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### LatCrit at Five: Institutionalizing a Postsubordination Future

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## AFTERWORD TO LATCRIT V SYMPOSIUM

### LATCRIT AT FIVE: INSTITUTIONALIZING A POST-SUBORDINATION FUTURE

ELIZABETH M. IGLESIAS\* AND FRANCISCO VALDES\*\*

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\* Professor of Law and Co-Director, University of Miami Center for Hispanic and Caribbean Legal Studies. Thanks to Dean Nell Newton for her generous support of the LatCrit V Conference, Professors Roberto Corrada and Nancy Ehrenreich for their many efforts as onsite coordinators, the student editors of the University of Denver Law Review for their perseverance in completing this volume of LatCrit scholarship, and to the broad and diverse community of LatCrit scholars, colleagues and activists whose intellectual work and collective solidarity are the building blocks of a post-subordination future. Special thanks to my friend, colleague and LatCrit co-chair, Frank Valdes. All errors I share with Frank.

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## INTRODUCTION

With this symposium, marking the Fifth Annual LatCrit Conference held in Denver during May 2000, the "LatCrit" community has cause both to celebrate and to reflect.<sup>1</sup> By all accounts, LatCrit V marked another watershed moment in the evolution of LatCrit, both as an organization and as a community of scholars committed to the production of an anti-essentialist, anti-subordination discourse and praxis in and beyond the legal academy of the United States. Through the financial support of the Deans at four North American law schools,<sup>2</sup> this year's conference—"LatCrit V"—brought together a diverse group of scholars, activists, practicing attorneys, educators and social scientists to focus on a wide range of issues, and to articulate the diversities of perspective and position that cumulatively project, give meaning and substance to, and foster a critical edge in, the multidimensional aspirations of LatCrits' many and varied social justice agendas.<sup>3</sup>

Substantively, the LatCrit V program made major inroads along several trajectories. First, by centering issues of class and economic inequality in the production of LatCrit theory and discourse, LatCrit V took the long-foreshadowed step of challenging the dichotomization of class and identity in popular discourse and mainstream legal theory.<sup>4</sup> This di-

1. See *infra* notes 24-29 and accompanying text on the emergence of a "LatCrit" subject position; see also Elizabeth Iglesias & Francisco Valdes, Afterword—*Religion, Gender, Sexuality, Race and Class in Coalitional Theory: A Critical and Self-Critical Analysis of LatCrit Social Justice Agendas*, 19 UCLA CHICANO-LATINO L. REV. 503, 568-71 (1998) (discussing the choice of "LatCrit" as partly a political decision to identify as much as possible with people of color, indigenous people, and other traditionally subordinated groups in the construction of this new discourse and praxis) [hereinafter Iglesias & Valdes, Afterword—*Coalitional Theory*]. For other accounts, see Berta Esperanza Hernandez-Truyol, *Indivisible Identities: Culture Clashes, Confused Constructs and Reality Checks*, 2 HARV. LATINO L. REV. 199, 200-05; Kevin R. Johnson & George A. Martinez, *Crossover Dreams: The Roots of LatCrit Theory in Chicana/o Studies, Activism and Scholarship*, 53 U. MIAMI L. REV. 1143 (1998). Cf. Margaret E. Montoya, *LatCrit Theory: Mapping Its Intellectual and Political Foundations and Future Self-Critical Directions*, 53 U. MIAMI L. REV. 1119 (1998).

2. LatCrit V received generous support of varied amounts from the University of Denver College of Law, the Center for Hispanic and Caribbean Legal Studies at the University of Miami School of Law, the University of Colorado, and Arizona State University.

3. LATCRIT V'S CONFERENCE SCHEDULE AND CONFERENCE PROGRAM OUTLINE can be found at CONFERENCE MATERIALS AND ARTICLES <<http://www.latcrit.org>> (also on file with authors).

4. This interrogation of class has been foreshadowed in the works of numerous LatCrit scholars at previous LatCrit Conferences. See, e.g., Iglesias & Valdes, Afterword—*Coalitional Theory*, *supra* note 1, at 574-82 (noting the significance of class structures in Latina/o subordination and arguing that LatCrit anti-poverty agendas must take into account the particularities of class-based subordination that affect different Latina/o communities in different ways); Christopher David Ruiz Cameron, *The Labyrinth of Solidarity: Why the Future of the American Labor Movement Depends on Latino Workers*, 53 U. MIAMI L. REV. 1089 (1999); Roberto L. Corrada, *A Personal Re/View of Latino/a Identity, Gender and Class Issues in the Context of the Labor Dispute Between Sprint and La Connexion Familiar*, 53 U. MIAMI L. REV. 1065 (1999) (centering class issues and identities in searching exploration of the ethical conundrums confronting Latina/os professionals);

chotomization casts class and identity-based approaches to social justice transformation as a struggle between those who minimize the significance of race, ethnicity, gender, sexual orientation and national origin in order to prioritize the significance of class and those who, on the other hand, minimize the impact of class stratification in order to prioritize identity-based subordination.<sup>5</sup> However, casting the struggle for social transformation in this “either-or” framework too often has derailed the struggle for substantive inter- and intra-group justice. It has squandered much energy, good will and potential solidarity in distracting debates, and has obscured the extent to which class inequalities are legitimated through the construction of superior/inferior identities, while identity-based subordination has been structured by a relentless history and continuing practices of material expropriation, exploitation and dispossession, both domestically and internationally.<sup>6</sup>

Woven as an organizing theme throughout the LatCrit V program, the decision to center class inequalities within, among and between communities of color challenged these self-defeating dichotomies and revealed new insights and perspectives on the ways that “class-based” and “identity-based” structures of subordination converge to create distinct problems, among others, for women of color whose lived realities remain marginalized in critical analyses of the so-called “feminization of

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Tanya K. Hernandez, *An Exploration of Class-Based Approaches to Racial Justice: The Cuban Context*, 33 U.C. DAVIS L. REV. 1135 (2000); Mary Romero, *Immigration and the Servant Problem and the Legacy of the Domestic Labor Debate: Where Can You Find Good Help These Days!*, 53 U. MIAMI L. REV. 1045 (1999).

5. This dichotomization at times has had profoundly disruptive and destructive impacts on the prospects for coalitional solidarity among progressive networks within the legal academy, as reflected in the early 1990s by the tensions between leaders of the Critical Legal Studies network and an emergent Critical Race Theory. For early LatCrit reflections on the conflicts between CLS and CRT over the relative priority of class and identity, see Sumi K. Cho, *Essential Politics*, 2 HARV. LATINO L. REV. 433, 449 (1997) (recounting public disruption triggered by the supposed conflict between class-based and identity-based approaches to critical legal theory at the 1995 Critical Networks Conference on Class and Identity Politics). For an account reflecting on the implications of the CLS-CRT debate for LatCrit theory in engaging Third World liberation projects and discourse, see Elizabeth M. Iglesias, Foreword—*LatCrit Theory: Some Preliminary Notes Towards a Transatlantic Dialogue*, 9 U. MIAMI INT'L & COMP. L. REV. 1, 9-18 (2000-01) [hereinafter Iglesias, Foreword—*Transatlantic Dialogue*].

6. Elizabeth M. Iglesias, *Out of the Shadow: Marking Intersections in and Between Asian Pacific American Critical Legal Scholarship and Latina/o Critical Theory*, 40 B. C. L. REV. 349, 370; 19 B.C. THIRD WORD L.J. 349, 370 (1998) (positing the struggle for social racial justice beyond the race/class dichotomy by mapping four critical projects that more meaningfully frame analysis of the role of political economy in the organization of racial subordination) [hereinafter Iglesias, *Out of the Shadow*]; Elizabeth M. Iglesias, *Global Markets, Racial Spaces and the Role of Critical Race Theory in the Struggle for Community Control of Investments: An Institutional Class Analysis*, 45 VILL. L. REV. 1037, 1039-1043 (2000) (positioning the struggle for sociolegal transformation beyond the race/class dichotomy by centering institutional class structures in the production of subordination both domestically and internationally) [hereinafter Iglesias, *Global Markets, Racial Spaces*].

poverty;”<sup>7</sup> for queers of color, whose class, race and citizenship status create particular problems that are elided as much by the politics of “coming out” through which liberation has been promised, urged and sought, as by the politics of assimilation through which relatively privileged gays and lesbians seek their inclusion in mainstream American society by compromising difference as the price of materially comfortable social tolerance;<sup>8</sup> and for immigrant workers of color, caught in the catch-22 of exploitation or deportation that structures their subordinate status in the resort industries of Colorado and elsewhere throughout the United States.<sup>9</sup> In each of these, and other, instances, as amplified in the symposium essays, LatCrit V displayed how class stratification plays a significant role in the subordination of those who are multiply marginalized—as much by their outsider status in the politics of identity that privilege whiteness, maleness, heterosexuality and English proficiency as by the violence of material dispossession constructed and perpetuated through the biases embedded in and across many different substantive fields of law and policy.<sup>10</sup>

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7. Ratna Kapur, *Post-Colonial Economies of Desire: Legal Representations of the Sexual Subaltern*, 78 DENV. U. L. REV. 855 (2001) (providing post-colonial critical perspective challenging mainstream representations of sex work and the limited reform agendas they support); Lisa Sun-Hee Park, *Perpetuation of Poverty Through “Public Charge,”* 78 DENV. U. L. REV. 1205 (2001); Athena Mutua, *Why Retire the Feminization of Poverty Construct* 78 DENV. U. L. REV. 1171 (2001).

8. K.L. Broad, *Critical Borderlands & Interdisciplinary, Intersectional Coalitions*, 78 DENV. U. L. REV. 1151 (2001).

9. As in prior conferences, LatCrit V organizers programmed a plenary panel focused specifically on issues of particular relevance to the local community in the region to which the conference rotated. See *Colorado Local Issues: Histories of Racism, Classism & Heterosexism*, LATCRIT V CONFERENCE SUBSTANTIVE PROGRAM AT CONFERENCE MATERIALS AND ARTICLES <<http://www.latcrit.org>> (also on file with authors). This emphasis on local issues has a dual purpose of using the opportunities presented by regional rotations to educate the LatCrit community about the particularities of subordination confronting different communities in different ways across different geographical regions, and using the annual conferences as a vehicle for facilitating connections between the conference participants and local activists that might evolve potentially into more sustained collaborations. See Iglesias & Valdes, *Afterword—Coalitional Theory*, *supra* note 1, at 510 (reflecting on the value of engaging local communities in and through the annual conferences). At LatCrit V, the local issues panel explored successful coalitional efforts against four local projects aimed at legalizing discrimination against sexual minorities, eliminating affirmative action, retaining title to stolen land use rights, and the exploitation of immigrants in the Colorado resort industry. For related issues, see generally Norberto Valdez, Marcia Fitzhorn, Cheryl Matsumoto & Tracey Ernst, *Police in Schools: The Struggle for Student and Parental Rights*, 78 DENV. U. L. REV. 1069 (2001) (examining impact of stationing police in schools through case study of Northern Colorado); see also Mary Romero, *State Violence and the Social and Legal Construction of Latino Criminality: From El Bandido to Gang Member*, 78 DENV. U. L. REV. 1089 (2001) (reading the criminalization of Latino immigrants in and through the social and legal construction of Latino criminality).

10. Various critical commentators similarly have explored these interconnections. See, e.g., Mary Eaton, *Homosexual Unmodified: Speculation on Law’s Discourse, Race and the Construction of Sexual Identity*, in *LEGAL INVERSIONS: LESBIANS, GAY MEN AND THE POLITICS OF LAW* 47 (Didi Herman & Carl Stychin eds., 1995) (illustrating and critiquing how “race” is coded straight and “sexual orientation” white in North American jurisprudence); Isabelle R. Gunning, *Stories From Home: Tales From the Intersection of Race, Gender and Sexual Orientation*, 5 S. CAL. REV. L. &

These insights into the convergence of class and identity were further illuminated by the programmatic decision to use the lens of economic inequality to interrogate—from a race-conscious, class-conscious, anti-subordination perspective—the substance and structure of traditional business law regimes.<sup>11</sup> Centering the biases of United States tax codes, corporate laws and commercial laws revealed important new perspectives on the way the regulation of micro-enterprises, community development projects and the structuring of in/formal markets in impoverished communities reproduce the subordination of people of color across multiple identity categories.<sup>12</sup> These investigations showed in a myriad of particular ways and settings, ranging from the domestic to the international, how law organizes and enforces both social and economic inequality. Indeed, the presentations at LatCrit V repeatedly revealed the many different ways in which law is implicated in maintaining structures of power and privilege (as well as structures of illegality and lawlessness) that make so-called “free markets” decidedly *unfree* for all but socially dominant groups and legally privileged elites. In short, LatCrit V demonstrated time and again that biases based on identity become formalized as law with the purpose and effect of materially enriching some identity groups, while dispossessing others, thus over time correlating “class” to “identity” and “identity” to “class” in structural, formal and normative ways. To the extent, and as long as, this correlation continues to be engineered through the legal organization and enforcement of iden-

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WOMEN'S STUD. 143 (1995) (recounting personal and general encounters with Eurocentrism in lesbian venues or discourses); Eric Heinze, *Gay and Poor*, 38 HOW. L.J. 433 (1995) (analyzing how poverty can affect both “gay” and “non-gay” cases); Darren Leonard Hutchinson, *Out Yet Unseen: A Racial Critique of Gay and Lesbian Legal Theory and Political Discourse*, 29 CONN. L. REV. 561 (1997) (critiquing the absence of class and race from analyses of “sexual orientation”) [hereinafter Hutchinson, *Out Yet Unseen*]; Cynthia Peterson, *Envisioning a Lesbian Equality Jurisprudence*, in LEGAL INVERSIONS 118 (arguing that lesbian legal theory must be intersectional because lesbian subordination is multifaceted); Ruthann Robson, *To Market, To Market: Considering Class in the Context of Lesbian Legal Theories and Reforms*, 5 S. CAL. REV. L. & WOMEN'S STUD. 173 (1995) (arguing for the centrality of class in lesbian/queer anti-subordination theory and politics); Darren Rosenblum, *Queer Intersectionality and the Failure of Recent Lesbian and Gay “Victories,”* 4 LAW & SEXUALITY 83 (1994) (questioning the benefits of lesbian and gay liberation to lesbians and gays who are of color, and/or poor, and/or trans/bi-gendered); Francisco Valdes, *Queer Margins, Queer Ethics: A Call to Account for Race and Ethnicity in the Law, Theory and Politics of ‘Sexual Orientation,’* 48 HASTINGS L.J. 1293, 1315-18 (1997) (reviewing some strengths and weaknesses of sexual minority legal discourse relating to race and ethnicity) [hereinafter Valdes, “*Queer Margins*”]; see also generally Symposium, *Interséxions: The Legal and Social Construction of Sexual Orientation*, 48 HASTINGS L.J. 1101 (1997); Symposium, *InterSEXionality: Interdisciplinary Perspectives on Queering Legal Theory*, 75 DENV. U. L. REV. 1129 (1998).

11. This effort to expand the range of substantive fields marked for anti-essentialist, anti-subordination analysis was programmatically centered at LatCrit V in the opening moderated group discussion entitled *Political Economies of Subordination in LatCrit Perspective: “Piercing the Veils” of Class and Identity in Traditional Curricula* LATCRIT V CONFERENCE SUBSTANTIVE PROGRAM at CONFERENCE MATERIALS AND ARTICLES <<http://www.latcrit.org>> (also on file with authors).

12. *Id.*

tity-based economic dis/possession, class and identity remain undeniably “co-synthetic.”<sup>13</sup>

However, LatCrit V was more than a solidly programmed encounter. Like other LatCrit conference gatherings, the lived experience and emergent record of LatCrit V bear ample witness to a basic and fundamental insight of the LatCrit project. This insight—initially only a hopeful intuition, increasingly a defining praxis—grounds the production of knowledge in the performance of a living and learning community-building process. In this process, the articulation of ever more inclusive visions of social justice and ever more penetrating analysis of the role of law in producing (and its potential for transforming) intra- and inter-group conflict is fundamentally and necessarily linked to the practices of embracing difference through the performance of sustained and mutual engagement, across our differences and over time.<sup>14</sup> The commitment to engage difference—as a community-building *practice*—is a major and continuing challenge to each and all of us, both collectively and individually, precisely because it inevitably triggers moments of risk: one never can foretell for sure what the cauldron of diversities and perspectives that we call “LatCrit” will cook up. Thus, conference planners and participants never can predict what ruptures or disruptions will challenge us to seek higher levels of mutual understanding and engagement—or tempt us to retreat to the “safety” of sameness at the cost, ultimately, of our own isolation and continued dispersal. Measured against these background insights and aspirations, as well as the record of LatCrit’s prior experiences engaging difference, both interpersonally and programmatically, the substantive and solidaristic achievements of LatCrit V beckon celebration and reflection but, as always, in a critical and self-critical manner.

We have cause to celebrate because the continuity and growth reflected in over five years of LatCrit Annual Conferences and symposia bear powerful witness to the perseverance, commitment, political vision and personal generosity of all who have invested their time, energy and human capital in birthing a new critical discourse and constructing a self-conscious and ever more inclusive community of multiply diverse scholars and activists in and beyond the legal academy of the United States. We have cause to be critical because, despite its many achievements, LatCrit remains a fragile project, an imagined community—enabled and

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13. See Peter Kwan, *Jeffrey Dahmer and the Cosynthesis of Categories*, 48 HASTINGS L.J. 1257 (1997) (introducing the concept of cosynthesis) [hereinafter Kwan, *Jeffrey Dahmer*]; Peter Kwan, *Complicity and Complexity: Cosynthesis and Praxis*, 49 DEPAUL L. REV. 673 (2000) (developing the concept); for similar concepts, see *infra* note 45 and sources cited therein.

14. Elizabeth M. Iglesias, Foreword—*Identity, Democracy, Communicative Power, Inter/National Labor Rights and the Evolution of LatCrit Theory and Community*, 53 U. MIAMI L. REV. 575, 626 (1999) (reflecting on the significance of sustained commitment to mutual engagement over time to the development of coalitional theory and praxis) [hereinafter Iglesias, Foreword—*LatCrit III*].



empowered by the solidarity of individuals who nonetheless are dispersed across the legal academy, excluded from the broader structures of power, privilege and opportunities both within and beyond the academy, and, oftentimes, embattled even in those institutions we are told to call "home." Given the increasing diversity of identity, position and perspective of the individuals and communities coalescing in and around the LatCrit project, we increasingly sense that this common experience of exclusion, erasure or marginality cannot be explained *solely* or perhaps even primarily by the particularities of any individual's race, ethnicity, gender, sexual orientation, national origin and/or any other vector of "essential" identity. Increasingly, we sense that these hostile dynamics *also*, and perhaps primarily, are attributable to the commonalities reflected in our personal practice of anti-essentialist, anti-subordination politics as applied or directed, specifically, to traditional legal discourses and institutions—including student bodies, faculties and the bar itself.<sup>15</sup>

As always, we also have cause to remain *self-critical* in reflecting on the achievements of the last five years.<sup>16</sup> This jurisprudential and

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15. LatCrit scholarship has focused extensively on the problems of actualizing an anti-essentialist, anti-subordination ethic and practice in the legal academy and profession. *See, e.g.*, Virginia P. Coto, *LUCHA, The Struggle for Life: Legal Services for Battered Immigrant Women*, 53 U. MIAMI L. REV. 749 (1999) (recounting efforts as a recent law school graduate to establish an alternative model for providing legal services to battered immigrant women); Lyra Logan, *Florida's Minority Participation in Legal Education Program*, 53 U. MIAMI L. REV. 743 (1999) (recounting inter-group struggles and compromises over the establishment of a "minority" law school in South Florida); Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 606-7, 655-56 (reflecting on the need for interconnected reforms in the structure of legal education, the profession and the delivery of services to the poor); Margaret E. Montoya, *Silence and Silencing: Their Centripetal and Centrifugal Forces in Legal Communication, Pedagogy and Discourse*, 5 MICH. J. RACE & L. 847; 33 U. MICH. J.L. REF. 263 (2000) (offering critical analysis of the way issues of race and minority students are silenced in the classroom) [hereinafter Montoya, *Silence and Silencing*]; Steve W. Bender, *Silencing Culture and Culturing Silence: A Comparative Experience of the Centrifugal Forces in the Ethnic Studies Curriculum*, 5 MICH. J. RACE & L. 913; 33 U. MICH. J.L. REF. 329 (2000) (reflecting on the way a deeper understanding of the status of Latinas/os in the legal system often demoralizes undergraduates otherwise drawn to the study of law as a means of social change) [hereinafter Bender, *Silencing Culture and Culturing Silence*]; Dorothy E. Roberts, *The Paradox of Silence: Some Questions About Silence as Resistance*, 5 MICH. J. RACE & L. 927; 33 U. MICH. J.L. REF. 343 (2000) (reflecting on the resistance strategies minority students often need to survive the law school experience) [hereinafter Roberts, *The Paradox of Silence*]; Pamela J. Smith, *The Tyrannies of Silence of the Untenured*, 33 U. C. DAVIS. L. REV. 1105 (2000) (analyzing the vulnerabilities of the untenured); Sumi K. Cho, *Essential Politics*, *supra* note 5, at 441 (reflecting on need for scholars of color to combat the "big and 'little murders' which occur daily at law schools across the country).

16. To ensure the sharpness as well as the integrity of LatCrit interventions, LatCrit theory and praxis endeavors both criticality and self-criticality. *See, e.g.*, Iglesias & Valdes, Afterword—*Coalitional Theory*, *supra* note 1, at 582-88; Margaret E. Montoya, *Academic Mesizaje: Re/Producing Clinical Teaching and Re/Framing Wills as Latina Praxis*, 2 HARV. LATINO. L. REV. 349, 365-73; *see also infra* notes 108-55 and accompanying text on the ethics of LatCrit conference planning as one key example of critical and self-critical praxis. Indeed, this commitment to self-critique has helped to shape LatCrit theory since its inception, being the sixth "guidepost" adduced in the works of the first conference and symposium: "The perpetual need for self-awareness and self-critique in all areas of our work" therefore has been a constant feature of the ethics and praxis that

community-building effort remains a fluid and young experiment that has no guarantee of success. It is an effort that we acknowledge has not accomplished all that we can imagine. It is an effort constrained by the politics of majoritarian backlash and the reassertion of Euroheteropatriarchal privilege<sup>17</sup> both within the legal academy and throughout society, onslaughts that devalue our work and deprive us of needed resources to expand the scope and depth of our collaborative efforts. LatCrit is an effort that faces many challenges now and in the foreseeable future despite our many advances over the past five years. These challenges derive both from the structural difficulties that outsiders face in the legal academy and in society, as well as from any tendency on our part toward complacency, elitism or worse. Without self-criticality, the LatCrit community courts dangers both from within and without, thus making constant, collective and individual self-vigilance the only reliable barrier that guards the continued evolution of LatCrit theory, praxis and community from the eventual but otherwise certain dissipation of our bonds, energies and struggles.

However, by “self-critical,” we do not mean the angst-ridden self-doubts that so often are triggered by an *uncritical* engagement in, and dismay at, the contradictions, conundrums and limitations we inevitably confront as we try to enact an ethic of egalitarian solidarity, and to manifest and implement alternatives to dominant ways of being and doing, as much in the academy as in the society at large. Even after five years of struggle, these alternatives are possibilities that we are only just beginning to actualize through our mutual and sustained engagement in each others’ experiences, perspectives and texts; however, it is precisely the profoundly transformative potential of these efforts that makes them so vulnerable to the kinds of attack that can trigger despair or self-doubt. Rather, by “self-critical,” we mean a healthy and constructive reflection upon the disjunctures between our aspirations and achievements as a living and learning community. We mean critical analysis of these disjunctures undertaken in light of their actual contexts – in light of a realistic assessment of the obstacles outsider scholars confront, both internally and externally. We mean a praxis of self-criticality animated by the determination *to grow together* beyond our limitations through the performance of new practices—new ways of being and doing—in the “here and now” of our Annual Conferences, as well as in other institution-building initiatives through which we seek to foster the further evolution of LatCrit theory and community. We mean also a method of self-

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have come to define LatCritical projects. Francisco Valdes, Foreword—*Poised at the Cusp: LatCrit Theory, Outsider Jurisprudence and Latina/o Self-Empowerment*, 2 HARV. LATINO L. REV. 1, 55-56 (1997) [hereinafter Valdes, Foreword—*Poised at the Cusp*]; see also *infra* notes 35-36 and accompanying text on the LatCrit guideposts.

17. For discussion of the term “Euroheteropatriarchal,” see *infra* note 50 and sources cited therein.

criticality performed to enable new solidarities, insights and breakthroughs of the very sort that only sustained, serious collaborations across multiple axes of difference can produce.<sup>18</sup>

Against this background, our purpose in this Afterword is to share some critical and self-critical observations—not so much about the substantive development of LatCrit theory as reflected in this symposium and taken up in the Foreword and Cluster Introductions—but rather about the community and institution-building dimensions of the LatCrit project. After five years of experience, we believe it timely and appropriate to reflect on the ethics and praxis that have helped to guide the five years of Annual Conferences, colloquia and other projects that are marked, collectively, by this symposium. We think it is also important to communicate the possibilities we see for the institutional development of LatCrit as an alternative organization within the legal academy of the United States, as well as to identify some of the obstacles currently confronting the long-term sustainability of the LatCrit project. We view this intervention as particularly timely because, after five years of struggle, the key challenge facing LatCrit today is precisely to establish an institutional framework that can ensure long-term sustainability. This long-term perspective and aspiration is animated by our increasing conviction that the “culture wars”<sup>19</sup> that rage around and at us make it imperative for us, who are within the legal academy of the United States, to build alternative institutions and arrangements capable of promoting and leveraging the work of outsider scholars and activists who seek to combat injustice anywhere, and particularly in the legal academy and profession.

