masks” that are acceptable to dominant culture).
88. Cf. Alex M. Johnson, Jr., The New Voice of Color, 100 YALE L.J. 2007 (1991) (contending that minority professors have distinctive “voice” to add to legal scholarship).
89. For a collection of the papers presented at the conference, see Symposium, Understanding the Treaty of Guadalupe Hidalgo on its 150th Anniversary, 5 SW. J.L. & TRADE IN THE AMERICAS 1 (Spring 1998).
this development is that Chicana/o Studies has been consciously nationalist in outlook. It has focused exclusively on the Chicana/o experience, not that of other Latina/o groups. Premised on inclusiveness, LatCrit theory, however, generally has considered issues common to the greater Latina/o community. The focus of Chicana/o Studies has produced fruitful scholarship, but may be limited in its ability to assist in the building of political coalitions among all Latina/os. LatCrit theory strives to build pan-Latina/o community. Ultimately, Chicana/o Studies and LatCrit theory may move in opposite directions — with Chicana/o Studies becoming more inclusive and LatCrit theory allowing for focused inquiry when appropriate.

B. LatCrit Theory and Other Civil Rights Scholarship

One controversial question is how does Latina/o legal scholarship fit into other civil rights scholarship. Some have viewed LatCrit theory as a challenge to the traditional black-white binary view of civil rights in the United States. This does not mean that various minority groups must engage in a race for the bottom to show that they suffered the most discrimination or that coalition-building is not possible. As Professor Angela Harris has outlined the argument, the African American experience in the United States, marked by the brutality of forced migration and chattel slavery, may well be exceptional to that of other groups. Assuming this to be true, there remains room to analyze the Latina/o experience with discrimination in the United States. Indeed, the oppression of all racial groups — Asian Americans, Native Americans, and Latina/os, as well as African Americans — deserve study. The various groups have been oppressed in different, though often similar ways. These historical experiences all deserve serious scholarly attention.

90. There are some nascent suggestions that this might occur with the advent of Latina/o Studies. For example, a recent book, The Latino Studies Reader: Culture, Economy, and Society (Antonia Darder & Rodolfo D. Torres eds., 1998), includes readings on various Latin American national origin sub-groups).

91. See, e.g., Richard Delgado, Rodrigo's Fifteenth Chronicle: Racial Mixture, Latino-Critical Scholarship, and the Black-White Binary, 75 Tex. L. Rev. 1181 (1997). This challenge is not limited to LatCrit scholars but has been asserted by academics in disciplines other than law. See, e.g., Mary Romero, Introduction, in Challenging Fronteras: Structuring Latina and Latino Lives in the U.S. at xiv (Mary Romero, Pierette Hondagneu-Sotelo, & Vilma Ortiz eds., 1997) (“Clearly, we cannot rely on the dominant culture’s notions of ‘whiteness’ or ‘blackness’ to assess racial identity among Latinos in the U.S. The binary thinking of race relations in this country is so ingrained in the dominant culture that it continues to shape what we see.”).


93. Showing the need for a multiracial approach to race scholarship, Michael Olivas analyzed one of Derrick Bell’s famous fictional parables, “The Chronicle of the Space Traders,” which
This approach to the study of racial subordination is not a novel idea on university campuses (though they have been subject to attack at various times). It was an implicit if not explicit understanding in the 1960s and 1970s as African American Studies, Asian American Studies, Chicana/o Studies, Native American Studies, and Ethnic Studies scholarship blossomed and flourished. Each of these fields studied issues of special concern to particular minority communities. Each has made, and continues to make, valuable contributions to the understanding of racial subordination in the United States. We have outlined some of the important contributions of Chicana/o Studies scholars. Scholars like Michael Omi and Ron Takaki have offered important insights from an Asian American perspective. Kwami Anthony Appiah, Henry Louis Gates, and Cornel West have explored the place of African Americans in the modern United States. Native American Studies scholars also have added to the race discourse. Moreover, scholars in these disciplines generally have engaged in respectful dialogue about the intricacies of racial subordination. Realizing the need for separate investigation of the experiences of different racial groups, these scholars recognized commonality while respecting difference.