This long-term perspective thus counsels us to attend to the practical dimensions of producing the conditions of sustainability. As we enter the second half of LatCrit’s first decade, we self-consciously and self-critically must address the practical aspects of identifying and encouraging new leadership enabled and empowered to take on the challenges of guiding LatCrit into further stages of development. To create the necessary chains of transition, we face the challenge of articulating for future LatCrit leaders the practices and principles that have guided our early efforts to plan the Annual Conferences in ways that promote the production of critical scholarship even as we consolidate a shared commitment to anti-essentialist solidarity across our differences of privilege and subordination. Coupled with this basic need to construct substantive chains of transition is the growing need to conceptualize, launch and support

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18. *Id.* Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 672-73 (urging LatCrits to recognize and collaboratively engage the community building and transformative imperatives of “*the here and now of this moment*”) (italics in original). For further reflections on the kinds of practices through which LatCrits have sought specifically and self-consciously to make the annual conferences a community building experience, see *infra* notes 108-23 and accompanying text.

19. For discussion of the term “culture wars,” see *infra* note 77 and sources cited therein.

new projects, beyond the Annual Conferences, that can expand the opportunities for critical scholars and activists to become productively involved in collaborative efforts that are personally meaningful, socially grounded and professionally rewarding. Put differently, taking a long-term perspective means focusing on the steps that need to be taken today to ensure that whatever "LatCrit" comes to mean tomorrow—as it turns ten or fifteen or beyond—will reflect a substantive evolution that builds on these prior years of collective effort to convert the production of legal scholarship into a principled community-building praxis.<sup>20</sup>

In this Afterword we thus turn our attention to a key task already underway within the LatCrit community, and one that becomes increasingly central to our collective progress with each passing year: institution-building. After many years of struggle within the legal academy of the United States, LatCrit and allied scholars have learned that we require institutional structures of our own if we are to pursue *with integrity and efficacy, and for the long term*, our commitments to substantive social and legal transformation.<sup>21</sup> We have learned that we, personally and collectively, must create the conditions that make our work sustainable for the longer term, and that doing so requires us to find ways around the obstacles erected by those who control the institutions in which we work and from which we are too often offered only grudging support.

Beginning with background and context, we devote Part I to a brief recounting of the past five years' collective intellectual journeys—the substantive evolution that has transpired via the conferences, colloquia and other events that LatCrit scholars have organized and presented, or currently are planning. In Part II, we identify some key practices that have been forged from these experiences and journeys—that is, the human practices that have enabled the theory in personal and programmatic terms—while emphasizing the centrality of community-building to LatCrit theory during this first half of its first decade. And then, to grasp the momentum that LatCrit has produced thus far, in Part III we turn to the

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20. See *infra* notes 76-81 and 131-38 and accompanying text on the LatCrit conferences as a means of challenging standard norms relating to the production of legal scholarship.

21. Past experience teaches that institution-building is increasingly urgent, and indispensable, precisely because past experience teaches that mainstream support for LatCrit theory, praxis and community will diminish or evaporate just as soon as we approach the point of making a substantive, material or shall we say "practical" difference in transforming dominant sociolegal arrangements, particularly when these arrangements happen to be the institutions in which we work. Outsider scholars long ago named the politics of "interest convergence," in which privileged groups profess support for the subordinated, so long as their work remains mostly talk, but talk, though not always cheap, ultimately cannot substitute for action, nor for meaningful change. See, e.g., Derek Bell, *Brown v. Board of Education & the Interest Convergence Dilemma*, 93 HARV. L. REV. 518 (1980). While recognizing and appreciating the institutional support we sometimes do, in fact, receive, outsider scholars also have documented the "spirit murder" suffered at the hands of those very institutions we might otherwise want to call "home." See, e.g., Cho, *supra* note 5; Montoya, *Silence and Silencing*, *supra* note 15; Roberts, *The Paradox of Silence*, *supra* note 15; Bender, *Silencing Culture and Culturing Silence*, *supra* note 15; Smith *supra* note 15.

institution-building aspects of our recent, current and pending work. In this way, we hope both to celebrate the past, and to animate the present and future, of this exciting and promising yet fragile experiment in outsider jurisprudence.<sup>22</sup>

## I. REFLECTIONS ON LATCRIT THEORY AND CONSCIOUSNESS: FIVE YEARS OF INTELLECTUAL JOURNEYS

In this Part we unfold one account—ours—of the past five years, focusing primarily on programmatic events. We begin with an overview of LatCrit theory's origins, and then cite several examples of LatCrit experimentation during this period in order to illustrate the basic principles and practices that have shaped the collective experience of LatCrit's evolving community. These examples showcase several now fundamental features of the LatCrit record to date, such as the "rotation of centers" and the "streaming" of programs, which combine theory and praxis in the development of our programmatic encounters as well as our group publications. These examples illustrate how the LatCrit community has striven to "perform the theory" in a critical and self-critical fashion as we imagine and create the venues in which we gather for mutual engagement, growth and support.<sup>23</sup>

### A. Origins: An Overview

The "LatCrit"<sup>24</sup> subject position emerged within the legal academy of the United States in 1995, coming into being as a self-designated and

22. For discussion of the term "outsider jurisprudence," see *infra* note 36 and sources cited therein.

23. See *infra* notes 108-12 and accompanying text on LatCrit efforts to "perform the theory" via the annual conferences and other projects; see also generally Sumi Cho & Robert Westley, *Historicizing Critical Race Theory's Cutting Edge: Key Movements that Performed the Theory*; in *CROSSROADS, DIRECTIONS AND A NEW CRITICAL RACE THEORY* (Francisco Valdes, Jerome McCristal Culp, Jr. & Angela P. Harris eds.) (forthcoming 2002) (describing student movements in California in similar terms).

24. "LatCrit theory" is, in many ways, a crossroads for many different critical discourses and perspectives precisely because the evolution of LatCrit theory has been substantially enriched by the active and continuous participation of a highly diverse and extraordinarily talented assortment of Asian and Pacific American critical legal scholars, RaceCrits, QueerCrits, FemCrits and other OutCrit scholars. See, e.g., Keith Aoki, *Language is a Virus*, 53 U. MIAMI L. REV. 968 (1999) (noting extent of Asian American participation in LatCrit conferences and community); Barbara J. Cox, *Coalescing Communities, Discourses and Practices: Synergies in the Anti-Subordination Project*, 2 HARV. LATINO L. REV. 473 (1997) (reflecting on relevance of LatCrit project to white lesbians); Jerome McCristal Culp, Jr., *Latinos, Blacks, Others and the New Legal Narrative*, 2 HARV. LATINO L. REV. 479 (1997) (reflecting on relevance of LatCrit project to African Americans)[hereinafter Culp, *Latinos, Blacks, Others*]; Stephanie M. Wildman, *Reflections on Whiteness & Latina/o Critical Theory*, 2 HARV. LATINO L. REV. 307 (1997) (reflecting on the significance of the LatCrit project from a white critical feminist perspective). These scholars have performed the unprecedented act of solidarity of investing their intellectual capital and professional resources in the creation and continued evolution of a discourse, whose initial and immediate purpose has been to combat the relative invisibility of Latinas/os in the production of critical legal

self-conscious perspective on law and Latinas/os at a colloquium in Puerto Rico on Latina/o communities and critical race theory.<sup>25</sup> Since then, LatCrits have held five Annual Conferences and four colloquia to articulate LatCrit theory as a collective project of mutual engagement, and each event has generated a law review volume devoted to the proceedings of the conferences and colloquia.<sup>26</sup> In addition, two “free standing” joint symposia also have been co-produced with collaborating law reviews specifically in response to student interests and initiatives.<sup>27</sup> This ongoing collaboration with law reviews is crucial to the LatCrit project because our enterprise entails not only the production of knowledge, but also its broader dissemination.<sup>28</sup> LatCrits’ basic purpose since 1995 therefore has been not only to inaugurate and cultivate an absent and overdue sociolegal discourse on law and policy towards Latinas/os qua Latinas/os, but also to ensure that this knowledge is made accessible to

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discourse, even as they also remain deeply involved in developing other strains of critical theory. See Iglesias, Foreword—*Transatlantic Dialogue*, *supra* note 5, at 8 n.19. It is thus somewhat misleading to speak of “LatCrit theory” in the singular. Nonetheless, the multiple diverse critical legal scholars who coalesced around the collective effort to articulate LatCrit theory “exhibited ... [a] sense of shared groupness.” See Francisco Valdes, Foreword—*Latina/o Ethnicities, Critical Race Theory, And Post-Identity Politics In Postmodern Legal Culture: From Practices To Possibilities*, 9 LA RAZA L.J. 1, 7, n.25 (1996) (hereinafter Valdes, Foreword—*Latina/o Ethnicities*); see also *infra* notes 37-52 and 85 and sources cited therein on LatCrit and Latina/o diversities.

25. The proceedings of that colloquium appear in Colloquium, *Representing Latina/o Communities: Critical Race Theory and Practice*, 9 LA RAZA L.J. 1 (1996); see also *supra* note 1 and sources cited therein on LatCrit origins.

26. See Symposium, *LatCrit Theory: Naming and Launching a New Discourse of Critical Legal Scholarship*, 2 HARV. LATINO L. REV. 1 (1997) (LATCRIT I); Colloquium, *International Law, Human Rights and LatCrit Theory*, 28 U. MIAMI INTER-AM. L. REV. 177 (1997) (publishing the proceedings of the first LatCrit colloquium focused on international law); Symposium, *Difference, Solidarity and Law: Building Latina/o Communities Through LatCrit Theory*, 19 UCLA CHICANO-LATINO L. REV. 1 (1998) (LATCRIT II); Symposium, *Comparative Latinas/os: Identity, Law and Policy in LatCrit Theory*, 53 U. MIAMI L. REV. 575 (1999) (LATCRIT III); Symposium, *Rotating Centers, Expanding Frontiers: LatCrit Theory and Marginal Intersections*, 23 U.C. DAVIS L. REV. 751 (2000) (LATCRIT IV); Colloquium, *Spain, The Americas and Latino/as: International and Comparative Law in Triangular Perspective*, 9 U. MIAMI INT’L. & COMP. L. REV. 1 (2000-01) (publishing the proceedings of the first and second colloquia held in Malaga, Spain on LatCrit theory and international and comparative law); Symposium, *Class in LatCrit: Theory and Praxis in a World of Economic Inequality*, 78 DENVER U. L. REV. 467 (2001) (LATCRIT V); Symposium, *Latinas/os and the Americas: Centering North-South Frameworks in LatCrit Theory*, 54 U. FL. L. REV. (forthcoming 2002); 54 RUTGERS L. REV. (forthcoming 2002) (LATCRIT VI); Symposium, *LatCrit Coalitional Theory and Praxis: Social Justice and LatCrit Community*, 80 U. OREGON L. REV. (forthcoming 2002) (LATCRIT VII).

27. Joint Symposium, *LatCrit Theory: Latinas/os and the Law*, 85 CAL. L. REV. 1087 (1997); 10 LA RAZA L.J. 1 (1998); Joint Symposium, *Culture, Language, Sexuality and Law: LatCrit Theory and the Construction of the Nation*, 5 MICH. J. RACE & L. 787; 33 U. MICH. J.L. REF. 203 (2000).

28. Valdes, Foreword—*Latina/o Ethnicities*, *supra* note 24, at 11-12 (grounding the publication of LatCrit conferences in the need to “build relationships among and between Latina/o legal scholars and journals [and] in this way ... foster the work and success of both”); see also *infra* notes 129-44 and accompanying text on the employment of the LatCrit conferences and symposia to restructure the norms and habits for the production of legal scholarship.

agents of social and legal transformation both within and beyond the legal academy.<sup>29</sup>

To do so, LatCrits have endeavored to initiate programs and projects designed to fulfill the four functions that early adherents claimed for this enterprise based, in part, on a LatCritical appreciation of the lessons to be drawn from the collective record of outsider jurisprudence: (1) the production of knowledge; (2) the advancement of social transformation; (3) the expansion and connection of anti-subordination struggles; and (4) the cultivation of community and coalition, both within and beyond the confines of legal academia in the United States.<sup>30</sup> During the first five years, we have pursued these four functions principally through the Annual Conferences that meet every May at rotating sites, typically drawing 100-150 attendees and participants. During these years, we have honed practices—like “rotating centers” and “streams of programming”—that enable the long-term planning through which we collectively perform and annually (re)invigorate our selves and our work.<sup>31</sup> Through the practice of geographic rotation and site-specific programming, the conference programs also have become vehicles for the otherwise far-flung LatCrit community to learn collectively about local conditions in different regions of the United States, a practice that facilitates our individual and collective efforts to see and expose the structural sociolegal patterns formed by local histories and particularities.<sup>32</sup> Now, as LatCrit turns five, this community stands poised to take the lessons and advances of the Annual Conferences beyond our current programmatic projects, and to take our work to the next levels of sharpness and depth.

The LatCrit community presently is engaged in various programs and projects, such as the expanded colloquium series on international and comparative law, the development of webcasting capabilities and the establishment of NGO status with the United Nations, that also are designed to pursue these functions.<sup>33</sup> To develop these projects for the long

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29. See *infra* notes 201-06 and accompanying text on new projects designed to expand these efforts beyond traditional texts.

30. For further discussion of these four functions and their relationship to LatCrit theory, see Francisco Valdes, Foreword—*Under Construction: LatCrit Consciousness, Community and Theory*, 85 CAL. L. REV. 1087, 1093-94 (1997); 10 LA RAZA L.J. 1, 7-8 (1998).

31. See *infra* notes 82-106 and 113-14 and accompanying text on “rotating centers” and “streams of programming”.

32. Iglesias & Valdes, Afterword—*Coalitional Theory*, *supra* note 1, at 555-61 (urging LatCrits to “avoid essentialist tendency to seek universal truths in generalities and abstractions, rather than seeking universal liberation in and through the material ... transformation of the particular and contingent.”) The linkage of the specific to the general – the mapping of particularities in larger patterns and schema – is the seventh “guidepost” for the development of LatCrit theory and praxis raised during the first annual conference and symposium. For a review of the seven guideposts, see *infra* notes 35-36 and accompanying text.

33. See *infra* notes 156-208 and accompanying text on the projects that build on the annual conferences.

term, LatCrits have incorporated as a not-for-profit corporation with 501(c)(3) status that engages in fundraising for educational purposes from various sources. Consequently, a Board of Directors and two co-chairs manage LatCrit, Inc., while the Annual Conferences are developed through a General Conference Planning Committee with overlapping membership.<sup>34</sup> Like the Annual Conferences and their law review symposia, each of these recent initiatives—including the very act of incorporation—is designed to perform, or to practice, LatCrit theory in socially relevant and border-busting ways.

These newer projects—like the five years of conferences and colloquia—are designed to reflect and develop the seven “guideposts” adduced via the first LatCrit conference and symposium that, together with the four functions noted above, have created a baseline from which to view the cumulative gains and limits of our LatCritical experiments in outsider jurisprudence.<sup>35</sup> They were:

- Recognize and Accept the Political Nature of Legal “Scholarship” Despite Contrary Pressures.
- Conceive Ourselves as Activist Scholars Committed to Praxis to Maximize Social Relevance.
- Build Intra-Latina/o Communities and Inter-Group Coalitions to Promote Justice Struggles.
- Find Commonalities While Respecting Differences to Chart Social Transformation.
- Learn from Outsider Jurisprudence to Orient and Develop LatCrit Theory and Praxis.
- Ensure a Continual Engagement of Self-Critique to Stay Principled and Grounded.
- Balance Specificity and Generality in LatCritical Analysis to Ensure Multidimensionality.

These guideposts are inter-related and, in their operation, interactive. Ideally, they yield synergistic effects. They represent, *as a set*, the general sense of this project as reflected in the collective writings since the First Annual LatCrit Conference. Informed in part by these four functions and seven guideposts, LatCrit theory has in the last five years yielded new substantive insights and benefits that deepen, broaden and

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34. See *infra* notes 158-62 and accompanying text on the organization of LatCrit, Inc. as a not-for-profit organization.

35. For an early assessment of LatCrit guideposts as reflected in the proceedings of the First Annual LatCrit Conference, see Valdes, Foreword—*Poised at the Cusp*, *supra* note 16, at 52-59.



texture existing understandings of law and policy, and that build on the baseline of the first year.<sup>36</sup>

Perhaps most notably, LatCrit conferences and projects have sought to center multiple intra- and inter-group diversities as the lenses through which to study this "meta" category called "Latina/o"<sup>37</sup>—both within and

36. In addition to the seven guideposts noted above, an eighth was originally presented as a "final observation" based on the preceding seven: "acknowledging the relationship of LatCrit to Critical Race theory" and, in particular, the "intellectual and political debt that LatCrit theorizing owes to Critical Race theorists." *Id.* at 56-59. This point expresses one perspective on the immediate origins and closest precursors of LatCrit theory, although other accounts have been proffered to provide a broader context. *See, e.g.,* Johnson & Martinez, *supra* note 1 (discussing the relationship of LatCrit theory to Chicana/o studies). This point also underscores a key theme in this Afterword and, indeed, in LatCrit theory during the past five years: that LatCrit theory is a genre of "outsider jurisprudence" and that LatCrit theorists have consciously sought to learn, apply and develop the lessons of preceding or current experiments within the more general category of outsider jurisprudence, including the efforts of feminist, critical race feminist, Asian, Queer and other "OutCrit" scholars. The term "outsider jurisprudence" is Professor Mari J. Matsuda's. *See* Mari J. Matsuda, *Public Response to Racist Speech: Considering the Victim's Story*, 87 MICH. L. REV. 2320, 2323 (1989) [hereinafter Matsuda, *Public Response*]. For a description of the term "OutCrit," *see infra* note 50; *see also generally infra* notes 48-51 and accompanying text on the relationship of LatCrit and outsider jurisprudence; Iglesias, Foreword—*Transatlantic Dialogue*, *supra* note 5 (mapping links between LatCrit theory and seven strains of critical scholarship that preceeded its emergence).

37. It bears mention at the outset that Latina/o "presence" in the lands now known as the United States is due principally to American expansionism and imperialism; Mexicans, Puerto Ricans and other Latinas/os now in the United States originally did not cross any borders to arrive or migrate here – the border crossed them. RODOLFO ACUÑA, *OCCUPIED AMERICA* (3d ed. 1988) (assessing Chicana/o communities as internal colonies); *see generally* Gilbert Paul Carrasco, *Latinos in the United States: Invitation and Exile*, in *IMMIGRANTS OUT! THE NEW NATIVISM AND THE ANTI-IMMIGRANT IMPULSE* 190 (Juan F. Perea ed., 1997) (reviewing the history of United States labor policies designed to attract Latina/o migrant workers, who then are not only exploited and maltreated but also disdained as "illegal immigrants"); Sylvia R. Lazos Vargas, *History, Legal Scholarship, and LatCrit Theory: The Case of Racial Transformations Circa the Spanish-American War, 1896-1900*, 78 DENV. U. L. REV. 923 (2001) (discussing the Spanish American War as a "key turning point in racial formation of Latino/as, American foreign policy, and American democracy"); Gerald P. Lopez, *Undocumented Mexican Migration: In Search of a Just Immigration Law and Policy*, 28 UCLA L. REV. 615 (1981) (evaluating the structural dis/incentives to immigration from Mexico to the United States); MARIFELI PEREZ-STABLE, *THE CUBAN REVOLUTION: ORIGINS, COURSE, LEGACY* 14-60 (2d ed. 1999) (outlining the "mediated sovereignty" of Cuba under the tutelage of the United States following its "independence" from Spain after the conclusion of the Spanish-American War in 1898); MARIA DE LOS ANGELES TORRES, *IN THE LAND OF MIRRORS: CUBAN EXILE POLITICS IN THE UNITED STATES* 74-83 (1999) (reviewing the history of North American political and economic interventionism that contextualizes the "exile" of Cubans in the United States); Ediberto Roman, *Empire Forgotten: The United States' Colonization of Puerto Rico*, 42 VILL. L. REV. 1119 (1997) (critiquing the colonial position of Puerto Rico as a "commonwealth of the United States, also resulting from the conclusion of the Spanish-American War in 1898); *see also* Symposium, *Understanding the Treaty of Guadalupe Hidalgo on Its 150th Anniversary*, 5 S.W.J.L. & TRADE AM. 1 (1998). American adventurism and interventionism throughout the Americas under policy imperatives such as the Monroe Doctrine and the Cold War similarly have catalyzed Latinas/os' presence in the United States – it is no coincidence that Latina/o groups in the United States hail mostly from the places in which the United States has most interfered, such as Mexico, Puerto Rico, Cuba, Nicaragua, Guatemala, the Dominican Republic and El Salvador. *See generally* ARLENE M. DAVILA, *SPONSORED IDENTITIES: CULTURAL POLITICS IN PUERTO RICO*

beyond the United States.<sup>38</sup> In each instance, moreover, we have sought to anchor our work to the twin imperatives of anti-essentialism<sup>39</sup> and anti-subordination.<sup>40</sup> These two concepts work in tandem: "[T]he anti-

(1997); WALTER LAFEVER, *INEVITABLE REVOLUTIONS: THE UNITED STATES IN CENTRAL AMERICA* (2d ed. 1993); *THE PUERTO RICAN MOVEMENT: VOICES FROM THE DIASPORA* (Andres Torres & Jose E. Velazques eds., 1998); *THE DOMINICAN AMERICANS* (Silvio Torres-Saillant & Ramona Hernandez eds., 1998).

38. See Luis Angel Toro, "A People Distinct from Others": *Race and Identity in Federal Indian Law and the Hispanic Classification in OMB Directive No. 15*, 26 TEXAS TECH. L. REV. 1219 (1995) (critiquing the ramifications of the current labeling system in the United States, which "lumps together all people who can connect themselves to some "Spanish origin or culture" together as "Hispanics"); see also Jorge Klor de Alva, *Telling Hispanics Apart: Latino Sociocultural Diversity*, in *THE HISPANIC EXPERIENCE IN THE UNITED STATES: CONTEMPORARY ISSUES AND PERSPECTIVES* 107-36 (Edna Acosta-Belen & Barbara R. Sjostrom eds., 1988) (discussing Latinas/os and the labels used in the United States to describe this multiply diverse social group); SUZANNE OBOLER, *ETHNIC LABELS, LATIN LIVES* (1995); EARL SHORRIS, *LATINOS: A BIOGRAPHY OF THE PEOPLE* (1992); see generally *THE LATINO/A CONDITION: A CRITICAL READER* (Richard Delgado & Jean Stephancic eds., 1998). Conventional labels used socially in the United States are captured formally in the current census, which amalgamates "Spanish/Hispanic/Latino" into a single category, and then subdivides it into subgroup varieties like "Mexican, Mexican Am., Chicano" and "Puerto Rican" and "Cuban." See United States Department of Commerce, Bureau of the Census, Form D-1, Question Seven (2000) (copy on file with authors); see generally Alex M. Saragoza, Concepcion R. Juarez, Abel Valenzuela, Jr. & Oscar Gonzalez, *History and Public Policy: Title VII and the Use of the Hispanic Classification*, 5 LA RAZA L.J. 1 (1992) (discussing federal adoption of the "Hispanic" label and critiquing the conglomeration of the Spanish-Hispanic-Latina/o labels into a single identity category).

39. "Essentialism" and "anti-essentialism" are key concepts in LatCrit theory, however, both terms mean different things in different contexts. Generally, "essentialism" is a label applied to claims that a particular perspective reflects the common experiences and interests of a broader group, as when working class men purport to define the class interests of "workers," or white women purport to define the interests of all "women," without acknowledging intragroup differences of position and perspective. Indeed, essentialist categories are routinely invoked precisely in order to suppress attention to intragroup differences, and thereby to consolidate a group's agenda around the preferences of the group's internal elites. By contrast, "anti-essentialist" theory seeks to reveal intragroup differences precisely in order to expose relations of subordination and domination that may exist within and among the members of any particular group. See, e.g., Elizabeth M. Iglesias, *Structures of Subordination: Women of Color at the Intersection of Title VII and the NLRA*, *Not!* 28 HARV. C.R.-C.L. L. REV. 395 (1993) (revealing how essentialist categories of race and class underpinning American labor and employment law regimes result in the exclusion and/or submergence of women of color within, majoritarian labor unions – thus making the struggle for collective empowerment and recognition a matter of reunifying collective political identities that have been fragmented and fragmenting identities that have been unified through the deployment of race, class and gender essentialism) [hereinafter Iglesias, *Structures of Subordination*]. Though anti-essentialist theory has routinely been attacked for fragmenting, that is "Balkanizing," group solidarity and undermining more universal struggles for progressive social transformation, anti-essentialist theory seeks rather to ground collective solidarity on substantive inter and intragroup justice. Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 629; Iglesias, Foreword—*Transatlantic Dialogue*, *supra* note 5, at 25 n.65 (noting ironically that "Balkanization" has been the charge launched by proponents of pre-existing critical theories against every new strain of critical legal discourse). For readings on "anti-essentialism" and related concepts like "intersectionality" and "multiplicity," see *infra* note 83 and sources cited therein.