A multifaceted approach is warranted by the need to look at the whole of racial discrimination and subordination. The various forms of racial subordination in the United States are related. As philosophers put it, the “web of belief” requires a study of all these groups. Consequently, LatCrit theory should not be seen as a challenge to Critical Race Theory (“CRT”) but viewed as building on its achievements while suggested that whites might surrender all African Americans to “space traders” for world peace, and concluded that comparable actions had been taken in this nation’s history by the U.S. government against Asians, Mexican-Americans, and Native Americans. See Olivas, Slave Traders Chronicle, supra note 54.

94. See Frank Bruni, California Regent’s New Focus: Ethnic Studies, N.Y. TIMES, June 18, 1998, at A20 (reporting that Ward Connerly, the Regent of the University of California who led the effort to end affirmative action in the UC system, questioned the soundness of ethnic studies programs).


moving in an independent direction to shed additional light on the racial subordination of Latina/os.

The study of language rights, immigration, and citizenship issues — all central to the Latina/o experience in the United States — had not been focused upon by CRT. Consequently, the unexplored questions deserved the scrutiny offered by LatCrit theorists. Indeed, Latina/o subordination, and racial oppression generally, cannot be fully understood without consideration of these important issues.

Such an analysis becomes apparent when one considers how interethnic conflict allows for minority groups to be pitted against one another, which can be seen in the African American, Korean American, and Latina/o conflict in South Central Los Angeles.100 Similar episodes occurred last century when African Americans interests were pitted against those of Chinese immigrants.101 Similarly, race relations in Texas cannot be fully understood unless we consider the history of subordination of African Americans, Mexican-Americans, and poor whites in the state.102 Today, we see various minority groups at odds on the issue of affirmative action.103 Only through analyzing the historical experiences of each minority can we fully understand the whole of racial subordination.

C. The Need to Look to Chicana/o Studies Scholarship

In analyzing issues of particular importance to the Latina/o community, we should learn from the rich body of Chicana/o Studies scholarship. It is presumptuous of legal scholars to believe that we are the first to consider the issues of particular importance to Latina/os. The well-developed body of Chicana/o scholarship is the first generation of scholarship in the area. Critical Race Theorists emphasize the need for inter-


103. See, e.g., Yamamoto, supra note 58 (analyzing conflict between various minority groups in public school educations that implicated affirmative action); see also GABRIEL CHIN, SUMI CHO, JERRY KANG, & FRANK WU, BEYOND SELF-INTEREST: ASIAN PACIFIC AMERICANS TOWARD A COMMUNITY OF JUSTICE (1997) (offering arguments by four Asian American law professors in support of affirmative action).
disciplinary discourse. Accordingly, it behooves us to consider the foundational scholarship analyzing issues of importance to the Chicana/o community. While the first generation of scholars included people like Julian Samora, Ernesto Galarza, and George Sanchez, the next generation included scholar activists like Rodolfo Acuña, author of the classic Occupied America, and Mario Barrera. The latest generation includes too many prominent Chicana/o scholars to name. None of this is meant to suggest that we should limit our scrutiny to Chicana/o studies scholarship. A body of Chicana/o history, sociology, and other social science warrants our consideration.

To offer a concrete example of the wealth of literature for exploration by Chicana/o legal scholars, we include as an appendix to this article a bibliography of Chicana/o history compiled by Dennis Valdéz, a Chicano Studies Professor at the University of Minnesota. This bibliography offers a sample of the rich body of literature available to those interested in serious study of Chicana/os in the United States. Put simply, Latina/o legal scholars should learn from and build upon this rich body of scholarship. In analyzing these difficult issues of race and class in the United States, we should build on the generations of thought, rather than ignore them. Moreover, with legal training, law professors have what economists might call a “comparative advantage” in analyzing legal history. Legal skills prove invaluable in analyzing the history and development of law and how it has been used to subordinate Latina/os. Historian Richard Griswold Del Castillo wrote a fine book analyzing the court decisions dealing with the enforcement (or lack thereof) of the Treaty of Guadalupe Hidalgo. Law professors have much to add to his study. The dispossession of Chicanos from the land was done through a variety of legal (and illegal) mechanisms. Though some of this work has been done, much remains. Similarly, important work has been done in recent years analyzing desegregation efforts in the public schools involving Mexican-Americans. The intricacies of school

105. See supra text accompanying notes 4, 5, and 6.
106. See ACUÑA, supra note 3.
107. See BARRERA, supra notes 38, 39.
109. See GRISWOLD DEL CASTILLO, supra note 34.
110. See supra note 34 (citing articles).
111. See Martínez, supra note 73, at 574-604 (analyzing school desegregation litigation brought by Mexican-Americans); Rachel F. Moran, Getting a Foot in Door: The Hispanic Push for Equal Educational Opportunity in Denver, 2 KAN. J.L. & PUB. POL’Y 35 (1992) (analyzing interests of Mexican-Americans in school desegregation litigation in Denver).
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desegregation litigation gain much from a lawyer’s eye.