40. See Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323 (1987) (urging "looking to the bottom" as jurisprudential method); see also Iglesias & Valdes, Afterword—*Coalitional Theory*, *supra* note 1, at 515-21 (urging the same point in the context of LatCrit theory, specifically).

essentialist foundations of LatCrit theory, if taken seriously, demand that LatCrit theorists recall the ultimate aim and purpose of our work: the promotion of anti-subordination transformation as a material bottom line . . . Anti-essentialist approaches in critical legal scholarship are closely related to anti-subordination principles because anti-essentialism has been the means of securing discursive spaces for voices and interests that mainstream preferences and projects tend to overlook or marginalize . . . in turn allow[ing] outgroups to conceive, articulate and organize anti-subordination projects.”<sup>41</sup> Indeed, anti-subordination purpose is, and must be, the substantive anchor for LatCrit anti-essentialism, as we previously have explained: “Anti-subordination principles and analysis, applied in critical and self-critical ways, provide the substantive limits for and directions of anti-essentialism in LatCrit theory, community and praxis. Thus anti-essentialism is no end unto itself; its utility is defined in relation to a contextual anti-subordination purpose. In LatCrit theory, community and praxis, anti-subordination ideally always contextualizes and informs anti-essentialism.”<sup>42</sup>

The basic LatCrit approach to the Annual Conferences and other projects consequently has embraced “multidimensionality” as the standard of critical anti-subordination analysis and action.<sup>43</sup> As we and others previously have urged, unidimensional analyses or strategies that approach white supremacy, or male supremacy, or straight supremacy as stand-alone or isolated forms of oppression promise little if any chance of producing enduring social justice change precisely because they fail to account for the mutually-reinforcing synergies that cross-support these different forms of oppression.<sup>44</sup> At best, as experience has shown, unidimensional theories and interventions produce only dents in vast and complex fields of interconnected sociolegal systems that artificially structure and maintain hierarchy among and across human identities. As we have learned over the past five years, only through multidimensional analysis and praxis can anti-subordination theorists and activists design effective and efficient strategies of resistance and reform—strategies that

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41. Valdes, Foreword—*Poised at the Cusp*, *supra* note 16, at 515.

42. Elizabeth M. Iglesias & Francisco Valdes, *Expanding Directions, Exploding Parameters: Culture and Nation in LatCrit Coalitional Imagination*, 5 MICH. J. RACE & L. 787, 815-16; 33 U. MICH. J.L. REF. 203, 231-32 (2000) [hereinafter, Iglesias & Valdes, *Expanding Directions*]

43. *Id.* at 798-801; 214-17.

44. See, e.g., Iglesias, *Structures of Subordination*, *supra* note 39 (deconstructing the way race, class and gender essentialism are embedded in the articulation of individual and collective worker rights and their interconnected and mutually reinforcing impact on the subordination of women of color in American workplaces); Valdes, *Queer Margins*, *supra* note 10, at 1320-33 (reviewing causes and limitations of single-axis analysis in sexual orientation scholarship and providing four “ways and means” of advancing multidimensional analysis in Queer legal theory); see also Mari J. Matsuda, *Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition*, 43 STAN. L. REV. 1183, 1189 (1991) (urging anti-subordination analyses to “ask the other question” as a means of theorizing across single-axis group boundaries); *infra* note 45 and sources cited therein on intersectionality, multiplicity and related concepts.

can have a positive social effect precisely because they are designed to mirror and combat the nature and dynamics of interlocking structures of subordination.

Accordingly, by “multidimensionality” we mean the practice of interrogating sociolegal conditions with an eye toward the many overlapping constructs and dynamics that converge on particular persons, groups, settings, events or issues. Building on preceding theoretical breakthroughs like multiplicity, intersectionality and anti-essentialism,<sup>45</sup> we previously have urged that, “Multidimensionality denotes more a *qualitative shift* in analytical consciousness and discursive climate than a *quantitative increase* in the recognition of identities and their intersections . . . [It] cannot be reduced to a mere recitation of the multiple diversities that constitute (and oftentimes disrupt) racial or ethnic categories . . . [Multidimensionality] calls for a profound and far-reaching recognition [of the convergence of] particularities [like] religion, geography, ability, class, sexuality and other identity fault lines that run through, and help to configure and to *interconnect*, all “racial” and “ethnic” communities.”<sup>46</sup> By multidimensional analysis we thus mean to evoke (1) a scholarly mindset, (2) an analytical approach and (3) a programmatic commitment to anti-subordination discourse and action without boundaries or borders—including not only the borders of regions, cultures and identities but also those of discipline and perspective. Indeed, interdisciplinary programs and projects are, and have been during the past five years, a key way of fostering multidimensional analysis, discourse and praxis.<sup>47</sup>

45. These pathbreaking concepts were pioneered in legal theory by Critical Race Feminists. See, e.g., Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990); Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 WOMEN'S RTS. L. REP. 7 (1989); see also 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; Patricia J. Williams, *Alchemical Notes: Reconstructing Ideals from Deconstructed Rights*, 22 HARV. C.R.-C.L. L. REV. 401 (1987); see generally CRITICAL RACE FEMINISM: A READER (Adrien Katherine Wing ed., 1997). Various RaceCrit and LatCrit scholars have continued to develop these groundbreaking works, striving progressively to better capture the dynamics of “identity politics” in law and society. See, e.g., e. christi cunningham, *The Rise of Identity Politics I: The Myth of the Protected Class in Title VII Disparate Treatment Cases*, 30 U. CONN. L. REV. 441 (1998) (on wholism); Berta Hernandez-Truyol, *Building Bridges – Latinas and Latinos at the Crossroads: Realities, Rhetoric and Replacement*, 25 COLUM. HUM. RTS. L. REV. 369 (1991) (on multidimensionality) [hereinafter Hernandez-Truyol, *Building Bridges*]; Hutchinson, *Out Yet Unseen*, *supra* note 10; Kwan, *Jeffrey Dahmer*, *supra* note 13 (on cosynthesis); Francisco Valdes, *Sex and Race in Queer Legal Culture: Ruminations on Identities and Inter-Connectivities*, 5 SO. CAL. REV. L. & WOMEN'S STUD. 25 (1995) (on interconnectivity); see generally Charles R. Lawrence III, Foreword—*Race, Multiculturalism and the Jurisprudence of Transformation*, 47 STAN. L. REV. 819, 834-35 (1995).

46. Iglesias & Valdes, *Expanding Directions*, *supra* note 42, at 798; 214 (emphasis in original).

47. Cross-discipline dialogue has been a conscious and consistent element of the annual LatCrit conferences, as reflected by their programs, all of which are posted to the LatCrit website

As we consider the gains, limits and prospects of the LatCrit intellectual project in more general terms, it seems clear that, conceptually and substantively, LatCrit remains firmly rooted where, in our view, it belongs: within the more general category of outsider jurisprudence, a category that, expansively viewed, includes Critical Legal Studies, Feminist Critical Legal Theory, Critical Race Theory, Critical Race Feminism, Asian American legal scholarship and, more recently, Queer-Crit and LatCrit theory.<sup>48</sup> These genres of outsider jurisprudence have in common an outsider, and oftentimes critical, perspective vis-à-vis law and society. We situate LatCrit within this general category because, in general, and like LatCrit, these related strains of outsider scholarship have striven to: represent marginalized viewpoints; espouse critical, egalitarian, progressive and diverse anti-subordination agendas; accept analytical inter-subjectivity; raise political consciousness and social responsibility; recognize and work with postmodernism; favor praxis; and seek community.<sup>49</sup> In keeping with the fifth LatCrit guidepost—learning and applying the lessons of outsider jurisprudence—this cumulative “OutCrit”<sup>50</sup> record has served as LatCrits’ point of departure, both for

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along with related conference materials and other information on LatCrit projects and plans. See <www.latcrit.org>.

48. See, e.g., Iglesias, Foreword—*Transatlantic Dialogue*, *supra* note 5 (locating LatCrit theory in and against seven strains of critical legal discourse including Critical Legal Studies, Critical Race Theory, Feminist Critical Legal Theory, Critical Race Feminism, Asian Pacific American Critical Legal Scholarship, Chicana/o Studies, and Queer Legal Theory); Francisco Valdes, Afterword—*Theorizing “OutCrit” Theories: Coalitional Method and Comparative Jurisprudential Experience—RaceCrits, QueerCrits and LatCrits*, 53 U. MIAMI L. REV. 1265 (1999) (drawing lessons for LatCrit from the experiences of other outsider efforts, principally those of RaceCrits and QueerCrits) [hereinafter Valdes, Afterword—*Theorizing “OutCrit” Theories*]. For more on the term “outsider jurisprudence,” see Matsuda, *Public Response*, *supra* note 36.

49. LatCrits have recognized these similarities among the various and “different” genres of outsider jurisprudence from the beginning. Valdes, Afterword—*Theorizing “OutCrit” Theories*, *supra* note 48, at 1321-22.

50. The “OutCrit” denomination is an effort to conceptualize and operationalize the social justice analyses and struggles of varied and overlapping yet “different” subordinated groups in an interconnective way. By “OutCrit” we thus mean (at least initially) those scholars who identify and align themselves with outgroups in this country, as well as globally. Therefore, among them are the legal scholars who in recent times have launched lines of critical inquiry within legal culture, including critical legal studies. See *supra* note 36 and sources cited therein on outsider jurisprudence. But by “OutCrit” we mean additionally an embrace of multidimensional approaches to all anti-subordination theory and praxis, including specific projects that might be focused principally on antiracist, antisexist and antihomophobic objectives. See *supra* note 45 and sources cited therein on multidimensionality and related concepts. We mean a personal and proactive, as well as intellectual and collective, embrace of the historic and unfinished struggles against the interlocking legacies of white, Anglo, male and straight supremacies. In the converse, we mean a principled, concurrent and actual rejection of narrow and regressive nationalisms, or essentialisms, based unidimensionally on race, ethnicity, gender, sexual orientation or other single-axis categories of affinity or identification. Fundamentally, “OutCrit” signifies a position of multidimensional struggle against the specific kinds of racist, nativist, sexist and homophobic ideologies and elites that combine to produce and perpetuate “Euroheteropatriarchy.” See generally Francisco Valdes, *Unpacking Hetero-Patriarchy: Tracing the Conflation on Sex, Gender and Sexual Orientation to Its Origins*, 8 YALE J.L. & HUM.

theory and for action. While focused on multiply diverse Latina/o communities, LatCrit theory has imagined and conducted itself as a self-critical joint effort of many diverse scholars to apply, to ourselves and to our works, as well as to law and society, the growing lessons of outsider jurisprudential experiments.<sup>51</sup>

As this brief overview indicates, and due in no small part to the lessons of outsider jurisprudence, LatCrits generally have been—and seem firmly to remain—convinced that we cannot understand, much less dismantle, the subordination of Latina/o persons and communities without understanding how the oppression, inter-nationally, of African-descended persons, Asians, queers, Native Americans and other indigenous peoples, disabled people, women, and poor people are interconnected with the oppression of Latinas/os. LatCrit scholars and activists know full well that each and all of us must embrace questions of difference in our increasingly multicultural/multiracial societies. We understand and accept that we have to learn about the histories and experiences that produce current differences. We also believe that, to exert a transformative influence in law and society, outsiders must engage difference in self-empowering ways that do not duck difficult issues or moments, but rather center and engage them precisely to promote social transformation and inter-group justice collectively and collaboratively. Thus, we proactively have sought to center *within* LatCrit programs not only marginalized Latinas/os, but also other subordinated communities and identities that oftentimes are found at the margins even of outsider jurisprudence.<sup>52</sup> Excavating substantive interconnections to cultivate and anchor

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161 (1996) (describing some of the sex/gender and sexual orientation norms that underlie and animate androsexism and heterosexism to produce the patriarchal form of homophobia – heteropatriarchy – that still prevails in Euroamerican societies, including the United States, today); see also Francisco Valdes, *Outsider Scholars, Legal Theory and OutCrit Perspectivity: Postsubordination Vision as Jurisprudential Method*, 49 DEPAUL L. REV. 831 (discussing the relationship between Euroheteropatriarchy and OutCrit theory and praxis). OutCrit positionality, in short, is framed around the need to confront in personal, collective and coordinated ways the mutually-reinforcing tenets and effects of the sociolegal forces that currently operate both domestically and internationally under Euroheteropatriarchy.

51. This point reflects the fifth LatCrit guidepost noted above: “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 ... LatCrit theorists must see ourselves as inheritors and collaborators within an activist and expansive community of outsider scholars ... Being constantly aware of the past and its lessons while striving to apply those lessons progressively therefore serves as the fifth inaugural guidepost” of LatCrit theory, community and praxis. Valdes, Foreword—*Poised at the Cusp*, *supra* note 16, at 55; see also *supra* note 35-36 and accompanying text on the LatCrit “guideposts.”

52. A successful example of these efforts is the Queer programming discussed below, *infra* notes 62-75, which necessarily had to overcome both the homophobia of Latina/o and other cultures as well as the marginality of “sexual orientation” in outsider scholarship generally. See, e.g., Elvia R. Arriola, *Gendered Inequality: Lesbians, Gay Men, and Feminist Legal Theory*, 9 BERKELEY WOMEN’S L.J. 103 (1994) (questioning feminist categories around sex, gender and sexuality that marginalize lesbian/queer issues); Patricia A. Cain, *Feminist Jurisprudence: Grounding the Theories*, 4 BERKELEY WOMEN’S L.J. 191 (1989-90) (critiquing the invisibility of minority sexual

multidimensional social justice coalitions therefore has been central to the first five years of Annual Conferences and related events. As suggested by the original guideposts, this is the trick we have sought, and seek still, to perform in all that we undertake.

### B. *Coming Together: Notes from Journeys of Collective Learning*

The journeys—or snapshots of journeys—that we describe here necessarily are told in truncated and simplified form, and from our particular perspectives. We recount them because in our view they exemplify the work and progress of the past five years, and because they indirectly illustrate many other similar examples that neither time nor space permits us to engage here. These examples depict an ongoing, collective engagement with multiple axes of “difference.” We begin with the most recent examples drawn from this year’s conference, and then turn to others from prior years. Although none of these represents all that must be accomplished, cumulatively they reveal a continuing collective commitment to “performing the theory” in and through the Annual Conferences.

#### 1. LatCrit V: From “Class-versus-Identity” to “Critical Coalitional Communities”

While a detailed discussion of the essays in this symposium is the work of the Foreword<sup>53</sup> and Cluster Introductions,<sup>54</sup> it is worth noting two distinct dimensions of LatCrit V’s encounter with class and economic

orientations in feminist analyses of law); Darren Lenard Hutchinson, *Ignoring the Sexualization of Race: Heteronormativity, Critical Race Theory and Antiracist Politics*, 47 BUFF. L. REV. 9-113 (1999) (critiquing the silence on sexual orientation within race/ethnicity discourses); Berta Hernandez-Truyol, *Latina Multidimensionality and LatCrit Possibilities: Culture, Gender and Sex*, 53 U. MIAMI L. REV. 811 (1999)[hereinafter Hernandez-Truyol, *Latina Multidimensionality*]; Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 614-17 (reflecting on implications of Latina/o homophobia for liberation projects organized around either the struggle against internalized oppression or the reclamation of some insider position through self-valorization); Iglesias, *Structures of Subordination*, *supra* note 39, at 493-97 (reflecting on imperatives implicated for legal transformation by the existential crises experienced specifically by Latina lesbians and by implication all others similarly situated at the intersection of class, race, gender and sexual orientation structures of subordination); Valdes, Afterword—*Theorizing “OutCrit” Theories*, *supra* note 48, at 1280-82 (describing pervasive heteronormativity of this country and its legal institutions, from which outsider jurisprudence arose). Less successful examples include LatCrit efforts to center disability issues, indigenous people, Filipina/o communities and other marginal identities within Latina/o and outgroup settings. See *infra* notes 115-18 and accompanying text on these and similar efforts.

53. Margaret E. Montoya, Foreword—*LatCrit V Symposium, Class in LatCrit: Theory and Praxis in a World of Economic Inequality*, 78 DENV. U. L. REV. 467 (2001).

54. Elvia R. Arriola, *Talking About Power and Pedagogy, Introduction for Cluster: “LatCrit Theory in New Contexts,”* 78 DENV. U. L. REV. 507 (2001); Kevin R. Johnson, *Comparative Racialization: Culture and National Origin in the Latino/a Communities*, 78 DENV. U. L. REV. 633 (2001); Gil Gott, *Identity and Crisis: The Critical Race Project and Postmodern Political Theory*, 78 DENV. U. L. REV. 817 (2001); Fran Ansley, *Borders*, 78 DENV. U. L. REV. 967 (2001); Dennis Greene, *Challenging Oppression, Reclaiming Justice*, 78 DENV. U. L. REV. 1063 (2001).

inequality that, in our view, mark major conceptual and community-building advances and open important new trajectories for further LatCrit investigations. These two dimensions of the conference are reflected, first, in its emphasis on the structures and processes of economic subordination that exist *within, among and between* outsider communities and, equally, in its efforts to interrogate "traditional" business law subjects not previously engaged in LatCrit theory. Both moves map rich fields of inquiry that for many reasons have remained relatively dormant within outsider jurisprudence.

In the now-familiar debates over the relative priority of class and identity, the impact of class structures and inequalities on *non-white* working poor persons routinely has been marginalized by the oft-repeated tendency to focus arguments of law and policy on the competing interests and relative positions of white working poor versus middle class Blacks.<sup>55</sup> By focusing critical analysis on the sociolegal frameworks organizing class subordination *within, among and between* outsider communities, LatCrit V moves our critical attention to sociolegal sites where identity-based subordination and economic exploitation converge to produce relentless misery for many, as well as inter- and intra-group stratifications in and among subordinated communities.<sup>56</sup>

LatCrit V thus crystallized why and how it is conceptually and substantively meaningless to pitch class against race or gender or sexual orientation, or any form of identity, in any project that aspires theoretically to articulate or politically to manifest the principles of anti-essentialism and anti-subordination. Anti-essentialism requires LatCrit and other scholars to attend to the differences of privilege and subordination within *any* category used to define a collective identity, while anti-subordination requires taking a critical and *self-critical* stance against *all* relations of subordination that skew the articulation of collective identities—as well as constricting the emancipatory agendas that are champi-

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55. See, e.g., STEPHEN L. CARTER, REFLECTIONS OF AN AFFIRMATIVE ACTION BABY (1991); Deborah C. Malamud, *Affirmative Action, Diversity, and the Black Middle Class*, 68 U. COLO. L. REV. 939 (1997); Frances Lee Ansley, *Classifying Race, Racializing Class*, 68 U. COLO. L. REV. 1001 (1997); Frances Lee Ansley, *Stirring The Ashes: Race, Class And The Future Of Civil Rights*, 74 CORNELL L. REV. 993 (1989). For compelling efforts to move the affirmative action debate beyond a race/class debate ensconced in the black/white paradigm, see Gabriel J. Chin, Sumi Cho, Jerry Kang & Frank Wu, *Beyond Self-Interest: Asian Pacific Americans Toward a Community of Justice, A Policy Analysis of Affirmative Action*, 4 UCLA ASIAN PAC. AM. L.J. 129 (1996).

56. See, e.g., Broad, *supra* note 8, at 1151-53 Mutua, *infra* note 104, at 1171; Park, *supra* note 7, at 1201; see also, Paul Ong & Suzanne J. Hee, Economic Diversity, in *The State of Asian Pacific America: Economic Diversity, Issues & Policies* 31, 31-56 (Paul Ong ed., 1994) (comparing the earnings of Asian Americans to Whites) at 36-37 (noting that nearly half of all Americans of Southeast Asian descent live in poverty); see generally Eric K. Yamamoto, *Conflict and Complicity: Justice Among Communities of Color*, 2 HARV. LATINO L. REV. 495 (1997) (analyzing inter-group grievances and relations among groups of color) [hereinafter Yamamoto, *Conflict and Complicity*].



oned in their collective names.<sup>57</sup> Put more simply, class stratification will remain a central and compelling problem in the liberation agendas of any of the many identities now coalescing in and around the LatCrit project—so long as the poor are among us and of us.<sup>58</sup> This simple but crucial insight was a collective achievement at LatCrit V, though its long-term impact, as always, will depend on the extent to which it is activated, explored and further articulated in the production of future LatCrit scholarship, as well as in its translation into popular discourse.<sup>59</sup>

LatCrit V's incursions into the fields of tax, corporate and commercial law and policy also mark a needed expansion of critical perspective and interdisciplinary analysis in law and legal theory. While issues of employment discrimination, equal protection, immigration policies and language rights continue to be of particular and obvious importance, and therefore central, to evolving LatCrit social justice agendas, LatCrit V provides ample evidence of the conceptual insights and political advances to be gained by focusing critical identity-based analyses on substantive areas of law and policy that oftentimes are not thought to be racialized, ethnicized, gendered, sexualized, classed or otherwise marked by the sociocultural imperatives of heteropatriarchy, first world nativism and white supremacy, but which nonetheless are. This push to link outsider identities to the critical analysis of "new" substantive sociolegal domains aptly reflects two key imperatives of the LatCrit project: (1) the production of knowledge that is ever-more conscious of the broader contexts in which interconnected institutional arrangements, elite practices and dominant ideologies produce the patterns of subordination that progressive social movements have too often combated in a fragmented and unidimensional fashion and (2) the identification of new sites of transformative intervention and coalitional mobilization through multidimensional analysis and action.<sup>60</sup> In this way, LatCrit V demonstrated a con-

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57. See, e.g., Iglesias, *Structures of Subordination*, *supra* note 39 (examining how white male union power is structured around the denial of collective rights to subordinated groups within majoritarian unions and deconstructing underlying misconception that posit race-less class as more universal worker identity and therefore rightly privileged over race or gender identities in the organization of collective action)

58. Iglesias & Valdes, *Afterword—Coalitional Theory*, *supra* note 1, at 535-45 (grounding this imperative in the ready synergies between LatCrit social justice agendas and the revolutionary vision expressed in liberation theology).

59. This point returns us to a basic challenge: ensuring the widest possible accessibility for the works we produce. See *supra* notes 25-29 and accompanying text on early LatCrit efforts to ensure the dissemination of our collective work; see also *infra* notes 201-06 and accompanying text on upcoming projects, like the multi-media and webcasting initiatives, that similarly are designed to continue these early efforts.

60. Combating the fragmentation of progressive social movements and identity-based politics has been a key concern of LatCrit scholars since the inception of the LatCrit project. See, e.g., Elizabeth M. Iglesias, *Foreword—International Law, Human Rights and LatCrit Theory*, 28 U. MIAMI INTER-AM. L. REV. 177 (1996-97) (reflecting on the fragmentation of domestic civil rights and international human rights movements) [hereinafter Iglesias, *Foreword—Human Rights and*

tinuing struggle to practice and accomplish, at collective and programmatic levels, the four basic functions that we have imagined for, and have struggled to fulfill through, LatCrit theorizing and activism.<sup>61</sup>

By centering sociolegal fields regulated by traditional "business law" regimes, LatCrit V helps to advance LatCritical analyses of the centers of American economic and political power, and the legal regimes that organize and empower them. Again, the long-term impact of this conceptual intervention will depend on the extent to which it is collectively activated, explored and further articulated in the production of future LatCrit scholarship as well as our success in translating these new insights and learning into popular discourse. Thus, LatCrit V's gains help to foreground a principal point of this Afterword: the importance of attending to the practices that have enabled the substantive and thematic evolution of LatCrit theory and discourse, as well as the new practices and initiatives needed to maintain the continuity and ensure the sustainability of this kind of conceptual development.

In a different yet similar vein, LatCrit V marked another kind of advance in the evolution of LatCrit discourse and community in and through the decision to organize in plenary format a moderated focus-group discussion on *Queering LatCrit Discourse: Confronting Latina/o Homophobia*.<sup>62</sup> This focus-group discussion was designed to "build upon prior LatCrit efforts to engage sexual orientation issues and resist cultural homophobia" within and beyond Latina/o communities.<sup>63</sup> Recalling the eruptions that occurred three years earlier at LatCrit II in San Antonio, and that are reflected in the contributions to that earlier symposium, thus provides the necessary context for understanding and appreciating the full significance of LatCrit V's achievement in this area.<sup>64</sup>

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*LatCrit Theory*); Elizabeth M. Iglesias, *Institutionalizing Economic Justice: A LatCrit Perspective on the Imperatives of Linking the Reconstruction of "Community" to the Transformation of Legal Structures that Institutionalize the Depoliticization and Fragmentation of Labor/Community Solidarity*, 2 U. PENN. J. LAB. & EMP. L. 773 (2000) (reflecting on the fragmentation of labor and community-based social movements); Kevin R. Johnson, *Some Thoughts on the Future of Latino Legal Scholarship*, 2 HARV. LATINO L. REV. 101 (1997) (discussing the challenges facing LatCrit theory); George A. Martinez, *African-Americans, Latinos and the Construction of Race: Toward an Epistemic Coalition*, 19 UCLA CHICANO-LATINO L. REV. 213 (1998) (urging Latinas/os, Blacks and other groups of color to coalesce around "race" and our collective, cumulative knowledge of white supremacy); Ediberto Roman, *Common Ground: Perspectives on Latina-Latino Diversities*, 2 HARV. LATINO L. REV. 483, 483-84 (1997) (urging Latinas/os to focus on our similarities rather than our differences as a way of promoting intra-group justice and solidarity); Yamamoto, *Conflict and Complicity*, *supra* note 56.

61. See *supra* note 30 and accompanying text on the four functions of LatCrit theory and praxis.

62. *Queering LatCrit Discourse: Confronting Latina/o Homophobia*, see LATCRIT V CONFERENCE PROGRAM OUTLINE, <<http://www.latcrit.org>> (copy also on file with authors).

63. *Id.* at 6.

64. Those events are discussed from varying perspectives in Elvia R. Arriola, Foreword—*March!*, 19 UCLA CHICANO-LATINO L. REV. 1 (1998); Emily Hartigan, *Disturbing the Peace*, 19

Those earlier eruptions were triggered by an explosive encounter over the place of Queer perspectives and non-Latina/o subject positions in the articulation of LatCrit theory—an encounter in which the LatCrit community was forced, collectively and spontaneously, to confront (and resolve) tensions generated by an un-self-critical performance and deployment of Latina/o religious identity and, more particularly, by the proclaimed intentions of some to “infuse” LatCrit discourse and community with essentialized accounts of the Roman Catholic tradition and its purported centrality in the lives of all Latinas and Latinos.<sup>65</sup> The fact that, just three years later, at LatCrit V, we were able successfully—without ruptures or disruptions—to program a multiply diverse and substantively challenging plenary focus-group discussion on homophobia in Latina/o and other communities marks a major achievement in our collective growth as a living and learning community. This kind of collective achievement has never been easy, as these years of effort make clear, and as the prior experience of other outsider jurisprudential experiments also have demonstrated.<sup>66</sup> The key point, however, is that this successful encounter at LatCrit V did not occur in a vacuum, nor as a one-shot event. It occurred in the context of three years of sustained and continuing efforts to nurture a collective commitment to making LatCrit conferences a

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UCLA CHICANO-LATINO L. REV. 479 (1998); Iglesias & Valdes, Afterword—*Coalitional Theory*, *supra* note 1; Margaret E. Montoya, *Introduction: Religious Rituals and LatCrit Theorizing*, 19 UCLA CHICANO-LATINO L. REV. 417 (1998); Nancy K. Ota, *Falling From Grace: A Meditation on LatCrit II*, 19 UCLA CHICANO-LATINO L. REV. 437 (1998); Reynaldo Valencia, *On Being an “Out” Catholic: Contextualizing The Role of Religion at LatCrit II*, 19 UCLA CHICANO-LATINO L. REV. 449 (1998); Cf. Iglesias & Valdes, Afterword—*Coalitional Theory*, *supra* note 1, at 511-45 (discussing these essays in the context of LatCrit theorizing).

65. E.g., Valencia, *supra* note 59; compare Iglesias & Valdes, Afterword—*Coalitional Theory*, *supra* note 1, at 511-61 (elaborating a critical and self-critical approach to LatCritical analysis of organized “religion” and its impact on Latina/o histories and realities).

66. The birth and growth of outsider jurisprudence have been punctuated by various ruptures, perhaps most notably the rupture with critical legal studies that gave way to the emergence of critical race theory. For a collection of works that recount those events, see Symposium, *Minority Critiques of the Critical Legal Studies Movement*, 22 HARV. C.R.-C.L. L. REV. 297 (1987); see also Symposium, *Critical Legal Studies*, 36 STAN. L. REV. 1 (1984) (describing and presenting critical legal studies). In turn, similarly conflicted experiences marked the critical race theory workshops that followed that early rupture. See, e.g., Stephanie L. Phillips, *The Convergence of the Critical Race Theory Workshop with LatCrit Theory: A History*, 53 U. MIAMI L. REV. 1247 (1998) (describing the early workshops)[hereinafter Phillips, *The Convergence*]; Valdes, Afterword—*Theorizing “OutCrit” Theories*, *supra* note 48, at 1288-91 (describing the later workshops). Of course, similar dynamics also have surfaced with feminist legal theory. See, e.g., Catharine A. MacKinnon, *Keeping it Real: On Anti-“Essentialism” in CROSSROADS, DIRECTIONS AND A NEW CRITICAL RACE THEORY*, *supra* note 23 (forthcoming 2002); Catharine A. MacKinnon, *From Practice To Theory, or What Is a White Woman Anyway?*, 4 YALE J.L. & FEMINISM 13 (1991) (responding to controversies about race and gender within feminist legal theory); Leti Volpp, *Feminism Versus Multiculturalism*, 101 COLUM. L. REV. 1181 (2001) (critiquing the sometimes oppositional juxtaposition of the two). As this account confirms, LatCrit conferences and discourses have not been immune to this phenomenon; see also Valdes, Afterword—*Theorizing “OutCrit” Theories*, *supra* note 48, at 1308-11 (recounting “contentious engagements” at various LatCrit conferences, including the first one).

context and venue in which difference can be embraced and explored from an anti-essentialist, anti-subordination perspective: *three years* of substantive programming set the stage for this year's successful encounter in collectively addressing the otherwise highly explosive topic of Latina/o homophobia, and it is these three years of sustained effort that, in our view, mark the difference between projects aimed at abstract intellectual encounters with "novel" ideas and collaborative projects aimed at producing the kinds of shared learning and mutual engagement that make coalitional theory a lived reality and nurture community-building processes.<sup>67</sup>

This point is key and merits further emphasis. Too often, the encounter with difference has been a "virtual" encounter engaged from within the safety of sameness, as for example when white people espouse their commitment to diversity in an all-white venue, when straight people condemn homophobia from the safety of a venue marked by heterosexual normativity, or when Latinas/os articulate a pan-ethnic discourse in venues dominated by white-identified Hispanics.<sup>68</sup> The struggle that has made the LatCrit project so fragile and volatile, and yet so potentially transformative, has been the struggle to create a qualitatively and normatively different kind of venue: one in which difference can be engaged through a lived encounter *across concretely embodied differences*.<sup>69</sup> Creating, in other words, a concretely anti-essentialist venue where, for example, self-identified Chicana/o nationalists, Cuban-American exiles, Anglo lesbians, Afro-Latinos/as, and Asian post-colonial theorists and activists—and all Others committed to the performance of anti-subordination principles and practices—can explore their differences, imagine their commonalities and collectively theorize the new sociolegal regimes that would mark their joint and several liberation. This kind of critical and self-critical sharing of difference is no easy task.<sup>70</sup>

But this precisely is the promise and possibility we see embedded in the achievements of LatCrit V, and throughout the years of effort that have paved its way. It is the aspiration embedded in the LatCrit guideposts, which beckon us to build intra-Latina/o communities and inter-

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67. Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 682.

68. *Id.* at 627 (explaining how the practice of rotating centers is designed to challenge a model of multiculturalism "that continues to cast Black subordination as primarily 'a Black thing,' Hispanic subordination as 'a Hispanic thing,' Asian subordination as 'an Asian thing,' and so forth"); *Id.* at 625 n.111 (explaining difference between the model of rotating centers and the organization of essentialist subgroups or "caucuses" within a broader collectivity).

69. *Id.* at 626-7 (reflecting on the way commitment to anti-subordination across difference positions "the anti-essentialist critique *beyond* rather than, as often is charged, at the center of the political fragmentation and Balkanization that threatens to sunder every universal into a proliferation of increasingly atomized and ineffectual particularities").

70. See *supra* notes 62-67 and *infra* notes 72-74 and accompanying text on the "Queer" example and how LatCrits have tried to engage the issues generated by this axis of difference programmatically over a three-year period.

group coalitions, and urge us to find commonalities while respecting differences and through these practices to chart and struggle for social justice transformation. In this context, the promise of these efforts, in our view, is reflected directly in the fact that at LatCrit V the issue of homophobia was centered in self-critical fashion, not in a predominantly gay or lesbian context where such issues are ordinarily uncontroversial, but in a context where sexual orientation was but one of multiple axes of identity and perspective.<sup>71</sup>

More specifically, while the eruptions at LatCrit II in San Antonio, at the time, raised serious questions about even the short term viability of the LatCrit project,<sup>72</sup> the decision to persevere in organizing a LatCrit "III" in Miami prompted immediate follow-up programming, in which Latinas/os' religious and sexual diversities were thematized in panels and presentations that explored not only Roman Catholicism, but Santeria and other religious traditions embraced by Latinas/os throughout the hemisphere and across the globe.<sup>73</sup> This effort was continued at LatCrit IV in Lake Tahoe, where we pushed the programmatic envelope further by centering various native religious traditions that existed before the transplantation of Roman Catholicism to the "New World" via European colonization, as well as by continuing to develop a critical understanding of the diverse religions, faiths and spiritualities in Latina/o lives and cultures, including Roman Catholicism.<sup>74</sup> These follow-up programs, aimed

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71. Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 625 (explaining how the practice of rotating centers seeks precisely to center the particularity of one group's subordination as a matter of universal concern for the entire community, rather than a separate concern of those particularly burdened); *Id.* at 678 (reflecting on the way the practice of rotating centers implies a profound normative and political challenge not just to eliminate oppression, but also to *give up privilege* as a result of one's solidarity with others oppressed by systems that may in fact privilege some of us in any given context).

72. *Id.* at 576 n.3.

73. Plenary Panel One at LatCrit III was titled "*Between/Beyond Colors: Outsiders Within Latina/o Communities*" and included presentations focused on Latina/o religious diversities while Patricia Fernandez-Kelly delivered a keynote address on "*Santeria in Hialeah: Religion as Cultural Resistance*" that explored the sociology of non-Western religious beliefs and practices in the working-class and predominantly Cuban city of Hialeah, Florida. See LatCrit III Final Program at 2, at CONFERENCE MATERIALS AND ARTICLES <<http://www.latcrit.org>> (copy also on file with authors); Hernandez-Truyol, *Latina Multidimensionality*, *supra* note 53, at 818-24.

74. The LatCrit IV program opened with a religious ceremony based on pre-Columbian rites of the Aztec people, and featured a concurrent panel on "*Religion, Gender and Sexuality: Conscience in LatCrit Theory*" that produced various essays on religion and LatCrit theory. See LATCRIT IV PROGRAM SCHEDULE at 5, <[www.latcrit.org](http://www.latcrit.org)> (copy also on file with authors). The Symposium similarly includes essays devoted to this topic. See Guadalupe Luna, *Gold, Souls and Wandering Clerics: California Missions, Native Californians and LatCrit Theory*, 33 U.C. DAVIS L. REV. 921 (2000); Laura Padilla, *Latinas and Religion: Subordination or State of Grace?*, 33 U.C. DAVIS L. REV. 973 (2000); Terry Rey, "*The Virgin's Slip is Full of Fireflies*": *The Multiform Struggle Over the Virgin Mary's Legitimierende Macht in Latin America and Its U.S. Diasporic Communities*, 33 U.C. DAVIS L. REV. 959 (2000). For a discussion of these essays, see Francisco Valdes, *Piercing Webs of Power: Identity, Resistance and Hope in LatCrit Theory and Praxis*, 33 U.C. DAVIS L. REV. 897 (2000).

at fostering greater knowledge and awareness of religious and sexual orientation diversities among and between Latinas/os and other minority groups, illustrate a collective effort to perform LatCrit theory's espoused commitment to anti-essentialist, anti-subordination praxis in a critical and self-critical manner. It is against this background of lived eruptions and collective learning that the *Queering LatCrit Discourse* focus group discussion ranks among LatCrit V's major achievements in this ongoing experiment called LatCrit theory, community and praxis.<sup>75</sup>

These examples illustrate how this year's conference once again revealed and advanced the interconnected and synergistic dimensions of LatCritical theorizing and community-building: to expand the scope and depth of our discourse, we must expand the scope and depth of our community; yet, to expand our community, we must expand our discourse.

These achievements also illustrate why and how the Annual Conferences and related LatCrit initiatives constitute an important form of outsider praxis—a critical and self-critical application of the theory we profess and articulate to a key site of contestation: the legal academy and imagination of the United States—a highly legalistic society if ever there was one.<sup>76</sup> This last point also bears emphasis: legal scholars are advantageously positioned to promote social justice in any legalistic society; thus, as critical legal scholars in *this* legalistic society, we must acknowledge not only the limitations imposed by our positions of marginality, but we also must recognize and operationalize the opportunities that our professional and institutional positions allow.

Indeed, the legal academy is a key “front” in the “culture wars” of our times because of its pivotal influence over law and policy and its key role in legitimating authority and producing elites.<sup>77</sup> By insisting that we

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75. Of course, this effort continues. See, e.g., Gema Perez-Sanchez, *Franco's Spain, Queer Nation?*, 5 MICH. J. RACE & L. 943; 33 U. MICH. J.L. REF. 359 (2000) (interrogating the homophobia prevalent in Spanish law and culture).

76. By “legalistic” we mean a society highly regimented by legal institutions and processes, in which the mediation of social conflict is purportedly grounded in “the rule of law” and “equal justice under law.” Without doubt, in this sense, this society is highly legalistic. See generally MARY ANN GLENDON, *A NATION UNDER LAWYERS* (1994) (discussing this country's longstanding legalistic culture).

77. The declaration of cultural warfare issued formally, and perhaps most conspicuously, from Republican Presidential contender Patrick Buchanan during his address to the 1992 Republican National Convention. See Paul Galloway, *Divided We Stand: Today's “Cultural War” Goes Deeper than Political Slogans*, CHI. TRIB., Oct. 28, 1992, at C1; see also Chris Black, *Buchanan Beckons Conservatives to Come “Home,”* BOSTON GLOBE, Aug. 18, 1992, at A12; JAMES DAVISON HUNTER, *CULTURE WARS: THE STRUGGLE TO DEFINE AMERICA* (1991); JAMES HUNTER, *BEFORE THE SHOOTING BEGINS: SEARCHING FOR DEMOCRACY IN AMERICA'S CULTURE WAR* (1994). Since then, this social conflict has been waged with a vengeance to “take back” the civil rights gains of the past century in the name of the “angry white male.” See Grant Reeher & Joseph Cammarano, *In Search of the Angry White Male: Gender, Race and Issues in the 1994 Elections*, in MIDTERM: THE ELECTIONS OF 1994 IN CONTEXT (Philip A. Klinkner ed., 1996). For a more detailed discussion of

practice the theory we profess, internally in the organization of LatCrit events and initiatives as well as more broadly within our professional environments, we consciously and strategically perform the task of fighting in the corridors of academia the battles over dignity, equality, diversity and social justice being waged more broadly throughout the United States and beyond.<sup>78</sup> In doing so, we recognize that ours is simply one front in a complex and multifaceted social conflict, even as we embrace and activate the first LatCrit guidepost: recognizing and accepting the political nature of *all* legal scholarship, especially in a legalistic society. Legal academia is only one site of contestation among many—but a crucial one—along which LatCrit, OutCrit and other allied scholars must and do struggle, sometimes even in “hand to hand combat.”<sup>79</sup>

In this vein, we view the organization of programmatic events and the publication of related symposia as acts of resistance to the dominant forms of knowledge that have captured the legal academy of this country, and which leverage that captivity to produce legal regimes that buttress traditional—even “original”—sociolegal skews. Because our programmatic interventions confront and reject professional and intellectual, as well as social and political, systems of subordination, we view these and similar acts of resistance as a form of praxis within, and on behalf of, the many communities that we inhabit simultaneously. Although our struggles within the legal academy at times may seem far removed from the struggles in our communities of origin, we emphasize that, from a LatCrit perspective, the project of producing, practicing and sustaining this jurisprudential insurrection is an important, indeed crucial, intervention in a continuing struggle over a key front in today’s culture wars: the legal academy and its production, legitimation and deployment of legal

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culture war, retrenchment politics and backlash lawmaking, see Francisco Valdes, Afterword—*Beyond Sexual Orientation in Queer Legal Theory: Majoritarianism, Multidimensionality, and Responsibility in Social Justice Scholarship, or Legal Scholars as Cultural Warriors*, 75 DENVER U. L. REV. 1409, 1426-43 (1998); see also Keith Aoki, *The Scholarship of Reconstruction and the Politics of Backlash*, 81 IOWA L. REV. 1467 (1996); see generally Kimberlé W. Crenshaw, *Race, Reform and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331 (1988); Kenneth L. Karst, *Religion, Sex, and Politics: Cultural Counterrevolution in Constitutional Perspective*, 24 U.C. DAVIS L. REV. 677 (1991).

78. Iglesias, Foreword—*LatCrit III* *supra* note 14, at 579-80 (discussing the LatCrit project as a microcosm of the struggles confronting global society).

79. For additional elaboration of these points, see Francisco Valdes, *Insisting on Critical Theory in Legal Education: Making Do While Making Waves*, 12 LA RAZA L.J. (2001) 137, 148 (noting that “outsiders wage hand-to-hand combat” daily to promote anti-subordination principles both within and beyond the legal academy) [hereinafter Valdes, *Making Waves*]; see also, Charles R. Lawrence III, Essay, *Two Views Of The River: A Critique Of The Liberal Defense Of Affirmative Action*, 101 COLUM. L. REV. 928, n.116 (2001) (quoting Historian Roger Wilkin’s response to the question why the children of middle-class blacks like himself should benefit from affirmative action: “Because fighting racism in white institutions is hand to hand combat. If my daughter is among the best-trained and most committed freedom fighters, we must have her here with us. We need every warrior we can muster.”) [hereinafter Lawrence, *Two Views Of The River*].

knowledge, theory, doctrine and consciousness to craft social policy in the interest of dominant elites.<sup>80</sup> In short, we view the programs and publications of the past five years as one among many ways of practicing the second LatCrit guidepost: conceiving of ourselves as activist scholars committed to praxis, and to maximizing the social relevance of LatCrit discourse and theorizing.

In our view, the achievements of LatCrit V thus illustrate a continuing collective performance not only of the early commitments to the production of knowledge and advancement of social transformation, but also to exploring and advancing the interconnections among anti-subordination struggles and the cultivation of coalitional communities.<sup>81</sup> These experiences undeniably have raised collective levels of knowledge and consciousness. This collective learning in turn has permitted and witnessed the evolution of new possibilities and avenues for cross-group understanding and interaction, producing new coalitional communities and enhancing their potential contributions to the project of social transformation, both beyond and, equally important, *within* the legal academy. These examples also illustrate why socially constructed and inherited fault lines based on religion, gender, sexual orientation, class and the like must be programmatically confronted and substantively reconfigured if outsider scholarship is to provide a basis for "real-life" experience and growth. Obviously, however, these imperatives are not limited to these particular fault lines, nor to this year's program. Accordingly, we turn now to other examples that reflect the coalitional imperative in LatCrit theory, praxis and community during the past five years.

## 2. Race and Ethnicity: From Domestic Paradigms to International Contexts

Similar to the spontaneous eruptions over individuated expressions of religious and Queer identities at LatCrit II, the following year at LatCrit III the conference experienced a near explosion, except that this time it was over a programmed event: a moderated roundtable discussion titled, *From RaceCrit to LatCrit to BlackCrit? Exploring Critical Race Theory Within and Beyond the Black/White Paradigm*.<sup>82</sup> This roundtable was designed self-consciously to inaugurate in a formal way the practice

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80. Iglesias, *Global Markets, Racial Spaces*, *supra* note 6, at 1072-73 (reflecting on the significance of legal knowledge, theory, doctrine and institutions as crucial sites of contestation in the project of social transformation).

81. See *supra* note 30-36 and accompanying text on the four functions and seven guideposts of LatCrit theory.

82. For an account of and reflections upon the discursive controversies triggered by this programmed event, see Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 622-29; Athena Mutua, *Shifting Bottoms and Rotating Centers: Reflections on LatCrit III and the Black/White Paradigm*, 53 U. MIAMI L. REV. 1177 (1999); Phillips, *The Convergence*, *supra* note 66; Dorothy E. Roberts, *BlackCrit Theory and the Problem of Essentialism*, 53 U. MIAMI L. REV. 855 (1999); Valdes, Afterword—*Theorizing "OutCrit" Theories*, *supra* note 48, at 1266-73.



of rotating centers at LatCrit conferences as a key form of collectively engaging and learning from the multiple differences and diversities that we embody as a community of scholars and activists.<sup>83</sup> The idea behind formalizing the practice of rotating centers was to advance a collective engagement with the otherwise-suppressed perspectives of those whose marginal and intersectional identities *within* our various communities offer unique opportunities. This engagement is designed both to enhance the production of new knowledge and to strengthen our solidaristic commitments and coalitional imagination by challenging us to be ever-more inclusive and ever-more conscious of the realities of subordination to which our particular experiences of privilege and oppression may otherwise blind us. In that initial instance, we did so with the decision "to center in LatCrit theory the problem of Black subordination, and to explore the anti-essentialist insights to be gained by shifting the focus of LatCrit analysis from Hispanic Latinas/os to Black Latinas/os and their intersectional commonalities with other Black identity groups."<sup>84</sup> This particular rotation has a specific history and context that powerfully illustrate why and how the production of anti-essentialist, anti-subordination theory depends so profoundly on our willingness to take the risks involved in embracing difference and building community, even as we think programmatically and practically about the kinds of conference events that can facilitate these objectives.

From the very first gathering, LatCrits programmatically have confronted the generally prevalent stereotype that Latinas/os are Hispanics though many, perhaps most, are not.<sup>85</sup> Both the 1995 colloquium in

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83. LatCrit scholars from the very beginning have grappled with racial, ethnic and other forms of diversity both within and beyond Latina/o communities. See, e.g. *infra* notes 85-87 and sources cited therein on race and ethnicity in LatCrit theory and outsider jurisprudence. This commitment to diversity and inclusion is embodied in LatCrits' embrace of anti-essentialism and is reflected in the symposium based on the First Annual LatCrit Conference, which presents clusters or panels of essays authored by a richly diverse group of scholars that are organized around themes such as: "*Latina/o Identity and Pan-Ethnicity: Toward LatCrit Subjectivities*" and "*Races, Nationalities and Ethnicities: Mapping LatCrit (Dis)Continuities*" and "*Multiplicities and Intersectionalities: Exploring LatCrit Diversities*." For the papers of the LatCrit I conference, see Symposium, *LatCrit Theory: Naming and Launching a New Discourse of Critical Legal Scholarship*, 2 HARV. LATINO L. REV. 1 (1997). Programmatically, this commitment is practiced through our efforts to center marginalized issues in LatCrit projects in streams and rotations of conference and related events. See *infra* notes 113-14 and accompanying text on these points and the conference planning practices associated with them. Indeed, as we have emphasized during the past five years, both intra-Latina/o and inter-group diversities must be engaged critically and self-critically in order for multidimensional analysis to mean anything substantively. See, e.g., Iglesias & Valdes, *Expanding Directions*, *supra* note 42, at 214-17; 798-803.

84. Iglesias & Valdes, *Expanding Directions*, *supra* note 42, at 211, 795.

85. See, e.g., Luz Guerra, *LatCrit y La Des-Colonizacion Nuestra: Taking Colon Out*, 19 UCLA CHICANO-LATINO L. REV. 339 (1998). This point, of course, is precisely what has been elucidated programmatically via the "blackness" stream of programming that we discuss below. See *infra* notes 91-98 and accompanying text on race and blackness in LatCrit conference programs. For demographic portraits of Latina/o heterogeneity, see Hernandez-Truyol, *Building Bridges*, *supra*

Puerto Rico that inspired the initiation of the Annual Conferences, as well as the First Annual LatCrit Conference the following year in San Diego, focused on the relationship of “race” to “ethnicity”—and of the consequences of that inquiry for intra-Latina/o and inter-people-of-color relations and coalitions.<sup>86</sup> From the outset, we grappled with the issues embedded in notions or aspirations of pan-ethnicity and, indeed, in the very existence of this imagined amalgamation called “Latinas/os” or, as others prefer, “Hispanics.”<sup>87</sup> Since then, we similarly have confronted the stereotype that Latinas/os are not Black and Asian, or not indigenous, or as we noted above, not Queer—though many are.<sup>88</sup> LatCrit scholars simi-

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note 45; Gerald P. Lopez, *Learning About Latinos*, 19 UCLA CHICANO-LATINO L. REV. 363 (1998); Juan F. Perea, *Los Olvidados*, 70 NYU L. REV. 965 (1995); Gloria Sandrino-Glasser, *Los Confundidos: De-Conflating Latinos/as' Race and Ethnicity*, 19 UCLA CHICANO-LATINO L. REV. 69, 75-77 (1998).

86. For a detailed review of the program materials for these events, visit CONFERENCE MATERIALS AND ARCHIVES <www.latcrit.org>; see also Ian F. Haney Lopez, *Race, Ethnicity, Erasure: The Salience of Race to LatCrit Theory*, 85 CAL. L. REV. 1143 (1997); 10 LA RAZA L.J. 58 (1998); Ian F. Haney Lopez, *Retaining Race: LatCrit Theory and Mexican American Identity in Hernandez v. Texas*, 2 HARV. LATINO L. REV. 279 (1997); Kevin R. Johnson, “Melting Pot” or “Ring of Fire”? Assimilation and the Mexican-American Experience, 85 CAL. L. REV. 1261 (1997); 10 LA RAZA L.J. 175 (1998); George A. Martinez, *The Legal Construction of Race: Mexican-Americans and Whiteness*, 2 HARV. LATINO L. REV. 321 (1997); Juan F. Perea, *The Black/White Binary Paradigm of Race: The ‘Normal Science’ of American Racial Thought*, 85 CAL. L. REV. 1213 (1997); 10 LA RAZA L.J. 127 (1998) [hereinafter Perea, *The Black/White Binary Paradigm of Race*].

87. See, e.g., Alicia G. Abreu, *Lessons From LatCrit: Insiders and Outsiders, All at the Same Time*, 53 U. MIAMI L. REV. 787 (1999) (discussing author’s dual sense of “insider” and “outsider” positionality within LatCrit conferences); Elvia Arriola, *Welcoming the Outsider to an Outsider Conference: Law and the Multiplicities of Self*, 2 HARV. LATINO L. REV. 397 (1997) (viewing LatCrit from an outsider/Latina/lesbian perspective); Enrique Carrasco, *Who Are We?*, 19 UCLA CHICANO-LATINO L. REV. 331 (1998) (considering the multiple roles or identities of LatCrit scholars); Max J. Castro, *Making Pan Latino: Latino Pan-Ethnicity and the Controversial Case of Cubans*, 2 HARV. LATINO L. REV. 179 (1997) (discussing the peculiar position of Cubans and Cuban Americans in Latina/o inter-group relations within the United States); Elizabeth M. Iglesias, *Human Rights in International Economic Law: Locating Latinas/os in the Linkage Debates*, 28 U. MIAMI INTER-AM. L. REV. 361 (1997) (reflecting on intra-Latina/o divisions based on differing degrees of cultural assimilation, nationalist ideologies, as well as race, class and gender hierarchies and the implications for progressive law reform initiatives); Kevin R. Johnson, *Some Thoughts on the Future of Latino Legal Scholarship*, 2 HARV. LATINO L. REV. 101 (1997) (reflecting on Chicana/o, Puerto Rican, and Cuban differences); Victoria Ortiz & Jennifer Elrod, *Reflections on LatCrit III: Finding “Family”*, 53 U. MIAMI L. REV. 1257 (1999); Guadalupe T. Luna, “La Causa Chicana” and Communicative Praxis, 78 DENV. U. L. REV. 553 (2001) (theorizing relationship between Chicana/o studies and LatCrit Theory and community building praxis); Roman, *Common Ground*, *supra* note 60 (elaborating commonalities upon which Latinas/os may build a sense of constructive collectivity); see also *supra* note 85 and sources cited therein on Latina/o demographic heterogeneity.