Immigration is another area in which legal skills allow for critical analysis. The U.S. immigration laws are incredibly complex, with many discriminatory impacts obscured by technical detail. In addition, enforcement of the laws often is discriminatory, even if the letter of the law is not. This suggests that work with others trained in other academic fields might help, as they have, in analyzing how the law on the books differs from the law in practice.\textsuperscript{112}

While Latina/o law professors may apply legal training to the analysis of Chicana/o history, we must take care not to overlook broader political and social meanings of the events that Chicana/o Studies activists have identified. For example, while adding to the insights of Chicana/o historians about the Treaty of Guadalupe Hidalgo ("the Treaty"),\textsuperscript{113} law professors should not be oblivious to the larger politically important aspects of the Treaty.\textsuperscript{114} The hope symbolized by the Treaty mobilized a generation of Chicana/os to move for social change. It allowed activists like Reies López Tijerina to rally New Mexicans to organize a potent political force. The Treaty has been a centerpiece of Chicana/o Studies on university campuses across the nation, one of the semi-permanent sites of focus on issues of importance to Chicana/os. It would be short-sighted for formalistic lawyers to focus on technicalities of the law and miss the broader political-social impacts of the Treaty of Guadalupe Hidalgo.\textsuperscript{115}

CONCLUSION

This article has outlined the relationship between the tradition of Chicana/o Studies activism and scholarship and the LatCrit movement. The roots of LatCrit theory can be found in Chicana/o Studies activism and scholarship. This article hopefully will encourage Latina/o legal scholars to consider this rich body of literature. The existence of Chicana/o scholarship provides valuable lessons for LatCrit theorists. Space exists for analysis of the experiences of various national origin groups

\textsuperscript{112} See, e.g., Kitty Calavita, Inside the State (1992) (analyzing how U.S. immigration bureaucracy transformed law to suit its own agenda in Bracero Program).

\textsuperscript{113} See Christopher David Ruiz Cameron, One Hundred Fifty Years of Solitude: A Law Professor Critiques the Dominance of Historical Scholarship on the Treaty of Guadalupe Hidalgo, 5 Sw. J.L. & TRADE IN THE AMERICAS (forthcoming 1998) (contending that historical studies of Treaty often oversimplified complex role of law in stripping away rights of persons of Mexican ancestry).

\textsuperscript{114} See generally Richard Griswold del Castillo, The U.S.-Mexican War: Contemporary Implications for Mexican Civil and International Rights, in CULTURE Y CULTURA, supra note 85, at 76 (analyzing efforts to protect Mexican American civil rights through Treaty).

\textsuperscript{115} See generally Richard Delgado & Jean Stefancic, FAILED REVOLUTIONS (1994) (analyzing limits of legal imagination in achieving social change).
that comprise the umbrella Latina/o community. In addition, the ability of Chicana/o Studies to co-exist with other allied disciplines analyzing issues of race, including African American Studies, Asian American Studies, Ethnic Studies and Native American Studies, suggests that it is not inconsistent for different groups with similar goals to explore the specific intricacies of their histories. Only through the study of the history of each minority group will we be able to understand the whole of racial subordination in the United States.

A similar analysis applies to LatCrit theory. Critical Race Theory and LatCrit theory can work together to study the intricacies of racial oppression. Moreover, in analyzing the place of Latina/os in the United States, we must understand that not all Latina/os are created equal. Different Latina/o national origin groups have had different experiences. To fully understand the whole, we must look at the various parts. Consequently, the Mexican, Cuban, Puerto Rican, and other experiences must be dissected and analyzed individually. Only then will we have a fuller understanding of Latina/o subordination in this country.
Appendix

A Bibliography of Chicana/o History Compiled by Professor Dennis Valdés, Chicano Studies University of Minnesota


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