88. See *supra* notes 62-67 and 72-76 and accompanying text on the sexual orientation stream of programming; see also, e.g., Robert S. Chang, *Racial Cross-Dressing*, 2 HARV. LATINO L. REV. 423 (1997) (observing how the author, “Asian American” also “could be” Latino); Culp., *Latinos, Blacks, Others*, *supra* note 24 (situating LatCrit in the landscape of nonwhite outsider jurisprudence); Cheryl Little, *Inter-group Coalitions and Immigration Politics: The Haitian Experience in Florida*, 53 U. MIAMI L. REV. 717 (1999); Guadalupe Luna, *On the Complexities of Race: The Treaty of Guadalupe Hidalgo and Dred Scott v. Sandford*, 53 U. MIAMI L. REV. 691 (1999); George A. Martinez, *African-Americans, Latinos and the Construction of Race: Toward an*

larly have confronted and engaged the role of religion, gender and sexuality—and, specifically, of heteropatriarchy—in the construction of Latina/o communities, identities and hierarchies as well as their operation in broader social structures.<sup>89</sup> Thus, the programmatic engagements of identity during the past five years have sought consistently to interrogate race and ethnicity, while doing so multidimensionally at all times.<sup>90</sup>

Set in this general context, the *BlackCrit* roundtable at LatCrit III followed on the heels of prior and sometimes rocky exchanges over the “Black-White” (or “White-over-Black”) paradigm of North American race relations. These initial encounters, as articulated from an explicitly Latina/o perspective,<sup>91</sup> took up emergent critiques of the paradigm’s binarisms, which also were being questioned from Asian Pacific American perspectives, among others.<sup>92</sup> However, these initial encounters raised

*Epistemic Coalition*, 19 UCLA CHICANO-LATINO L. REV. 213 (1998) (calling for common intellectual and political cause among African Americans and Latinas/os in the United States); see also *infra* note 92 and sources cited therein on Latina/o-Asian American relationships.

89. See *supra* notes 64 and 74 and sources cited therein on religion, gender and sexuality in LatCrit theory.

90. For example, LatCrit IV featured a follow-up plenary panel titled, “*The Meanings and Particularities of Blackness: Latina/o Identities and LatCrit Theory*” while undertaking another rotation designed to center *mestiza/o* identity and indigenous peoples in LatCrit discourse through the organization of Plenary Panel Two, titled “*Mestizaje, Identity and the Power of Law in Historical Context*” that engaged racializing structures in different national/regional settings, ranging from the Philippines to Puerto Rico. This new rotation was continued this year as well, via Plenary Panel Five at LatCrit V, titled “*Post/NeoColonialisms in LatCrit Theory: Continuing the Dialog*.” At the same time, both workshops at LatCrit IV were similarly designed to continue the original streams of race-focused programs. The first, titled “*Mestizaje and Contemporary Latina/o Identities: Current Problems in Denying, Reclaiming and Overclaiming Mestiza/o Identity*,” complemented that year’s Plenary Panel Two, and the second, titled “*Engaging Affirmative Action Struggles: A Strategic Planning Session*,” focused on policymaking praxis in the United States. See LATCRIT IV: SUBSTANTIVE PROGRAM OUTLINE, CONFERENCE MATERIALS AND ARTICLES <<http://www.latcrit.org>> (copy also on file with authors). This stream of race-related programming continued this year, with Plenary Panel One of the LatCrit V program devoted to “*Comparative Racializations: Constructing Inter-group AntiRacist Frameworks*” and Plenary Panel Four focused on “*Colorado Local Issues: Histories of Racism, Classism and Heterosexism*.” Two other program events were centered on race this year. The first, a concurrent panel, was titled “*The Development of Puerto Rico Citizenship: Construction of Racial Identities*” and the second, a workshop, was titled “*Documenting Racial Histories and Realities: Techniques in Pedagogy and Scholarship*.” See LATCRIT V: PROGRAM SCHEDULE CONFERENCE MATERIALS AND ARTICLES <[www.latcrit.org](http://www.latcrit.org)> (copy also on file with authors); see also *supra* note 86 and sources cited therein on “race” and “ethnicity” in LatCrit theory.

91. See, e.g., Rachel Moran, *Neither Black Nor White*, 2 HARV. LATINO L. REV. 61 (1997); Perea, *The Black/White Binary Paradigm of Race*, *supra* note 86; see also Deborah Ramirez, *Multicultural Empowerment: It's Not Just Black and White Anymore*, 47 STAN. L. REV. 957 (1995).

92. See, e.g., 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) (announcing an “Asian American Moment” marked by the increasing presence of Asian Americans in the legal academy and calling for the development of a distinctively Asian American legal scholarship to help transcend black/white polarities); William R. Tamayo, *When the “Coloreds” are Neither Black Nor Citizens: The United States Civil Rights Movement and Global Migration*, 2 ASIAN L.J. 1 (1995) (discussing the limitations of binary analyses in light of increasingly

new questions: while it is true that LatCrit theory was born of the need to combat the erasure and marginalization of non-white, non-black Latinas/os in the dominant discourse of race and race relations, it also was obvious that the simple expedient of positioning some essentialized construct of Hispanic identity at the center of LatCrit theory was precluded by previously asserted commitments to ground LatCrit theory, discourse and programmatic initiatives in the principles of anti-essentialism, anti-subordination and multidimensionality. The question then was how to move beyond the Black/White paradigm in a way that would neither betray "our theoretical and political commitments to combating the particular forms of racism experienced by Black people, both in this country and abroad . . . [nor] marginalize a substantial portion of the Latina/o community (many of whom are Black)."<sup>93</sup> Centering the particularities of Black subordination therefore provided a meaningful point of reference for deepening our understanding of the implications of anti-essentialism, multidimensionality and anti-subordination in LatCrit theory, even as it reinforced the centrality of race in the critical analysis and transformation of white supremacy, both within and beyond Latina/o communities.

Thus, in every LatCrit conference to date, we have devoted formal program events of varying formats to the investigation of "race" from a LatCritical perspective. These events form an ongoing stream of programming and related symposia essays that, over these five years, have unfolded a careful and nuanced analysis of the traditional paradigm.<sup>94</sup> The earliest stages in this analytical evolution can be tracked in

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multicultural and globalized social systems). For further readings on Asian American legal scholarship, see generally Keith Aoki, *Critical Legal Studies, Asian Americans in U.S. Law & Culture*, Neil Gotanda and Me, 4 ASIAN L.J. 19 (1997); Colloquy, 81 IOWA L. REV. 1467 (1996) (collection of reflections on, and responses to attacks directed against, Professor Chang's call for an Asian American Legal Scholarship). See, e.g., Symposium, *Citizenship and its Discontents: Centering the Immigrant in the Inter/National Imagination (Part I)*, 76 OR. L. REV. 207 (1997); Symposium, *Citizenship and its Discontents: Centering the Immigrant in the Inter/National Imagination (Part II)*, 76 OR. L. REV. 457 (1997); Symposium, *The Long Shadow of Korematsu*, 40 B.C.L. REV. 1; 19 B.C. THIRD WORLD L.J. 1 (1999). For reflections on the significance of Asian Pacific American Critical Legal Scholarship to the LatCrit Project, see Iglesias, Foreword—*Transatlantic Dialogue*, *supra* note 5, at 25-28; Iglesias, *Out of the Shadow*, *supra* note 6 (mapping out common context of struggle for Latinas/os and Asian Pacific Americans around three points of reference: (1) the centrality of international relations and transnational identities; (2) national security ideology; and (3) the structure of the inter/national political economy, with reflections on relevance of this critical project to the imperatives of anti-essentialist coalitional solidarity with Black peoples both within and beyond the United States); see also Robert S. Chang & Keith Aoki, *Centering the Immigrant in the Inter/National Imagination*, 85 CAL. L. REV. 1395 (1997); 10 LA RAZA L.J. 309 (1998) (presenting issues of common concern to Latinas/os and Asian Americans, including inter-group relations).

93. Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 623-25; see generally Leslie Espinoza & Angela P. Harris, Afterword—*Embracing the Tar-Baby: LatCrit Theory and the Sticky Mess of Race*, 85 CAL. L. REV. 1510 (1997); 10 LA RAZA L.J. 499 (1998) (discussing LatCrit efforts to grapple with race in anti-essentialist, anti-subordinationist inter-group terms).

94. For more detailed descriptions of the race-related "stream" of conference programming, see *supra* note 90 and sources cited therein; see also *supra* note 86 and sources cited therein on "race" and "ethnicity" in LatCrit theory.

The earliest stages in this analytical evolution can be tracked in several steps, as we have noted elsewhere.

The first step was centering the paradigm and noting its marginalization of Latinas/os and other non-white/non-Black people of color. The second was recognizing this paradigm as an apparatus specifically of white supremacy and acknowledging the particularized oppression of Blacks under the paradigm. The third was considering the historical sources of the paradigm, which are rooted in the exceptionalism of blackness in the social and legal history of this nation. The fourth was to acknowledge and thematize the transnational dimensions of Latina/o identities as well as the multiplicity of subject positions through which a Latina/o political identity might be constructed and contested in articulating or manipulating the anti-subordination objectives of LatCrit theory. The fifth was to confront the erasure of indigenous peoples both by the paradigm and by our preceding stages of critique.<sup>95</sup>

Since then, we have continued this work, eventually taking up the moniker—the “White-Over-Black” paradigm. This act of renaming more effectively conveys our shared understanding that black and white people are not equally positioned in the binary paradigm of race and race relations that nonetheless has marginalized the subordination of Latinas/os, Asian Pacific Americans and others in the dominant civil rights paradigm.<sup>96</sup> “Our collective learning process has reached the point of yielding a renamed paradigm as well as a refined sense of its applicability and explanatory power.”<sup>97</sup>

The *BlackCrit* roundtable and our analytical process with the traditional race relations paradigm of recent years—like the *Queering LatCrit Discourse* focus group at LatCrit V and its preceding programs—thus reveals a remarkably delicate project that is perpetually ongoing and calls upon even the truly oppressed, from time to time, to de-center themselves and focus on others.<sup>98</sup> These moments depend, in part, on the continuity enabled by organizing our engagement with particularly difficult issues across streams of programming that allow us to revisit and re-examine received formulations in light of our evolving insights and col-

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95. Iglesias & Valdes, Afterword—*Coalitional Theory*, *supra* note 1, at 562-63 (describing the deconstructive process).

96. See Mutua, *supra* note 82, at 1189-90 (critiquing the “Black-White paradigm” formulation and its use in LatCrit texts, and suggesting alternatives and reasons for them).

97. Valdes, Afterword—*Theorizing “OutCrit” Theories*, *supra* note 48, at 1312-13, n.149 (describing the collective analytical process).

98. Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 626 (recognizing this imperative but also underscoring centrality of LatCrit community building as framework for such engagements given understanding that “[o]nly members of a community committed to fostering an inclusive and collaborative anti-subordination project for the long haul can afford to decenter their own compelling problems to focus, instead, on the problem’s confronting people other than themselves.”) (italics in original)

lective growth, but these moments depend also and more fundamentally on the repeated acts of will, trust and solidarity by the many and diverse individuals, who continuously re-commit themselves to sticking together through the “blow ups” that, as we previously noted, may occur from time to time in the name and pursuit of anti-subordination theory and anti-essentialist community.<sup>99</sup> Perhaps more so than any other occasion, these moments have tested our collective commitment to the original guideposts and functions, and to their practice; to date, these moments have affirmed time again that LatCrits’ programmatic efforts have been anchored to the commitments with which we began this jurisprudential enterprise five years ago.

Continuing this history of programmatic and substantive engagement with race/ethnicity at LatCrit V, several authors in this symposium elaborate analyses that approach race in critical, comparative terms. This year, as in past years, the conference and symposium study race in various social contexts, and across categories of race and ethnicity, to elucidate both the particularities and patterns of color-lined social spaces and their legal buttresses. This year’s essays, traveling from the specific to the general—from the particular to the universal—expand and deepen our collective insights, reflect the program’s events and confirm LatCrit theorists’ original and ongoing commitment to multidimensional analysis, coalitional discourse, anti-essentialist community and anti-subordinationist praxis.<sup>100</sup>

As this recounting suggests, the overall record of the past five years confirms LatCrit theory’s collective embrace of the notion that progress for Latinas and Latinos cannot come at the expense of progress made or sought by other outsider groups, whether they be racial, sexual, religious or other kinds of “minorities” or groups. It is precisely for this reason that LatCrits have approached this project, from the beginning and consistently since then, in ways that both center Latinas/os’ multiple internal diversities and situate Latinas/os in larger inter-group frameworks. In both instances, LatCrit theorists and programs consistently have striven to do so not only domestically but also globally.<sup>101</sup> To accomplish this

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99. See *supra* notes 64 and 66 and sources cited therein on conference-related “blow-ups” in LatCrit settings and in other outsider venues.

100. See *supra* notes 7, 9, 54 and sources cited therein for examples from this year’s symposium.

101. Indeed, at LatCrit III, an entire plenary panel and several concurrent presentations focused on interrogating the relationship between democracy, anti-essentialism, anti-subordination and self-determination, both within and beyond the United States. For essays stemming from those program events, see Max J. Castro, *Democracy in Anti-Subordination Perspective: Local/Global Intersections: An Introduction*, 53 U. MIAMI L. REV. 863 (1999); Ivelaw L. Griffith, *Drugs and Democracy in the Caribbean*, 53 U. MIAMI L. REV. 869 (1999); Irwin P. Stotzky, *Suppressing the Beast*, 53 U. MIAMI L. REV. 883 (1999); Mario Martinez, *Property as an Instrument of Power in Nicaragua*, 53 U. MIAMI L. REV. 907 (1999) [hereinafter Martinez, *Property*]; Julie Mertus, *Mapping Civil Society Transplants: A Preliminary Comparison of Eastern Europe and Latin*

larger transnational framing we not only have rotated centers and produced streams of inter-connected programming designed to link LatCritical analysis to other perspectives within outsider jurisprudence, but we also have trained our sights on busting the dichotomy of the “domestic” and the “international” in outsider jurisprudence and legal theory and analysis.<sup>102</sup> It is no coincidence that, at the same time as the planning of the First Annual LatCrit Conference was underway, LatCrits also were busy planning the first free-standing LatCrit colloquium devoted to human rights and international law.<sup>103</sup> This colloquium, which was held in Miami in 1996, reflected and confirmed the conviction that internationalism had to be integral to LatCrit projects and, since that early event, LatCrit conferences and other events have continued this linkage of the in-

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America, 53 U. MIAMI L. REV. 921 (1999)[hereinafter Mertus, *Mapping Civil Society Transplants*]; Ediberto Roman, *Reconstructing Self-Determination: The Role of Critical Theory in Positivist International Law Paradigm*, 53 U. MIAMI L. REV. 943 (1999) [hereinafter Roman, *Reconstructing Self-Determination*]. For reflections on the implications of the essays in this cluster for LatCrit theory, see Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 630-46. For description of the program events, see CONFERENCE MATERIALS AND ARCHIVES, LATCRIT III SUBSTANTIVE CONFERENCE PROGRAM OUTLINE, <<http://www.latcrit.org>> (copy also on file with authors).

102. See, e.g., Jose E. Alvarez, *North American Free Trade Agreement's Chapter Eleven*, 28 U. MIAMI INTER-AM. L. REV. 303 (1996-97) (discussing and urging RaceCrit-LatCrit analysis of internationally law generally, and of the North American Free Trade Agreement specifically); Celina Romany, *Claiming a Global Identity: Latina/o Critical Scholarship and International Human Rights*, 28 U. MIAMI INTER-AM. L. REV. 215 (1996-97) (calling on LatCrits to build on international human rights accords as well as to recognize their limitations); Natsu Taylor Saito, *Beyond Civil Rights: Considering “Third Generation” International Human Rights Law in the United States*, 28 U. MIAMI INTER-AM. L. REV. 387 (1996-97) (explaining how the domestic civil rights paradigm neglects second generation social, economic and cultural rights and third generation group rights recognized in international human rights discourse); Berta Esperanza Hernandez-Truyol, *Building Bridges: Bringing International Human Rights Home*, 9 LA RAZA L.J. 69 (1996) (illustrating how incorporation of human rights can expand parameters of domestic civil rights paradigm); Iglesias, Foreword—*Human Rights and LatCrit Theory*, *supra* note 60, at 179-82 (noting how the fragmentation of domestic and international law in American legal consciousness and discourse undermines possibilities for collaboration between domestic civil rights and international human rights advocates and suppresses emergence of transnational solidarity networks so crucial in an era of increasing globalization); Iglesias, *Out of the Shadow*, *supra* note 6, at 362 (criticizing domestic myopia of U.S. civil rights paradigm in favor of a broader more inclusive framework focusing on the centrality of international law and relations, national security ideology and political economy in the production of racial subordination both within and beyond the United States); Iglesias, *Global Markets, Racial Spaces*, *supra* note 6, at 1041-43 (developing theory of “institutional class structures” as framework for examining the way structures of power and powerlessness are legally organized through both domestic and international regimes and illustrating theory through analysis of two legal regimes – one domestic and the other international); Enid Trucios-Haynes, *LatCrit Theory and International Civil and Political Rights: The Role of Transnational Identity and Migration*, 28 U. MIAMI INTER-AM. L. REV. 293 (1996-97) (reflecting on transnational identities and the need for more collaboration between domestic civil rights movement and international human rights movement).

103. Symposium, *International Law, Human Rights and LatCrit Theory*, 28 U. MIAMI INTER-AM. L. REV. 1 (1996-97).

ternal and the external in and through LatCrit theory and praxis.<sup>104</sup> These efforts include the organization of two colloquia specifically devoted to international and comparative law held in Spain during the past couple of years. These colloquia also help set the stage for the upcoming series of rotating colloquia discussed below.<sup>105</sup> This year's conference likewise continues this internationalist effort, as reflected in this symposium.

For instance, this year's program and workshop on the World Trade Organization challenged the romance with corporate forms of "globalization" that erase borders for capital and capitalists, but hike them for persons and laborers while degrading the environment and reinforcing local patterns of privilege and marginalization. Similarly, this year's continuing engagement of postcolonial studies extends LatCritical efforts to compare the unfinished national projects still reeling from the after-

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104. For instance, the LatCrit III program featured presentations and events focused on internationalist frameworks, including Latin America and the Caribbean. To review the LatCrit III program, visit <www.latcrit.org>. These events in turn produced various essays for that symposium, including: Griffith, *Drugs and Democracy*, *supra* note 101; Sharon K. Hom, *Lexicon Dreams and Chinese Rock and Roll: Thoughts on Culture, Language, Translation as Strategies of Resistance and Reconstruction*, 53 U. MIAMI. L. REV. 1003 (1999); Martinez, *Property*, *supra* note 101; Mertus, *Mapping Civil Society Transplants*, *supra* note 101; Roman, *Reconstructing Self-Determination*, *supra* note 101. To follow up on these events and essays at both LatCrit IV and V, those programs featured events to connect LatCrit theorists to the "NAIL/TWAIL" networks – the "NEW APPROACHES IN INTERNATIONAL LAW" and the "THIRD WORLD APPROACHES TO INTERNATIONAL LAW" networks of scholars. For explanation of the vision underlying this programmatic outreach effort, see Iglesias, *Out of the Shadow*, *supra* note 6 at, 372, n.65 (noting lack of cross fertilization between NAIL/TWAIL and CRT scholars, and how the centrality of the international in LatCrit theory should open the way to this cross fertilization). For related efforts to develop this stream of collaborative engagements at LatCrit IV, see Gil Gott, *Critical Race Globalism?: Global Political Economy, And The Intersections Of Race, Nation, and Class* 33 U.C. DAVIS L. REV. 1503 (2000); Ediberto Roman, *A Race Approach To International Law (Rail): Is There A Need For Yet Another Critique Of International Law?* 33 U.C. DAVIS L. REV. 1519 (2000). For subsequent efforts to center CRT in critical international scholarship, see Penelope E. Andrews, *Making Room for Critical Race Theory in International Law: Some Practical Pointers*, 45 VILL. L. REV. 855 (2000); James Thuo Gathii, *Alternative and Critical: The Contribution Of Research and Scholarship On Developing Countries To International Legal Theory*, 41 HARV. INT'L L.J. 263 (2000); Ruth Gordon, *Critical Race Theory and International Law: Convergence and Divergence*, 45 VILL. L. REV. 827 (2000); Makau Mutua, *Critical Race Theory and International Law: The View of an Insider-Outsider*, 45 VILL. L. REV. 841 (2000); see generally, Symposium, *Critical Race Theory and International Law*, 45 VILL. L. REV. 827 (2000). For readings on NAIL, see David Kennedy & Chris Tennant, *New Approaches to International Law: A Bibliography*, 35 HARV. INT'L L.J. 417 (1994) (providing bibliography of works on 'new approaches to international law'); Phillip R. Trimble, *International Law, World Order, and Critical Legal Studies*, 42 STAN. L. REV. 811 (1990) (noting that 'mainstream law reviews published almost nothing about international law' prior to 1985). For one account of TWAIL, see Makau Mutua, *What Is TWAIL?*, 94 AM. SOC'Y INT'L L. PROC. 31 (2000). LatCrit V also featured a workshop on "*The WTO and the Underside of Globalization*" and a concurrent panel on "*Political Economies of Desire: Global Sex Work*" that help to continue streams of programming fostering transnational analyses of law and identity in LatCrit theory. See LATCRIT III: FINAL PROGRAM, LATCRIT IV: PROGRAM SCHEDULE, AND LATCRIT V: FINAL PROGRAM at CONFERENCE MATERIALS AND ARTICLES <www.latcrit.org> (copy also on file with authors).

105. See *infra* notes 163-74 and accompanying text on the Spain colloquia devoted to LatCrit theory and international and comparative law.



effects of European imperialism. In both of these instances, this year's conference, like past years' efforts, interrogate the existence, meaning and future of formal borders in pursuit of social justice across multiple boundaries and vectors of oppression, and thus advance ongoing LatCrit studies of the inter/national.<sup>106</sup> The early decision to make the 'international move' thus appears alive and well in the overall record of the first five years.

As we close these reflections on our intellectual journeys to date, we are guardedly optimistic about the picture we see: at bottom, the conferences and colloquia since 1995 depict LatCrit theorists experimenting with various techniques of coalitional theory and praxis to develop an anti-essentialist, anti-subordination analysis of law in social action in and beyond the United States. While seeking always to center the multiple internal diversities of Latinas/os in inter-group frameworks, we have endeavored over these years to anchor analysis and action to (1) anti-subordination principles, (2) applied critically to all contexts and all categories, and (3) applied at all times self-critically to our own ideas, proposals and projects. Looking to the lessons of other outsider jurisprudential experiments, LatCrit theorists have kept the early guideposts and functions vital, and increasingly so.<sup>107</sup>

Today, as in our view it should be, LatCrit theory represents an ongoing collective encounter with fundamental issues of anti-essentialist community and coalitional solidarity to advance anti-subordination causes, while interjecting the multiple diversities of Latinas and Latinos into public policy debates ever more sharply. The long-term impact of this year's intellectual and solidaristic advances—as in prior years—will depend in part on the extent to which they are repeatedly activated in diverse venues, more deeply explored in continuing “streams” of future program events, and further articulated in the production of LatCrit scholarship. The long-term impact of LatCrit theory and praxis will depend, ultimately, on the individual and collective performance of these practices in the everyday settings or spaces we seek to transform—including the Annual Conferences and other LatCrit projects.

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106. Tayyab Mahmud, *Colonialism and Modern Constructions of Race: A Preliminary Inquiry*, 53 U. MICH. L. REV. 1219 (1220) (1999) (noting that “post-colonial” terrains are still adversely impacted by initial colonial encounters); Ratna Kapur & Tayyab Mahmud, *Hegemony, Coercion and Their Teeth-Gritting Harmony: A Commentary on Power, Culture, and Sexuality in Franco's Spain*, 5 MICH. J. RACE & L. 995; 33 U. MICH. J.L. REF. 411 (2000); see also *supra* notes 101-04 and sources cited therein on LatCrit internationalism.

107. See *supra* notes 35-36 and accompanying text on LatCrit guideposts and functions based on early exchanges and texts.

## II. LATCRIT PRAXIS: PERFORMING THE THEORY IN AND THROUGH THE ANNUAL CONFERENCES

We turn now to the practices behind the Annual Conferences, and to the underlying ethics and norms that have guided these practices—to what we do and to why we do things in these particular ways. These practices have been theorized with two factors uppermost in mind: first, to perform the theory in socially relevant and substantively principled ways; and second, to navigate the obstacles we confront in ways that promote the long-term sustainability of this fragile experiment in anti-essentialist, anti-subordination coalitional theory and praxis. Principle and practicality thus combine to hone the practices developed during the past five years and manifested, most concretely, in the context of the Annual Conferences.

From our perspective, there is no question that the LatCrit Annual Conferences are the most developed project of the LatCrit community, as reflected in the five years of successful Annual Conferences marked by this symposium.<sup>108</sup> Important to this success is that LatCrit organizers have succeeded in securing advance conferences sponsorships, and continue actively negotiating institutional sponsorships, for future Annual Conferences through LatCrit X and beyond.<sup>109</sup> This success is both part of, and in turn facilitates, long-term program planning in substantive terms. Our purpose here, therefore, is to center the practical and normative dimensions of this multi-year approach to the Annual Conferences *as a form of anti-subordination, anti-essentialist praxis* not only in intellectual terms but also in human and fiscal terms.

In our view, the future sustainability of the LatCrit project depends to a large extent on our ability to imagine and effectuate a different way of performing our roles as scholars and activists in the legal academy—one that prioritizes community-building over individual careerism, and thereby grounds the evolution of LatCrit theory and discourse in the pursuit of genuine intellectual and interpersonal engagement in *each others'* aspirations, perspectives, projects and texts, across our differences and over time.<sup>110</sup> This way of performing our professional identities challenges well-settled practices of the legal academy that encourage us to organize our professional lives in atomized ways that are at once elitist

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108. See *supra* notes 23-52 and accompanying text on conference programs and planning.

109. Firm commitments of institutional sponsorship have been obtained from the University of Florida, Fredric Levin College of Law (LatCrit VI), the University of Oregon School of Law (LatCrit VII) and Cleveland Marshall School of Law (LatCrit VIII). Active negotiations are currently underway through LatCrit X.

110. Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 663 (reflecting on the practices of mutual recognition and their importance, not only for community building, but also for producing new knowledge and ensuring its broader dissemination). Community-building and coalition-building have been central to LatCrit during these five years. See *supra* note 16 and accompanying text on LatCrit's guideposts and functions; see also Valdes, Afterword—*Theorizing "OutCrit" Theories*, *supra* note 48, at 1299-1305 (describing the community-building elements of the conferences).

and obsequious, individualistic and opportunistic, yet dependent always upon existing structures of possibilities and opportunities.<sup>111</sup> These, in turn, are constrained by the expected and demanded subservience to dominant discourses, understandings and imperatives—those imposed by the elite-identified gatekeepers of the status quo in our own profession and, indeed, throughout society as a whole. Challenging these settled norms and “traditions” entails substantial risk and identifiable costs, but promises also to unleash new possibilities of thought and action—as manifested thus far in the opportunities for professional growth and genuine learning that LatCrits collectively have created within the legal academy of the United States through the practice of mutual engagement and, more specifically, the community-building efforts of the last five years.<sup>112</sup>

As noted earlier, the process of organizing LatCrit conferences, as well as the structure and substance of the conferences themselves, at all times have been conceptualized as key sites for the performance of an anti-essentialist, anti-subordination ethic *within the legal academy*—an ethic that conjoins the production of new scholarship with the development of genuine solidarity and mutual respect based on lively and lasting friendships among LatCrits as *human beings*. This approach has required and therefore has elicited substantial reflection and many discussions about the practices that are likely to create (or subvert) a community process in which individuals feel valued, appreciated and included, even as difficult, controversial topics are meaningfully and honestly engaged. From these discussions, we have distilled the four practices we view as key to the continuing success and long-term sustainability of LatCrit as a community-building project:

(1) *Long-term planning*, by which we mean the practice of conceptualizing LatCrit conferences, both substantively and programmatically, as a multi-year project, which therefore requires sustained commitment to mutual engagement over time, as well as the proactive search for institutional sponsorships and financial support for several future conferences in advance;

(2) *A commitment to diversity and inclusion as the key to our collective learning and community-building process*, by which we mean practices that give substance and meaning to an ever-more demanding commitment to expand the involvement and representation of excluded communities and identities, not only as invited participants in the programmed events of any given conference, but also as full participants in the conference plan-

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111. See generally JULIUS GETMAN, *IN THE COMPANY OF SCHOLARS: THE STRUGGLE FOR THE SOUL OF HIGHER EDUCATION* (1992) (showing members of the legal academy preoccupied with prestigious titles and trappings).

112. Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 655-57 (reflecting on the “costs and benefits” confronting minority scholars when deciding how to construct their professional identities).

ning process, as well as in all other institution and community building initiatives through which LatCrit leaders and organizers have and will continue to emerge;

(3) *A commitment to the self-conscious exploration, articulation and performance of LatCrit organizing and interactions as an ethical praxis*, by which we mean a commitment at all times and in all instances to measure our discourse, actions and interactions, as well as our ruptures and disruptions, against the ethical standards we would expect of any project committed to producing and performing a theory of coalitional solidarity and inter/intra-group justice that is relevant not only beyond the legal academy, but also, and quite importantly, within it; and

(4) *Institution-building*, by which we mean practices through which we imagine, launch, coordinate and secure the long-term sustainability of new collaborative projects beyond the Annual Conferences, even as we create the kind of organization that can withstand, and continue to evolve through, intergenerational transitions in leadership.

We take up the first three practices briefly in sections A-C below; however we devote the entirety of Part III to LatCrit institution-building practices because of their complexity and their overarching importance to the further development of LatCrit theory, praxis and community.

#### *A. Long-Term Planning: Breaking the Habits of Atomized "Success"*

In the context of the Annual Conferences, long-term planning has both substantive and practical dimensions. The substantive dimension focuses on the intellectual content of the conference programs while the practical focuses on logistical issues and institutional development. The two can and should be mutually reinforcing, as explained more fully below.

##### 1. Forming the Substantive Dimension: Streams of Rotations

Substantively, long-term program planning is the framework that enables the practice of rotating centers. As we mentioned previously, as well as in other writings, we view the practice of rotating centers as crucial to the development of coalitional theory, projects and praxis precisely because it is central to the production of new knowledge, inter-group understanding, and mutual engagement.<sup>113</sup> However, this practice is inextricably coupled with and dependent upon yet another practice: long-term planning of the Annual Conferences, through which we conceptualize program events as multi-year "streams" rather than as one-time acts performed in a vacuum and isolated from the achievements or shortcomings of prior conferences or the evolving aspirations for future

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113. See *supra* notes 67-71 and 82-105 and accompanying text on rotating centers in LatCrit theory.

gatherings. Because it is literally impossible to address all issues from every perspective at once, rotating centers and long-term planning work in tandem to further the substantive development of LatCrit theory.

Thus, long-term planning is a crucial vehicle through which LatCrit organizers imagine and coordinate the rotation of centers that, *over time*, makes possible the development of new insights, solidarities and increasingly multidimensional analyses from one Annual Conference to the next. Without a sustained commitment to long term planning, there would be no rotation of centers; indeed, quite possibly there would be nothing at all to rotate. Long term planning also enables these interconnected streams of rotating centers to be organized across a variety of possible program formats—keynote addresses, plenary or concurrent panels, workshops, focus groups, roundtable discussions and other interactive formats—designed cumulatively to produce new knowledge, expand community, foster solidarity and enable action. This organizational framework, in turn, makes it possible to introduce and develop otherwise “explosive” topics as well as new or novel ones from year to year through the particular formats assessed most likely to be most effective given the particular context at hand.<sup>114</sup> This substantive approach, in sum, enables the practice of the LatCrit guideposts and the fulfillment of LatCrit’s functions.

This balancing act is nonetheless quite difficult to sustain, and sometimes impossible, given the structural constraints that confront us. For example, our efforts to sustain a steady stream of programming focused on native or indigenous issues have faltered from time to time.<sup>115</sup> Our efforts to center Asian-Latina/o interconnections, and in particular to center Filipinas/os in LatCrit conferences, has been similarly uneven.<sup>116</sup>

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114. See *supra* notes 62-75 and 82-101 and accompanying text on conference dynamics and their management.

115. While efforts to engage native and indigenous communities date back to the very first conference, it was not until LatCrit III that a “stream” of programming began with a concurrent panel on “*Race, Nation and Identity: Indigenous Peoples and LatCrit Theory*.” At LatCrit IV, a combination of a plenary panel and a workshop were presented on Latina/o mestizaje and indigenous populations, see *supra* note 90 on these events, as well as a concurrent panel on “*Native Cultures, Comparative Values, and Critical Intersections*.” This stream continued this year with Plenary Panel Five, titled “*Post/NeoColonialisms in LatCrit Theory: Continuing the Dialogue*.” To review the programs of the LatCrit conferences, see <www.latcrit.org> (copies also on file with authors). For further readings on LatCrit efforts to grapple with indigenous concerns, see Guerra, *supra* note 85; Siegfried Weissner, *Esa India! LatCrit Theory and the Place of Indigenous Peoples Within Latina/o Communities*, 53 U. MIAMI L. REV. 831 (1999). For reflections on the significance of indigenous peoples and identities to the LatCrit project, see Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 617-22.

116. While Asian-Latina/o relationships have received extended attention, see *supra* note 92 and sources cited therein, programmatic events focused on Filipina/o populations and issues have been difficult to sustain: while presentations at times have centered Filipina/o concerns or scholars, conference planners have been unable to sustain a stream of program events to cultivate in stages our collective awareness of the Filipina/o condition. See generally ON BECOMING FILIPINO: SELECTED

And our engagement of disability communities and issues has been ad hoc, at best.<sup>117</sup> In each of these instances, our aspirations and efforts to bring a LatCritical perspective to these and other areas of sociolegal concern have been delimited by our resources—human as well as otherwise. Consequently, another crucial element facing the LatCrit project as we enter the second half of the first decade is the need for growing coalitional interaction with other networks of activist scholars.<sup>118</sup> We must, in other words, use the opportunities for long term planning to build on LatCrit theory's commitment to inter-disciplinary and inter-group interaction if we hope to expand the "human resources" needed for the continued evolution of this collective project.<sup>119</sup> At the same time, growth and sustainability depend also on our efforts collectively to identify and secure new funding and resources that can supplement the institutional sponsorships the Annual Conferences have thus far been receiving from supportive deans and faculty at law schools throughout the country— an effort that already has begun in and through the incorporation of LatCrit, Inc. as a tax-exempt non-profit corporation.<sup>120</sup>

Yet, even as we recognize the needs of growth, strive to meet them with the resources at hand, and thereby encounter face-to-face our human and fiscal limitations, we continue as a community to try our best. While we stall in some initiatives despite our best efforts, we simultaneously strive to launch new streams of programming anchored, as always, to the

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WRITINGS OF CARLOS BULOSAN (E. San Juan, Jr. ed., 1995) (presenting a series of writings that link current realities to neo/colonial histories). Perhaps the most notable LatCrit program events focused on Filipina/o issues took place last year, when LatCrit IV featured several Filipina/o-oriented events, including the keynote address by Filipino scholar Oscar V. Campomanes. For a description of the themes of the plenaries at LatCrit IV, see LATCRIT IV: SUBSTANTIVE PROGRAM OUTLINE <<http://www.latcrit.org>>; see also Victor C. Romero, "Aren't You Latino?": *Building Bridges Upon Common Misperceptions*, 33 U.C. DAVIS L. REV. 837 (2000) (situating Filipinas/os in LatCrit theory); Leti Volpp, *American Mestizo: Filipinos and Antimiscegenation Laws in California*, 33 U.C. DAVIS L. REV. 795 (2000) (recounting and analyzing the racial history of Filipinas/os in the U.S., and in the context of LatCrit theory and Latina/o identities); see generally *supra* notes 113-14 on LatCrit programming efforts and streams.

117. From time to time, presentations have focused on disability issues, but no stream is in place.

118. Prior and ongoing efforts have focused on the NAIL/TWAIL networks, see *supra* note 104, and on Chicana/o scholars, as reflected in this year's concurrent panel on "*Chicana/o Studies and LatCrit Theory: Exploring Intersections*." See LATCRIT V: FINAL PROGRAM SCHEDULE, <[www.latcrit.org](http://www.latcrit.org)> (copy also on file with authors). For further reading on the LatCrit relationship to Chicana/o studies and scholars, see Johnson & Martinez, *supra* note 1; Montoya, *supra* note 1. For reflections on these accounts, see Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 673-76, 679-82.

119. We use the term "human resources" throughout this Afterword to draw attention to an oft-forgotten fact that in the absence of capital, status or other forms of power through which collective action is ordinarily coordinated in this society, all we have is the good will we confer upon each other, the time and energy we voluntarily expend to make our collaborations a collective success, and the sense of solidarity and genuine inquiry that make this all possible. All of these are, however, real and immeasurably valuable resources that we simultaneously share and newly create through our collective involvement in each others' issues, projects and texts, as well as through our sustained commitment to the success of our collaborations over time.

120. See *infra* notes 157-62 and accompanying text on LatCrit's incorporation.

functions and guideposts. One current example is the programmatic integration of Latin American perspectives in LatCrit events, and the corollary extension of LatCrit theory to analyses and discourses concerning Latin America.<sup>121</sup> This centering of “north-south” frameworks is linked synergistically with ongoing effort to create a LatCritical Trans-Atlantic dialogue focused critically on Spain and its complicated role in the construction of Latina/o realities.<sup>122</sup> These two streams—represented by the north-south and Trans-Atlantic initiatives—help to achieve the “triangulation” of which we also write below.<sup>123</sup> While efforts such as these do not and cannot guarantee the success of any particular multi-year stream of programming, the exertions of the past five years have brought home at least two basic points: substantive programmatic developments like these are not likely to take place without long-term planning, and even long-term planning cannot long progress without interconnected networks of diverse scholars from multiple disciplines, regions, nations and perspectives.<sup>124</sup>

## 2. Forming the Practical Dimension: Continuity and Overlapping Planning Committees

Practically long-term planning occurs mostly within the LatCrit Conference Planning Committee, a group that over the years has remained open, inclusive, flexible and adaptable—a flexibility that, in our view, needs to be preserved from year to year, even as LatCrit projects become more formalized in various ways, including the move to formalize LatCrit as an independent corporate entity.<sup>125</sup> This flexibility, however, increasingly must be coupled with strategic long-term planning if we are to continue securing advance sponsorships of the Annual Conferences and other LatCrit initiatives. Recognizing this, at LatCrit V, the LatCrit, Inc. Board of Directors adopted a resolution approving a series of conferences through LatCrit IX and naming the Annual Conference Planning Committee Chairs for each conference with secured institutional sponsorship.<sup>126</sup> Thus, the long-term conference planning process, the search for conference sponsorships several years in advance,

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121. For instance, next year's conference theme, for LatCrit VI, is “LatCrit Theory in North-South Frameworks”; see also *infra* notes 170-74 and accompanying text on hemispheric studies and LatCrit theory.

122. See *infra* notes 163-69 and accompanying text on trans-Atlantic studies within LatCrit theory.

123. See *infra* notes 163-76 and accompanying text on “triangulation” within LatCrit theory.

124. The effort to build “networks” of course is ongoing, and works in tandem with community-building and coalition-building imperatives. See *supra* notes 14-18 and accompanying text on networks, communities and coalitions as key to the work of the past five years. The key point here is that building networks is also central to the production of genuinely new knowledge

125. See *infra* notes 157-62 and accompanying text on the incorporation of LatCrit, Inc.

126. Pursuant to the Board of Directors' Resolution, the Planning Committee for LatCrit VI will be co-chaired by Professors Berta Hernandez-Truyol and Roberto Corrada; the Planning Committee for LatCrit VII will be co-chaired by Professors Steven Bender and Hernandez-Truyol; and the Planning Committee for LatCrit VIII will be co-chaired by Professors Tayyab Mahmud and

the search for conference sponsorships several years in advance, and the newly emergent forms of LatCrit institution-building are the practices through which we seek to secure the conditions of continuity and sustainability.

Advance sponsorships allow LatCrit planners to identify future Program Chairs in advance and to integrate them into the planning process for earlier conferences, leading up to their turn at the conference planning helm. Thus, today's planning committees are composed of overlapping memberships that reflect recent, current and future institutional sponsorships, and that help to ensure both the transmission of collective memory and experience as well as the substantive continuity of the rotating centers and evolving streams of conference programs. To further develop the institutional memory that we believe is crucial to maintaining the integrity and ensuring the continuity of any collective project, we recently have initiated the practice of drafting an annual "Transition Memo" to facilitate a process in which each year builds substantively and structurally on the successes, and addresses the shortcomings, experienced at prior conferences.<sup>127</sup> This emergent scheme, while malleable, enables LatCrit planners to reflect on the whole range of programmed and unprogrammed events in interconnected ways, to identify missing perspectives, to incorporate previous learning into the organization of future programs and, in general, to stay grounded in the functions and guideposts of LatCrit theory.<sup>128</sup>

In sum, there simply is no doubt in our view that the progress and future sustainability of the LatCrit project is intricately and inextricably grounded in the practice of long-term planning. This basic point is true for substantive, practical, programmatic and community-building reasons. These reasons stem directly from our bedrock aspirations to produce new knowledge and discourses that further the struggle for inter and intra-group justice across differences of class, race, nation, religion and all other vectors of identity used to organize and legitimate relations of domination and subordination across the globe. The advancement of these aspirations depends, in turn, on the degree to which we succeed in transforming, or short of that, in collectively resisting, precisely those practices, norms and traditions of the legal academy that conspire, wittingly or not, to suppress new possibilities of thought and action.<sup>129</sup> The nature of this struggle to restructure the means of scholarly production in

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Steven Bender. This structure of overlapping co-chairs reflects a self-conscious effort to enable new leadership to emerge, even as we create institutional memory through the on-going participation of prior co-chairs.

127. Copies of the Transition Memo from LatCrit IV to V are on file with the authors.

128. For an overview of existing arrangements, see the "LatCrit Organizational Chart" presented in the Appendix to this Afterword.

129. See *infra* notes 131-44 and accompanying text on LatCrit conferences as an effort to reshape the norms and dynamics of scholarly production in the legal academy of the United States.



the legal academy of the United States provides one threshold reason for long-term conference planning, even as it explains why the LatCrit community must remain at all times attuned to the central importance of “human resources”—the human component—in the production and practice of LatCrit theory, its transformative possibilities and long term sustainability.<sup>130</sup>

### 3. Restructuring Modes of Legal Scholarship: Interactivity and Human Relationships

Everything about way that the production and the evaluation of legal scholarship and professional “success” is currently structured in the American legal academy would have us believe that the production of new knowledge is a matter of the heroic scholar spewing forth a magnus opus from an abstract communion with the writings of absent scholars and the power of individual genius.<sup>131</sup> Yet five years of Annual Conferences have demonstrated clearly enough how new consciousness, discourse and knowledge emerge uniquely, synergistically and exponentially from our *lived* encounters with difference. These past five years have shown that, in a *live* encounter across difference, even the most inspired discourse or penetrating analysis is of limited value without the huge investment of time, energy and dialogue it takes to hammer out common points of reference, create shared experiences and produce the sort of common discourse that makes new insights and understandings

130. See *supra* note 119 on “human resources” and LatCrit theory.

131. Without endorsing the anti-intellectual and exclusionary animus that oftentimes underpins attacks on legal scholarship, particularly non-mainstream and minority scholarship that introduces interdisciplinary and theoretical perspectives to the critical analysis of legal doctrine, institutions and process, see e.g., Derrick Bell & Erin Edmonds, *Students as Teacher, Teachers as Learners*, 91 MICH. L. REV. 2025, 2031-38 (1993) (defending need for “non-traditional” legal scholarship including interdisciplinary, critical race, feminist, and critical legal studies as it provides a vehicle to influence the legal system and obtain justice for minorities and women) *responding to* Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34 (1992) (attacking “non-traditional” legal scholarship as being impractical and leading to the demise of proper training for lawyers), it nevertheless is true that the “traditional” production of legal scholarship is deeply embedded in and corrupted by the hierarchies (both among students and faculty) that are organized around the publication of law reviews. See, e.g., Kenneth Lasson, *Scholarship Amok: Excesses in the Pursuit of Truth and Tenure*, 103 HARV. L. REV. 926, 948-9 (1990) (noting that oftentimes “image” is as important as “substance” in the assessment of individual professional status and the relationship between perceived status and fancy placements in Ivy League law reviews); see also David P. Bryden, *Scholarship About Scholarship*, 63 U. COLO. L. REV. 641, 643-44 (1992) (noting that “[a]cademic prestige derives almost entirely from one’s reputation as a scholar, and the scholarly reputation of one’s faculty. To enhance this reputation, it is important above all to be prolific, and preferably to write about topics that are discussed in class by scholar-readers”); see generally William R. Slomanson, *Legal Scholarship Blueprint*, 50 J. L. EDUC. 431 (2000) (describing generally prevailing conventional practices). Thus, the production of anti-subordination scholarship depends on our ability to resist attacks on the theoretical nature of critical scholarship, as well as the many temptations to buy into the professional hierarchies that currently dominate the production and reception of legal texts.

possible—insights that really enable us *to grasp* the things we can (and do) agree on—despite our differences;<sup>132</sup> the things we continue to disagree about—oftentimes because of our differences;<sup>133</sup> and the new issues that never crossed our minds until our encounters across difference prompted deeper reflection and opened unexpected perspectives.<sup>134</sup>

We have learned that the stilted and atomistic traditions of producing legal scholarship are not the only, nor even the best, way of producing anti-essentialist theory, much less performing anti-subordination praxis. We have learned the difference between practices whose purpose is to produce abstract discourse and practices whose purpose is to produce shared learning in a context geared to making theory and praxis interdependent and synergistic. We also have learned that this way of organizing the production of legal scholarship will not and cannot ever work as a one-time event. Just as new insights depend on a meaningful engagement of controversial issues across our differences of position and perspective, meaningful engagement depends on the development of mutual respect and a shared willingness to suspend the disbelief, suspi-

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132. While any consensus is as fragile as the community through which it is articulated, in our view, the last five years of LatCrit discourse and praxis have established some well-settled understandings about the nature of the LatCrit project, most specifically its commitment to: (1) anti-essentialism and anti-subordination as critical method and normative imperative; (2) the pursuit of inter- and intra-group justice through multidimensional analysis and solidarity among people of color and anti-racist outsiders; and (3) the transformation of the legal academy (and civil society in general) through mutual engagement and collaborative self-empowerment. As LatCrit turns five, there can be no doubt that it would long ago have perished had it not been nurtured and guided by the many individuals who have shared these commitments. See *supra* notes 35-36 and accompanying text on the guideposts and functions that have helped shape our collective work thus far.

133. Because every LatCrit conference thus far has “pushed the envelope” by centering new identities, controversies and problems, each conference has produced an abundance of issues on which to disagree, including but not limited to: (1) the relevance of “race” versus “ethnicity” to multiply diverse and transnational Latina/o communities and diasporas; (2) the relationship of Latinas/os to Asian Americans, and of both to the “white over black” traditions of the United States; (3) the relationship of Latina/o *mestizaje* or racial intermixture to indigenous identity and contemporary native communities; (4) the relevance of categories *other than race* in the struggle against white supremacy; (5) the significance of religion, spirituality and related identities to multiply diverse Latinas/os throughout the Americas and globe; (6) the relevance of Third World law reform and liberation struggles to LatCrit theory and the terms of those engagements and, most recently; (7) the significance of identity to class and of class to identity, especially in this era of corporatist globalization. To review the conference programs, see <[www.latcrit.org](http://www.latcrit.org)>; to review the symposia, see *supra* notes 25-27 and sources cited therein.

134. The events lived at LatCrit conferences over the last five years have sparked many new insights that in turn have had programmatic and interpersonal significance. Over the last five years, LatCrit scholars have pressed the boundaries of domestic civil rights ideology by insisting on a critical analysis of language rights, immigration rights, national security ideology, political economy and international law; they have opened new avenues of inquiry into the significance of religion and religious identity, the histories and lived experiences of Afro-Latinas/os both within and beyond the United States, the domestic and international dimensions of the digital divide, and the relationship between Indigenous struggles for sovereignty and Chicana/o identities; they also have excavated the otherwise suppressed histories of U.S. colonialism and its manifestations in law. Cumulatively, these and other efforts have revealed the exponential growth enabled by the programmatic experiments we describe here.

cion, doubts and individual posturing that our differences often trigger in our encounters with each other, particularly when these encounters are framed by the elitist and careerist culture of North American legal academy that not all of us are at all times equally willing or able to discard.<sup>135</sup> This is precisely why building a new discourse requires building a new community; why building a new community requires the self-conscious articulation and performance of an ethic of mutual engagement, recognition and respect; and why all of this takes *time*.<sup>136</sup> But it takes more than time.

Time passes, and often very little changes. For *time* to produce something other than a perpetuation or reiteration of the past, we must envision and collectively produce a future that is other than the present. The last five years of Annual Conferences have allowed us to envision and to experience to some extent what that "other future" could be like. It is a future in which the existence of a dynamic, living and learning community offers increasing opportunities for inter-personally meaningful, politically relevant and professionally rewarding collaboration and exchange to counteract the isolation, marginalization, disempowerment and stagnation that has driven too many of our colleagues from the legal academy and, therefore, from the unique forms of struggle that our *collective* presence in the academy both enables and demands.<sup>137</sup> To forge this post-subordination future, we thus need at minimum to ensure the long-term viability of the conferences as safe venues of vigorous exchange. To ensure this viability, we need to secure both the human and economic resources that make the conferences dynamic sources of new knowledge produced collectively in interactive collaborations.

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135. Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 656; *see generally* GETMAN, *supra* note 106; DUNCAN KENNEDY, *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY* (1983).

136. Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 625-26 (reflecting on the significance of time in coalition theory and praxis)

137. The significance of minority presence in the legal academy must be read against the background history of the legal profession in which the organization and the formalization of legal education were shaped in explicit ways by the social, cultural and political dominance of white, Anglo-American nativist-racism as well as societal sexism. *See, e.g.*, Daria Roithmayr, *Deconstructing the Distinction Between Bias and Merit*, 85 CAL. L. REV. 1449, 1475-92 (1995) (recounting how the American Bar Association, the Bar Examination, the Law School Aptitude Test and other "gatekeeping" mechanisms were originated and calculated to be racist, anti-immigrant, sexist and anti-Semitic); William C. Kidder, *The Rise of the Testocracy: An Essay on the LSAT, Conventional Wisdom, and the Dismantling of Diversity*, TEX. J. WOMEN & L. 167 (2000); *see also* ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* (1983); *see generally* NICHOLAS LEMANN, *THE BIG TEST: THE SECRET HISTORY OF THE AMERICAN MERITOCRACY* (1999). The conflicted repercussions of those racist-nativist-sexist motives continue to be embedded in the norms, practices and consequences of legal education today. *See, e.g.*, Lawrence, *Two Views of the River* *supra* note 79; Susan Sturm & Lani Guinier, *The Future of Affirmative Action: Reclaiming the Innovative Ideal*, 84 CAL. L. REV. 953 (1996); *see also infra* note 180 and sources cited therein on the isolation and hostility still encountered by people of color and women in legal education.

Against this background, both long-term planning and sustained commitment to the community-building dimensions of the LatCrit project are key to deepening the collaborations and expanding the networks that have begun to organize around the expectation that the LatCrit Annual Conferences will continue from year to year, and that the resources to support them will materialize. Absent long-term planning and sustained commitment, this expectation is likely to be unfulfilled, due both to the vagaries of the human condition we each individually confront, as well as to the increasingly hostile sociolegal zeitgeist that marks this time.<sup>138</sup> Thus, a stable source of economic resources is second in importance only to the continued nurturance of our "human resources."<sup>139</sup> To date, LatCrit Annual Conferences have been supported principally by institutional grants, usually by supportive law school deans.<sup>140</sup> Typically, these grants are solicited and secured via individual scholars from their respective institutions. Thus, to produce economic resources takes humans resources, for it takes the personal investment of individuals' time, energy and imagination to create, nurture and develop the venues through which we can come together to do our work. In this regard, the LatCrit project has fared well, as individuals have chosen over time to make the necessary commitments towards the long-term viability of LatCrit Annual Conferences in both intellectual and economic terms. And this commitment is ongoing, as LatCrits continue to negotiate and obtain institutional grants to ensure the economic viability of the Annual Conferences several years in advance.

Without doubt, LatCrit's success during the past five years would have been impracticable, if not impossible, without the support not only of the individual scholars who solicited and secured institutional grants but also of the deans who have embraced this project. But as recent history has shown again, deans also are individuals sometimes embattled in the institutions that define our profession: too often, insider institutional factions or elites marks deans who support outsider projects for retaliation and/or removal.<sup>141</sup> Therefore, while LatCrits continue to solidify fu-

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138. See *supra* note 77 and sources cited therein on cultural warfare, backlash politics and legal retrenchment; see also *infra* note 143 and sources cited therein on the smear campaign directed at Critical Race Theory.

139. See *supra* note 119 on "human resources" and LatCrit theory.

140. See, e.g., *supra* note 109 on recent and upcoming sponsorships.

141. See generally John A. Miller, *The Modern Law Dean*, 50 J.L. EDUC. 398 (2000) (describing recent trends in law deanships that increasingly emphasize money-making activities at the expense of other values, including diversifying the legal professions); see also *supra* note 137 and *infra* note 180 and sources cited therein on the historic exclusion and contemporary marginalization of outsiders in legal education. In this vein, the LatCrit community owes a debt of gratitude to the numerous law school Deans whose generous support over the years has enabled the growth of this new discourse and community, including Sam Thompson (the 1995 Colloquium in Puerto Rico and the 1996 International and Comparative Law Colloquium in Miami), Michael Dessent (LatCrit I in 1996), Barbara Aldave (LatCrit II in 1997), Sam Thompson (LatCrit III in 1998), Rex Perschbacher (LatCrit IV in 1999), Nell Newton (LatCrit V in 2000), Jon Mills (LatCrit

ture conferences through advance institutional grants, as we should and must, we also must develop sources of economic support that steadily make us independent of the institutions that otherwise would control our future.<sup>142</sup> We need, in short, to stabilize our future by obtaining greater access to the economic resources necessary for long-term viability. We must, in other words, expand our funding sources beyond ongoing sponsorships of particular events or conferences by supportive deans and faculty. And to do so, via grants and the like, LatCrits must be able to present a long-term plan of action; a vision of our work and how it relates concretely to social transformation in compelling terms.

The many positive reasons for long-term planning that we have recounted here are matched equally by the more negative realities that motivate our community-building practices of mutual engagement and assistance. For instance, a failure to persist with long-term planning, in our view, would reflect a serious gap of insight into the broader context that makes the LatCrit project perpetually vulnerable, both to the internal fractures that our many differences might at any moment trigger, as well as to the external attacks that outsiders can expect, at any moment, to target "successful" outgroup interventions.<sup>143</sup> Without the long-term

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VI in 2001), Rennard Strickland (LatCrit VII in 2002), Steven Steinglass (LatCrit VIII in 2003) and Dennis Lynch, who to this date continues to support the LatCrit project by honoring established commitments to the Center for Hispanic and Caribbean Legal Studies at the University of Miami School of Law, which co-sponsors the Annual Conferences and supports other LatCrit events or projects. Deans at other schools also have lent support to co-sponsor LatCrit events, including the Deans of: California Western School of Law, Loyola—L.A. Law School, University of San Diego School of Law, Santa Clara University School of Law, Seattle University School of Law, Stanford University School of Law, University of Southern California Law School, Southwestern University School of Law, University of California at Berkeley—Boalt Hall School of Law, University of California at Davis School of Law, University of California at Los Angeles School of Law, and Willamette University College of Law. The LatCrit community is grateful to these Deans and institutions for their support in key moments.

142. See *infra* notes 157-62 and accompanying text recounting the transition from LatCrit to LatCrit, Inc.

143. An apt, and close-to-home, example is the smear campaign mounted against Critical Race Theory by white, mainstream commentators. These attacks have gone so far (afield) as to connect anti-subordination legal theory, including CRT, with anti-Semitism. See Daniel A. Farber & Suzanna Sherry, *Is the Radical Critique of Merit Anti-Semitic*, 83 CAL. L. REV. 853 (1995). More recently, these attacks have extended into the popular media, outlandishly imputing to CRT the spectacle (and verdict) of the Simpson murder trial. See, e.g., Jeffrey Rosen, *The Bloods and the Crits: O.J. Simpson, Critical Race Theory, the Law and the Triumph of Color in America*, NEW REPUBLIC, Dec. 9, 1996, at 27. For a very recent analysis of this campaign to delegitimize CRT specifically and nonwhite outsider jurisprudence more generally, see Jerome McCristal Culp, Jr., *To the Bone: Race and White Privilege*, 83 MINN. L. REV. 1637 (1999). Reflecting these fault lines, similar dynamics have arisen among scholars of color. See, e.g., Randall L. Kennedy, *Racial Critiques of Legal Academia*, 102 HARV. L. REV. 1745 (1989). For rejoinders, see Colloquy, *Responses to Randall Kennedy's Racial Critiques of Legal Academia*, 103 HARV. L. REV. 1844 (1990); see also Jerome McCristal Culp, Jr., *Autobiography and Legal Scholarship and Teaching: Finding the Me in the Legal Academy*, 77 VA. L. REV. 539 (1991); Alex M. Johnson, Jr., *Defending the Use of Narrative and Giving Content to the Voice of Color: Rejecting the Imposition of Process Theory in Legal Scholarship*, 79 IOWA L. REV. 803 (1994).

planning that is necessary to take precautions against the potentially devastating attacks of a hostile socio-professional environment, we leave our project vulnerable to eventual devolution. Such a failure in turn would reflect another gap of insight into the historical significance of our *collective* presence *as outsiders* in the legal academy of this country, as well as the future possibilities that our self-conscious and collective self-determination *within* the academy might open for the future transformation of the legal academy.<sup>144</sup> Long-term planning, in sum, recognizes how our present actions set the stage, not only for the future of outsider jurisprudence, but also for the prospects of outsiders in the legal academy in years and generations to come.

These and other reasons underscore our view that long-term planning and sustained commitment are imperatives inherent in the very nature of the LatCrit project, understood not as the organization of yet another professional venue for the atomistic performance of abstract intellectual discourse and individual aggrandizement, but rather as a genuine community-building project. Based on insights drawn in part from prior outsider experiments in critical jurisprudence, this project is driven by the recognition that only our long-term collaboration offers any hope of producing new knowledge or making the principles we espouse a reality within the legal academy and, progressively throughout a globalized society increasingly regimented by law. Yet, to produce a viable vision of a post-subordination future, we need a commitment to diversity and inclusion both in the Annual Conferences, as well as in everything that LatCrits imagine and undertake. In our view, this commitment to diversity and inclusion—a practice we deem central to LatCrit's origins, past, present and future—is manifest both in the Annual Conferences as well as in other more recent initiatives.

#### B. *Diversity and Inclusion in LatCrit Theory: Giving Life to Multidimensional Commitments*

As we and other LatCrits often have observed, a commitment to diversity and inclusion has been foundational to the theory and its performance from LatCrit's inception.<sup>145</sup> Indeed the intellectual journeys and particular moments we recount above are examples of this commitment, as applied in the vectors of race, ethnicity, religion, sexual orientation, gender, class and the like. More generally, the panels, panelists and planning committees of the Annual Conferences consistently have been organized to ensure and affirm this collective commitment in both intellec-

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144. See generally Cho & Westley, *supra* note 23 (discussing the importance of demographic changes in the legal academy of the United States, and the increase in students and faculty of color as elemental to the emergence of a nonwhite outsider jurisprudence during the 1980s).

145. See *supra* notes 23-47 and accompanying text on LatCrit programs and planning.

tual and human forms.<sup>146</sup> Every year, by self-conscious design, the conference program is planned by a diverse group, which tailors it critically and self-critically to embrace LatCrits' multiple diversities, and to do so in ways that signal and perform a sense of egalitarian inclusion in all LatCrit venues or projects.<sup>147</sup> This commitment likewise is reflected in our collective published record – the dozen or so symposia that LatCrits have published during the past five years.<sup>148</sup> Our multiple diversities are reflected not only through the essays and their authors, but also by the themes of the clusters that are organized thematically by substantive topics.<sup>149</sup> More recently, this commitment is reflected in the multi-racial, multi-ethnic Board of Directors of LatCrit, Inc.—a current initiative that we discuss further below.<sup>150</sup> In each instance, this commitment affirms and conveys a firm belief that interactive engagements will produce multidimensional analyses of law and society only when difference is alive and present in the room. The practices that perform our commitment to diversity and inclusion are integral, in other words, to everything that we do. Ensuring fidelity to the theory prompts us to conceptualize the conferences themselves as a form of principled praxis informed by anti-essentialist, anti-subordinationist ethics.

C. *Ethical LatCrit Praxis: Performing the Theory, Building the Community, and Incubating the Future*

The conceptualization of LatCrit planning and initiatives as *ethical praxis* is a crucial point with substantive and practical implications for the ways in which we structure our encounters and organize the kind of community that makes new learning possible through mutual engagement across and through difference. In the context of the Annual Conferences, these commitments have inspired self-conscious reflection and numerous discussions regarding the way we ensure diversity and expand the involvement of excluded communities or marginalized identities. These discussions gave meaning and substance to the LatCrit guideposts as a lived experience by enabling the growth of a living and learning community of activist scholars committed to social transformation through a sustained engagement and appreciation both of intra-Latina/o differences and inter-group commonalities. These discussions focused upon and continue to explore the ethical dimensions of LatCrit praxis as reflected in the way we interact with each other during both our conferences *and* the planning process through which we organize them. These

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146. See, e.g., Valdes, Afterword—*Theorizing "OutCrit" Theories*, *supra* note 48, at 1299-1311 (describing the first three years).

147. This point is perhaps most extensively treated in the Transition Memo from LatCrit IV to V (copy on file with authors).

148. For a listing, see the "List of Publications" presented in the Appendix to the Afterword.

149. To review past conferences and events, visit <[www.latcrit.org](http://www.latcrit.org)>.

150. See *infra* notes 157-62 and accompanying text on the LatCrit incorporation process.

discussions have made it increasingly apparent to us that the future sustainability and integrity of the LatCrit project depends significantly on the extent to which each LatCrit conference and initiative is conducted in a manner that makes the ethic of mutual respect and inter/personal, inter-group solidarity a lived experience. And this lived experience, we also have seen, must be simultaneously shared and produced by the actions, discourse and attitudes hopefully of all, or at least a great majority of, the conference participants.<sup>151</sup>

A project that seeks to create a community of sustained engagement and collaboration among individuals, who are themselves marginalized (or embattled) in their own institutions or social positions, must articulate and make manifest an ethic of inclusion, accommodation, respect and personal generosity that proactively repudiates: any acquiescence to the exclusionary tendencies of elitism; the formation of new “insider/outsider” dynamics; any resort to the rigid control-driven sort of bureaucratic thinking that only suppresses the living, learning (and therefore necessarily fluid and interactive) processes through which new programmatic initiatives are imagined and new voices are heard; and the disrespect that too often masks itself as “critical engagement,” in which genuine intellectual exchange is derailed by hypercritical attacks that oftentimes turn out to be little more than opportunistic efforts through which some individual seeks self-aggrandizement at the expense of another, and at other times, the sort of ungenerous response to a genuine miscommunication, misunderstanding or disagreement that a community as fragile as the one we are building simply cannot afford to indulge. These commitments to grounding LatCrit conferences and other initiatives upon principles of inclusion, diversity and ethical praxis<sup>152</sup> thus impose additional responsibilities and burdens that differ for each of us depending on our positions in the legal academy as a whole and in relationship to the historical and institutional evolution of the LatCrit project.

In this brief discussion we mean to focus attention on the fact that while racial, ethnic and other forms of identity-based diversity have been central to the evolution of LatCrit’s multidimensional discourse and coalitional imagination, these are not the only forms of “diversity” that traverse the LatCrit community—nor are they the only forms of diversity that require self-conscious, self-critical reflection and practical ethical engagement. We are constituted by all sorts of diversities. For instance, some of us are tenured while others are not, and therefore are more likely to have particular needs for exposure and assistance. Some of us already have received quite extensive professional benefits from the opportunities to speak, to publish and to be centered in plenary sessions and key-

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151. See generally Transition Memo, LatCrit IV to V (copy on file with authors).

152. See *supra* notes 37–47 and accompanying text on these commitments in LatCrit theory and praxis.



note slots of prior LatCrit programs while others have not, either because they are new to the profession or because the evolution of LatCrit discourse and community is only just now beginning to engage the issues and areas with which they are concerned. When we pause to consider this “diversity” of institutional position and professional perspective, we readily can see how it implies different needs and responsibilities among LatCrits—variations that also must be understood in light of our different levels of familiarity with the history and aspirations of the LatCrit project, the obstacles we have managed to transcend or not in the past five years, and the constraints and limitations we continue to confront as we dare to imagine the next five years and beyond.

This particular axis of “diversity” calls on each of us to consider how we best can contribute from our particular positions and perspectives to the continued evolution of a project whose future and integrity is not by any means guaranteed. For the more established scholars among the LatCrit community, ethical praxis may mean a willingness affirmatively to yield center-stage to newcomers—by reading works-in-progress, participating in concurrent panels and attending the plenary sessions and keynotes where newcomers are featured; for relative newcomers, ethical praxis may entail the kind of careful learning of the LatCrit record that is needed to avoid regressive engagements in issues and controversies already addressed at length in prior LatCrit venues, as well as involvement in LatCrit initiatives beyond the Annual Conferences and the presentation of one’s individual works.<sup>153</sup> Without the former kind of action, LatCrit conferences run the risk of becoming another venue for a careerist “star system,” and without the latter, we run the risk of running in circles, simply repeating and rehashing previous interventions that, at prior times, may have been cutting-edge developments. Without both of these actions, we collectively invite the risk of intellectual boredom and social irrelevance.<sup>154</sup> Both of these actions are forms of “reaching out” that are necessary to our collective evolution and, ultimately, to the long-term sustainability of LatCrit programs as collective ethical praxis.

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153. The need for all LatCrit scholars, including newcomers, to engage the collective written record is discussed more fully in Kevin R. Johnson, Foreword—*Celebrating LatCrit Theory: What Do We Do When the Music Stops?*, 33 U.C. DAVIS L. REV. 753 (2000). For a fuller discussion of more recent LatCrit projects, see *infra* Part III (describing LatCrit initiatives beyond the Annual Conferences that, like them, are open to newcomers).

154. Each year, conference planners seek to advance LatCrit discourse through the introduction of new participants, perspectives, identities, controversies and problematics. The success of these efforts depends mightily on the extent to which understandings reached through prior encounters and reflected in published symposia inform the debate. While veteran LatCrits must remain sensitive to the gaps of information and experience any newcomer necessarily confronts at the beginning, newcomers also need to familiarize themselves with the theoretical and political advances that already have been made (or attempted and the reasons for their failures) so that the annual conferences can continue to foster new learning and to nurture new solidarities.

To aid this ongoing process of mutual engagement, LatCrits have produced introductory materials ranging from a Primer, currently in two volumes available on diskette and in hard copy, and which is updated periodically, to a brochure and flyer that strive to distill the past five years to a few words. All of these materials, like this Afterword, are designed to “reach out” to relative newcomers.<sup>155</sup> Similarly, this year as in the past two we have striven to slot relatively “senior” LatCrits in concurrent panels, or to slot them in facilitating roles, such as moderating panels and roundtable discussions, so that the substantive slots in plenary panels and workshops may be better employed to feature the works of relative newcomers. But for these outreach efforts to work best, they require not only that conference planning committees make these and similar materials readily available, but also that all conference participants make full and active use of the LatCrit collective record to date, including but not limited to the Primer.

This mutuality of opportunity and responsibility ensures that everyone will become familiar with the advances, limitations and trajectories of past conferences and symposia, and will be better able to situate within that context the ongoing or new works and conference presentations that may, and should, be informed by that collective record. LatCrit newcomers thus need to understand the histories and directions of past and current streams and rotations while more established LatCrit scholars need to provide a ready means for this ongoing process of contextualization. In short, the notion of the Annual Conferences and similar projects as sites for the ethical practice of the theory depends increasingly on the sum of our individual commitments to navigate and embrace the particularities of position and the complexities of interaction created by the growth of the conferences.

These practices also extend beyond the planning and programming of the Annual Conferences. Because the politics of backlash make every space of anti-subordination community precious, these commitments have shaped the formation and initiation of every LatCrit project or venture thus far, including the recent incorporation of LatCrit as a not-for-profit organization and the formation of its Board of Directors. Experience during these past five years, coupled with lessons from other outsider jurisprudential experiments, increasingly have convinced us that, to help protect these spaces as much possible, LatCrits and other OutCrits must prioritize, and invest personal time and energy in, the difficult task of institution-building, a task that we see looming now over LatCrit’s horizon, and to which we turn next.

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155. Copies of the LatCrit Primer and the LatCrit brochure and flyer are on file with the authors.

### III. LATCRIT TRAJECTORIES: THE INSTITUTION-BUILDING IMPERATIVE

Although the LatCrit Annual Conferences have provided invaluable opportunities for our intellectual and community-building work over the last five years, the energies, opportunities and enthusiasm generated by our mutual engagements increasingly have inspired us to seek collaborative opportunities beyond the parameters of the Annual Conference. This Part focuses on the ways in which the institutional development of the LatCrit project has sought to create frameworks designed not only to ensure the sustainability of the Annual Conferences, but also to create new venues and vehicles for expanding the opportunities for personally, professionally and politically meaningful collaboration consistent with the commitments to anti-essentialist, anti-subordination theory and praxis that have informed the LatCrit project over the years. In doing so, we focus specifically on three major developments: (1) the formal organization of LatCrit, Inc. as a 501(c)(3), tax-exempt, non-profit corporation with a Board of Directors and a formal structure for transitioning leadership roles in the organization of LatCrit Annual Conferences and other projects; (2) the inauguration of a LatCrit international summer colloquium and student-related initiatives, which have created new programmatic settings for the practice and evolution of LatCrit theory; and (3) current special projects and fundraising efforts designed to help achieve a greater institutionalization of our substantive work to promote its depth and durability. These three developments, in addition to reflecting specifically the pressing need for institution-building, also continue LatCrit efforts to ground the theory and praxis in the functions and guideposts that reflect our shared aspirations.<sup>156</sup>

#### A. *Incorporation: From LatCrit to LatCrit, Inc.*

Since the first Annual Conference in 1995, LatCrit scholars and planners have discussed and sought ways to make the vitality and efficacy of this enterprise self-sustaining and independent. Although we always have relied on the generosity of supportive deans and faculty, we also have recognized that the long-term viability of this project could not be secure without insulating our work as much as practicable from the vagaries of institutional politics. So, from the beginning LatCrits sought to plan conferences, and to secure their sponsorships, in advance as much as possible—in fact, three-to-five years in advance. But this effort to raise advance funds for a new and unknown jurisprudential experiment was uphill, time-consuming work. The limitation was in the lack of sufficient human and other resources to focus our long-term planning efforts on anything beyond the Annual Conferences and managing their growth in principled, responsible ways. While we recognized the need for more, in the first three years, LatCrits collectively lacked the time, the experi-

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156. See *supra* notes 35-36 and accompanying text on LatCrit guideposts and functions.

ence, and the energy to simultaneously design and build the infrastructure of institutional independence. Indeed, in the first three years, the principal efforts were necessarily limited to achieving the actual occurrence of the Annual Conferences and ensuring they were conducted without the kind of implusive, disorienting eruptions that occasionally have punctuated the emergence and evolution of outsider jurisprudence.<sup>157</sup>

This early state of affairs came to a head in the fall of the fourth year, when, despite our best collective efforts, we still lacked a firm principal sponsor for the LatCrit IV conference. Whereas in prior years—and indeed for some future years also—we had secured principal sponsors to cover the bulk of the conference expenses, by early fall of 1998, LatCrit IV remained a gap we could not fill. In some ways, then, LatCrit became “LatCrit, Inc.” directly and specifically in response to the obstacles confronted in and during the planning process for LatCrit IV.<sup>158</sup>

Coming on the heels of the success of LatCrit III, generously funded by Samuel Thompson, then-Dean of the University of Miami School of Law, LatCrit IV was graced by a large planning committee, but no principal institutional sponsor. While the Stanford-Sierra Conference site had been selected for LatCrit IV on the basis of tentative commitments, the only firm advance commitment was a limited sponsorship by the Center for Hispanic and Caribbean Legal Studies, also at the University of Miami School of Law. To preserve the pre-publicized conference site—which also was designed to rotate the conference westward for substantive reasons<sup>159</sup>—individual members of the LatCrit IV planning committee contributed their individual funds to raise the reservation deposit necessary to secure the conference hotel and meeting facility for this event. This experience made a number of things clear: (1) LatCrits could not expect that the financial resources necessary to sustain our work would always materialize; (2) fundraising would thus remain a chronic concern unless we prioritized the cultivation of multiple and stable funding sources over a multi-year time span; and (3) securing financial resources from multiple sources would require establishing a formal framework for receiving, managing and accounting for our financial resources.

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157. See *supra* notes 62-75 and 82-101 and accompanying text on conference controversies and their management.

158. Held at the Stanford Sierra Conference Center near Lake Tahoe in May 1999, LatCrit IV was organized by a planning committee that included Rudy V. Busto, Robert Chang, Roberto Corrada, David Cruz, Laura Gomez, Elizabeth Iglesias, Guadalupe Luna, Pedro Malavet, Estevan Rael y Galvez, Dorothy Roberts and Francisco Valdes.

159. Because the conference programs are employed to highlight selected local issues, the geographic rotation westward was designed to facilitate programming focused on Native Americans and Filipinas/os. For more on these efforts, see *supra* notes 31-32, 90 and 115-116. This type of physical or geographic rotation, as we note above, also is designed to promote the seventh LatCrit guidepost: balancing specificity and generality as a way of discerning interlocking patterns of subordination. See *supra* notes 35-36 and accompanying text on the LatCrit guideposts.

Against this backdrop, the incorporation of LatCrit emerged as a concrete necessity, prompting the formation of a subcommittee of the larger LatCrit IV conference planning committee to carry out LatCrit's incorporation as a not-for-profit entity. More specifically, the plan was to incorporate LatCrit in two steps: initially, and quickly, to establish the basic corporate form that would enable us to manage professionally the monies raised for LatCrit IV, and secondly, to circulate the incorporation documents to the LatCrit community at LatCrit IV for feedback and subsequent finalization. During the following year, both were accomplished.

Under this two-step approach, LatCrit, Inc. was formed under the laws of the state of Florida and the initial Board of Directors was comprised of the incorporation committee, which also undertook the responsibilities of the officers of the corporation. The incorporators were Lisa Iglesias, who as Co-Chair was responsible for drafting and filing the initial Articles of Incorporation and By-Laws as well as the application for 501(c) (3) tax-exempt status; Guadalupe Luna, who along with Mary Romero undertook outreach responsibilities directed toward Chicana/o scholars and cross-disciplinary networks; Pedro Malavet, who launched the LatCrit website and took up the responsibilities of Treasurer; Laura Padilla, who as onsite coordinator was responsible for the local logistics of LatCrit IV and was selected Secretary; and Frank Valdes, who as Co-Chair coordinated the planning of the LatCrit IV program to ensure substantive progression and continuity, including arrangements for institutional sponsorships. After several rounds of revision at committee levels, these documents were reproduced and distributed on-site to the participants of the LatCrit IV conference, accompanied by several announcements during the conference explaining this process and urging feedback to the initial corporate papers.

After the conference, LatCrit, Inc. held its first annual board meeting to elect its first Board of Directors. The original incorporators were elected to the positions they held during the first stage of incorporation, but the Board of Directors also was expanded to add a diverse group of individuals, who were involved both in prior outsider jurisprudential projects and in birthing the LatCrit project, and who volunteered to work on this new Board: Sumi Cho, Jerome Culp, Angela Harris, Margaret Montoya, Ediberto Roman, and Mary Romero. This first step toward consolidating the corporate form extended basic commitments to inclusion and diversity, to continuity and balance, to anti-essentialism and anti-subordination. But, this first step also marked the formalization of a new practice: using prior work on the conference planning committees as the substantive basis of eligibility for nominating and electing individuals to formal leadership positions within LatCrit's evolving organizational structures. In this way, active work on the planning committee of at least two LatCrit conferences was established as the substantive vehi-

cle for managing new and coming transitions in LatCrit leadership—an approach with the added virtue of promoting long-term planning.

Opening access to leadership opportunities in LatCrit projects to anyone willing to invest their time and energy in these collaborative efforts brings with it the additional virtue of grounding the architects of our collective future in their substantive and personal contributions to LatCrit events and initiatives. While this approach allows and welcomes the participation of all in the core practices of the annual planning process, it also recognizes the value of direct experience and personal commitment in managing the expansion of LatCrit, Inc. and its projects beyond the Annual Conferences. In this way, therefore, we hope to build and transmit collective experience and institutional memory, while also assuring an open community for the inclusion and celebration of newcomers, which in combination should help to advance long-term planning.<sup>160</sup> Indirectly, this approach over time should help to produce interconnected networks of activist scholars with common—though not identical—jurisprudential experiences and frameworks as well as with a deeper understanding of the dynamics of the Annual Conferences and other LatCrit initiatives. Ideally, this approach balances opportunity and experience in ethical and substantive terms, while simultaneously cultivating the human resources necessary to the long-term sustenance of this project.

To be sure, institution-building cannot be left entirely to self-selection. In fact, self-selection, unconnected to personal commitment, lived experience and substantive contributions, cannot and could not account for the development of LatCrit as a living and learning community grounded in anti-essentialist and anti-subordination principles, nor as a formal corporate entity dedicated to those principles. The vagaries of the human condition, as well as the personal and professional exigencies we each confront in different ways at different times, are ever-present, and unexpected or overriding events can intervene and derail even the most earnest of plans and commitments. Our limitations and vulnerabilities as individuals are precisely the factors that make each individual's investment of time, energy and effort a priceless "human resource" for the LatCrit community,<sup>161</sup> even as these same factors necessitate the development of procedures and norms that can guarantee the continued

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160. This point bears emphasis. Participation in LatCrit planning and institution-building initiatives, as in the annual conferences, is always open to all. Newcomers have many readily available venues and opportunities through which to become involved: by responding to the call for papers, newcomers can be slotted in the plenary and concurrent panels, or present their works-in-progress to receive careful readings and commentary from other LatCrit scholars; by participating in the post-conference planning sessions, newcomers can become directly involved in planning future annual conferences; and by attending the Annual LatCrit Retreats, newcomers can participate in any of the many other LatCrit initiatives beyond the annual conferences that are currently underway.

161. See *supra* note 119 on the meaning and significance of "human resources" in the LatCrit project.

evolution and integrity of the LatCrit experiment through the transitions in leadership that we inevitably must expect, plan for and nurture.

Indeed, the LatCrit, Inc. Board of Directors already has confronted developments in the first year since LatCrit IV that amply illustrate the pressing need to plan proactively and institutionally for transitions in leadership. After making significant contributions of time and effort to the incorporation of LatCrit, Inc., as well as to the financial and organizational success of LatCrit IV, personal and professional exigencies prompted the resignations of both Laura Padilla, as LatCrit Secretary, and Pedro Malavet, as LatCrit Treasurer. With much difficulty and after extensive "recruitment" efforts, these vacancies were ultimately, and substantively, filled in time for LatCrit V, by the nomination and election of Roberto Corrada as LatCrit Secretary and Christina Prkic as Treasurer. These events highlight basic issues and needs that we must expect to recur—and, therefore, that we must anticipate and accommodate by cultivating and encouraging the kind of broad and sustained participation through which future LatCrit leaders effectively can emerge.

In anticipation of similar, yet more complex, issues of growth and transition, LatCrit planners have begun to imagine and formulate norms to guide future transitions, in particular by grounding election to the Board of Directors substantively in the experience acquired through sustained participation in, and contributions to, the planning of LatCrit Annual Conferences and other programmatic and institutional initiatives. We also have begun the process of delineating more concretely the responsibilities of the LatCrit Board of Directors, its Officers and Co-Chairs—an effort that, in our view, will smooth the eventual and inevitable transitions in leadership through which we hope to secure the future of LatCrit, Inc. as a long-lasting institution of activist outsider scholars in the American legal academy.<sup>162</sup> While the vagaries and vulnerabilities of the human condition always will require care and flexibility in the institution-building aspirations of the LatCrit community, the crucial act of formal incorporation allows us, among other important things, to nurture future generations of scholar-activists and thereby help to secure the long-term sustainability of the LatCrit project and its anti-subordination aims, as well as the institutional spaces and collective networks necessary for other critical projects to emerge and flourish.

While responding initially to the need for long-term planning of the Annual Conferences, the corporate entity also allows the LatCrit community to go beyond the Annual Conference in principled ways that previously were impracticable or impossible. Thus, with the corporate form now in place, LatCrit, Inc. has developed an organizational framework

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162. These efforts are ongoing, but already have yielded several "special projects" outlined in the following section of this Afterword.

through which individuals and/or small groups of LatCrits can invent, present and pursue new projects, some of which we describe briefly below. In time, the formation of LatCrit, Inc. should help to expand the venues and opportunities for the continued evolution of LatCrit theory, praxis and community grounded in LatCrit's guideposts and functions, a matter to which we now turn.

### B. *Beyond the Conference: Expanding the Performance of the Theory*

Over the last several years, efforts to give practical meaning to the theoretical evolution of LatCrit discourse time and again have prompted LatCrits to explore three distinct yet inter-related sets of possibilities: (1) new avenues of intellectual inquiry and collaboration beyond the Annual Conferences; (2) reconfigured lines of inquiry that go beyond the conceptual boundaries of a U.S.-centric perspective on law and policy; and (3) expanded challenges to the institutional boundaries that suppress student exposure to, and opportunities to learn from, the evolution of critical theories in the American legal academy. The baseline in each instance, of course, is to stay principled and grounded in the commitments to anti-essentialism and anti-subordination. While committed to meeting this challenge, only time—and our collective efforts—will determine the evolution of the initiatives we take up below.

#### 1. Creating a LatCritical Trans-Atlantic Dialogue: Toward "Triangulation"

Perhaps most important among the recent programmatic initiatives have been the two colloquia devoted to international and comparative law, presented in Malaga, Spain,<sup>163</sup> as part of our continuing efforts not only to bridge false gaps between the domestic and the foreign<sup>164</sup> but also increasingly to "triangulate" LatCrit theory; that is, to explore the triangle of power and geography that delineates and frames Latina/o histories and realities—the triangle constructed of Spain, Latin America and Latina/o communities within the United States.<sup>165</sup> In social, structural and historical terms, this triangle generates and governs the existence of the category called "Latina/o."<sup>166</sup> Therefore, its recognition can help to con-

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163. To review the program materials for these two colloquia, visit <www.latcrit.org>.

164. See *supra* note 102 and accompanying text on LatCrit rejection of the domestic/foreign dichotomy.

165. See Francisco Valdes, *Race, Ethnicity and Hispanismo in Triangular Perspective: The Essential "Latina/o" and LatCrit Theory*, 48 UCLA L. REV. 305, 310-11 (2000) (discussing triangulation) [hereinafter Valdes, *Hispanismo*]; see generally MARK J. VAN AKEN, *PAN-HISPANISM: ITS ORIGIN AND DEVELOPMENT TO 1866* (1959) (discussing "Hispanism" or "Hispanismo" and its origins); see generally *infra* note 168 and sources cited therein on Spain's colonial history and its after-effects in "Latin" America.

166. See *supra* notes 37 and 38 and sources cited therein on "Latina/o" classifications and their problems.



textualize LatCritical analyses of the "Latina/o" condition domestically, hemispherically and globally.

These two colloquia have yielded substantive insights that permit LatCrit theorists to study and consider the recurrence of particular patterns in, for example, race relations, immigration law and policy, regional integration movements, globalization, and other areas of critical investigation in trans-Atlantic frameworks—in other words, as they are structured and manipulated in Spain and in the United States.<sup>167</sup> Through this trans-Atlantic dialogue we have seen and learned how these two nation-states, though they embrace and project different, even competing, forms of nationalistic white supremacy, jointly lord over Latina/o lives with similar ideologies and imperatives based on postcolonial neoliberalism, corporate globalization and Euro-heteropatriarchy.<sup>168</sup> These colloquia, in myriad ways, have shown both the falsity of dividing our

167. The proceedings of these colloquia appear in *Colloquium, Spain, the Americas and Latino/as: International and Comparative Law in Triangular Perspective*, 9 U. MIAMI INT'L & COMP. L. REV. (2000); the program materials are posted at <www.latcrit.org>.

168. By "postcolonial neoliberalism" and "corporate globalization" we mean the inter/national economic policies and global political economy that impose "free" markets on diverse societies for the benefit of corporate profits, oftentimes subjugating humans to exploitation and poverty, based on colonial and neocolonial histories and legacies. *See generally* PAUL HIRST & GRAHAME THOMPSON, *GLOBALIZATION IN QUESTION: THE INTERNATIONAL ECONOMY AND THE POSSIBILITIES OF GOVERNANCE* (1996); *DEVELOPMENT STUDIES: A READER* (Stuart Corbridge ed., 1996). The United States government has created a "special envoy to the Americas" whose principal task, according to the current envoy, is to ensure "economic integration of the hemisphere" under neoliberal dictates. *See* Don Bohning, *MacKay on "Learning Curve" as Clinton's Envoy to Americas*, MIAMI HERALD, June 3, 1999, at 14A. The accelerating drive to impose neoliberal economies worldwide through international instruments of coercion, oftentimes at the expense of humans, provoked bloody street protests during the most recent meeting of the World Trade Organization (WTO), held in Seattle, USA, as the millennium drew to a close. *See, e.g.*, Kenneth Klee, *The Siege of Seattle*, NEWSWEEK, Dec. 13, 1999, at 30. This year, therefore, the conference program delved into these issues as part of continuing programmatic "streams" to internationalize LatCrit theorizing and praxis. *See supra* notes 104-06 and accompanying text on the WTO workshop at LatCrit V and related program events. Of course, Spain's colonial record and its continuing repercussions throughout the Americas has been well documented, especially in more recent years. *See generally* RICHARD DRINNON, *FACING WEST: THE METAPHYSIC OF INDIAN-HATING AND EMPIRE-BUILDING* (1990) (focusing on indigenous populations); LYLE H. MCALISTER, *SPAIN AND PORTUGAL IN THE NEW WORLD, 1492-1700* (1984) (providing a general account of Iberian colonialism's rise and zenith); DAVID J. WEBER, *THE SPANISH FRONTIER IN NORTH AMERICA* (1992) (focusing specifically on Spain's imperial efforts in what today is known as North America); For personal and contemporaneous accounts of Spain's imperial expeditions, *see* BERNAL DIAZ, *THE CONQUEST OF NEW SPAIN* (J.M. Cohen trans. 1963) (providing an eyewitness account of the conquest and its politics) and BARTOLOME DE LAS CASAS, *THE DEVASTATION OF THE INDIES: A BRIEF ACCOUNT* (Herma Briffault trans., 1974) (providing another first-hand, and critical, account). The subjugation of indigenous and related communities in North America under the Anglocentric rule of the United States is of course well documented too. *See, e.g.*, *RACE AND RACES 173-245* (Juan F. Perea, Richard Delgado, Angela P. Harris & Stephanie Wildman eds., 2000) (providing an excellent, concise overview); *see also* CHARLES F. WILKINSON, *AMERICAN INDIANS, TIME, AND THE LAW* (1987); *READINGS IN AMERICAN INDIAN LAW: RECALLING THE RHYTHM OF REVIVAL* (Jo Carillo ed., 1998); *see also supra* note 37 and sources cited therein on the imperialistic policies and actions of the United States in Central and South Americas.

analyses of law, power and privilege into the binarisms associated with labels such as “domestic” and “international,” as well as the dangers for Latina/os of sentimental flirtations with “Hispanismo” as an identity ideology that helps to structure the present-day world.<sup>169</sup>

The recognition of this triangle, and the effort at triangulation, in turn has necessitated, and effectively called for, an increased linkage of three existing scholarly fields—Latin American studies, Latina/o studies, and Spanish post-colonial studies—areas of study and scholarly discourses that, at this moment, have no necessary or sustained interaction with each other. But if joined in systematic ways, the three can help to make LatCritical analyses more cross disciplinary and discerning about the current-day implications of the triangular power matrix that has and to some extent continues to construct Latina/o identities, positions and perspectives.<sup>170</sup> These colloquia thus have helped programmatically to highlight the fundamental need for cross-disciplinary engagements in outsider jurisprudence, and have confirmed early LatCrit commitments and tendencies to cross-disciplinary analysis.<sup>171</sup>

The two colloquia in Spain, in addition to the first Colloquium on International Law, Human Rights and LatCrit Theory held in Miami in 1996,<sup>172</sup> also have fore-grounded the need to investigate the north-south dimensions of triangulation: the recent colloquia in Spain have underscored the past and present embroilment of that nation-state in its former colonies in the Americas, while the earlier Miami Colloquium on International Law, Human rights and LatCrit Theory underscored the need to situate critical analysis of Latina/o histories, conditions and prospects in transnational frames. These three colloquia, held over the past five years, thereby have helped set the stage for the inauguration of an even more ambitious series of rotating seminars, which we discuss below in detail.<sup>173</sup> Generally, these upcoming colloquia are devoted not only to developing the north-south dimensions of LatCrit theory’s future evolution but also are designed to facilitate LatCrit theorists’ proactive interventions in the

169. Valdes, *Hispanismo*, *supra* note 165, at 324-28 (discussing Hispanismo as a form of identity ideology).

170. For an excellent collection of essays on Latina/o-Latin American relations, see *BORDERLESS BORDERS: U.S. LATINOS, LATIN AMERICANS, AND THE PARADOX OF INTERDEPENDENCE* (Frank Bonilla, Edwin Melendez, Rebecca Morales & Maria de los Angeles Torres eds., 1998).

171. The long-standing LatCrit commitment to interdisciplinary analysis and discourse is evident in the programs and symposia of the past five years, all of which include participation by scholars from disciplines other than law. See *supra* notes 25-27 and sources cited therein on the LatCrit symposia, and visit <[www.latcrit.org](http://www.latcrit.org)> for the LatCrit programs of the conferences and colloquia.

172. See *supra* notes 103-05 and accompanying text on the planning and presentation of this colloquium.

173. See *infra* notes 192-94 and accompanying text on the series of rotating colloquia presently being planned.

crafting of international law and policy via international organizations.<sup>174</sup> Ideally, the upcoming colloquia will serve as another avenue through which the ethic and insights of LatCrit theory can be channeled toward the creation of a more egalitarian international civil order specifically through the articulation of policy as well as theory.

These colloquia and the international and cross-disciplinary analysis they have cultivated in LatCrit theory are reinforced by corresponding programming in the Annual Conferences. In other words, internationalism and cross-disciplinary approaches are fostered to elucidate multinational analyses through the colloquia as well as through the conferences; the programs of each are planned with an eye to the others, such that each is an effort to advance and support varying aspects of the rest. Indeed, the next Annual Conference—LatCrit VI, sponsored by the University of Florida College of Law—is devoted to “*Centering North-South Frameworks in LatCrit Theory: Latinas/os and the Americas*.”<sup>175</sup> As with other topics, this thematization is part of a stream and follows prior years of program events, such as the panels devoted to NAIL/TWAIL networks that, in addition to similar program events, have helped bring critical perspectives on transnational issues and international law to the LatCrit conferences during the past several years.<sup>176</sup> As a whole, then, these mutually-reinforcing events and their corresponding publications jointly represent LatCrits’ progress, hopes, limitations and prospects in our collective efforts to perform the theory in principled and ethical terms—that is, in terms that reflect a genuine commitment to the anti-essentialist and anti-subordinationist foundations of LatCrit theory.

## 2. Throwing Lifelines from the Margins: Student-Oriented Initiatives

Our efforts to perform the theory in substantively principled ways also have prompted specific initiatives designed to address the particular, and well understood, needs of socially conscious students in many, if not most, law schools throughout the country.<sup>177</sup> From the beginning, LatCrits have endeavored to include socially conscious students in the Annual Conferences and, indeed, in all that we do. Thus, virtually every LatCrit conference program has featured student participants as reflected this year in the concurrent panel organized by education students ex-

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174. See *infra* notes 195-200 and accompanying text on the United Nations-NGO initiative.

175. For more information on the LatCrit VI program and conference, visit <[www.latcrit.org](http://www.latcrit.org)>.

176. See *supra* notes 104 and 118 on the NAIL/TWAIL programs and similar events.

177. For LatCrit reflections on the situation confronting politically conscious students of color in the legal academy, see Bender, *Silencing Culture and Culturing Silence*, *supra* note 15; Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 607-08; Montoya, *Silence and Silencing*, *supra* note 15; Roberts, *The Paradox of Silence*, *supra* note 15.

perimenting with ways of importing LatCrit theory into their work.<sup>178</sup> Similarly, LatCrit conference planners have worked hand in hand with student editors to publish the conference-based symposia every year to date, and this collaboration has been foundational to LatCrit's origins and development, as previously noted.<sup>179</sup> These efforts have involved a bundle of student-oriented outreach projects, all of which strive to make critical theory and outsider jurisprudence accessible to the students of today and tomorrow. Yet, the structural barriers to sustained student involvement in LatCrit theory and its projects are many and daunting: academic calendars, summer clerking commitments, economic resources, as well as the hostile and exclusionary appointments and promotion practices at many educational institutions throughout the country.<sup>180</sup> Thus, LatCrit efforts to reach students have been strategic rather than systematic; that is, our efforts during the past five years have been designed to leverage basic resources associated with our formal or informal institutional positions to break structural barriers to student involvement in outsider jurisprudence and critical theory, even as we lack access to steady sources of substantial support.<sup>181</sup>

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178. This concurrent panel, titled "*LatCrit Theory: The Field of Education*," featured several graduate students from UCLA, including Jolynn Asato, Nadine Bermudez, Alejandro Covarrubias, Rachel Estrella and Anita Revilla. Several law and graduate students also have been given the opportunity to publish in LatCrit symposia, and some have grasped this opportunity. See, e.g., Aniella Gonzalez, *Being Individuals: A Comparative Look at Relationships, Gender & the Public/Private Dichotomy*, 9 U. MIAMI INT'L & COMP. L. REV. 115; Angie L. Padin, *Hispanismo as Leverage: LatCrit Questions Spain's Motives*, 9 U. MIAMI INT'L & COMP. L. REV. 165 (2001); Nicholas A. Gunia, *Half The Story Has Never Been Told: Popular Jamaican Music As Anti-subordination Praxis*, 33 U.C. DAVIS L. REV. 1333 (2000). For more information, visit <www.latcrit.org>.

179. See *supra* notes 26-29 on the relationship of the conferences to the symposia.

180. This institutionalized hostility, and its detrimental impact on outsiders in legal education, has been well documented over the past dozen years or so. See, e.g., Marina Angel, *The Glass Ceiling of Women in Legal Education: Contract Positions and the Death of Tenure*, 50 J.L. EDUC. 1 (2000); Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537 (1988); Richard Delgado, *Minority Law Professors' Lives: The Bell-Delgado Survey*, 24 HARV. C.R.-C.L. L. REV. 349 (1989); Richard Delgado, *Affirmative Action as Majoritarian Device: Or, Do You Really Want to be a Role Model?*, 89 MICH. L. REV. 1222 (1991); Cho & Westley, *supra* note 23; Cheryl Harris, *Legal Education II: Law Professors of Color and the Academy: Of Poets and Kings*, 68 CHI.-KENT L. REV. 331 (1992); William C. Kidder, *Situating Asian Pacific Americans in the Law School Affirmative Action Debate: Empirical Facts About Thernstrom's Rhetorical Acts*, 7 ASIAN L.J. 29 (2000); Charles R. Lawrence III, *Minority Hiring in AALS Law Schools: The Need for Voluntary Quotas*, 20 U.S.F.L. REV. 429 (1986); Rachel F. Moran, *The Implications of Being a Society of One*, 20 U.S.F. L. REV. 503 (1986); Richard K. Neumann, Jr., *Women in Legal Education: What the Statistics Show*, 50 J. LEGAL ED. 313 (2000). This modern-day hostility is rooted in the political origins and ideological architecture of legal education and the legal professions in this country. See *supra* note 137 and sources cited therein on the racist-nativist motives behind the institutionalization of legal education and lawyering in this country. Moreover, this racial/ethnic hostility has never abated; on the contrary, it has escalated in recent years, in keeping with the climate and reality of cultural warfare. See *supra* note 77 and accompanying text on the culture wars of these times.

181. See, e.g., Valdes, *Making Waves*, *supra* note 79, at 156-58 (discussing student-related and curricular issues).

One recent example is the "Critical Global Classroom," in which we employ a summer study-abroad program as a vehicle to create opportunities for law students across the country to do what many cannot at their 'home' institutions: undertake an in-depth exploration of critical theory, and in particular outsider jurisprudence, in a theory-friendly, outsider-friendly educational environment.<sup>182</sup> The basic concept has been to use the curricular opportunities of a summer study-abroad program to present a set of classes, taught specifically by LatCrit and other OutCrit scholars, that are primarily devoted to the study of outsider jurisprudence in global contexts and from a critical perspective.<sup>183</sup> The pedagogical purpose of this project, therefore, has been to expose students to theoretical frameworks, discourses and information they ordinarily are not taught in the normal course of legal education as currently structured: to give them the insights and vocabulary, the tools and techniques, the contacts and networks they need to pierce through the mazes of doctrine and policy that supposedly constitute the "rule of law" in this country, and to do so as agents of social justice transformation.<sup>184</sup> Thus, the idea of employing a

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182. For three years, the University of Miami School of Law's study-abroad law program in Spain, which we co-directed until summer 2000, served this purpose. Due precisely to the kinds of institutional hostility that affect outsider efforts and scholars throughout the country, this program was discontinued by decanal decision to remove the co-directors of the program at the height of its success: in 2000, it enrolled over 80 students, making it one of the five most popular such programs in the country and a "profit center" for the law school. All information relating to the program was removed from the University of Miami School of Law's website over the co-directors' objection in the fall of 2000 but remains on file with the authors. As a result of these developments, LatCrit planners presently are considering study-abroad programs based at other law schools to resume operation of this "Critical Global Classroom."

183. During the three summers we directed the program, enrolled students were taught courses in international and comparative law by Spanish legal scholars and a diverse array of prominent critical scholars including, Elizabeth M. Iglesias, Kevin R. Johnson, Ratna Kapur, William Piatt, Celina Romany and Francisco Valdes. In the summer of 1999 and 2000, students also attended the LatCrit International and Comparative Law Colloquia, where they heard presentations by scholars teaching in the program, numerous other Spanish legal scholars and activists, as well as North American critical scholars who traveled to Spain specifically to participate in the LatCrit Colloquia: Lundy Langston, Lillian Manzor, Ediberto Roman, Natsu Saito, Gema Perez-Sanchez, and Robert Westley. For the program materials of these two colloquia, see SPAIN/ESPANA, CONFERENCE MATERIALS AND ARTICLES <<http://www.latcrit.org>>.

184. It is no secret that law students in many, if not most, law schools throughout the United States are for the most part denied access to critical legal theories by the marginalization of outsider scholars and scholarship in law school faculties and the curricular cannon – a marginalization effected in part by dismissing the "objectivity" of outsider scholarship. While this status quo may serve the short-term interests of dominant elites in the legal academy and society, it does not serve either minority or non-minority students, who thus are denied the intellectual exposure and analytical tools they need to confront difference and conceptualize new possibilities for the 21st century, whose realities increasingly will require them to traverse cultural, racial and national borders. See, e.g., Paula Lustbader, Essay, *From Dreams to Reality: The Emerging Role of Law School Academic Support Programs*, 31 U.S.F.L. REV. 839, 840 (noting repeated arguments that the legal system will inadequately respond to a culturally diverse society until a critical mass of diverse lawyers and legal academicians enter the system and influence it); see also Beverly Horsburgh, *Decent And Indecent Proposals In The Law: Reflections On Opening The Contracts Discourse To Include Outsiders*, 1 WM. & MARY J. WOMEN & L. 57 (1994) (challenging parochialism of dominant ideology that casts

summer study-abroad program as the venue or vehicle for the Critical Global Classroom proceeds from the recognition that most law schools minimize or marginalize curricular opportunities to study, and be exposed to, critical theory or outsider jurisprudence. It is this formal, entrenched curricular structure that we seek to circumvent—and we do so necessarily from the institutional margins we occupy. As always, the challenge for OutCrits and LatCrits is: How do we make positive change that is likely to stick, given the institutional parameters and social politics of these times?

The summer study-abroad setting is well suited to this kind of “from-the-margins” intervention because summer programs are numerous and recognized across the country, and because enrollment in any school’s summer programs is available to students all over the country. Thus, while law schools continue their curricular neglect of critical theory and outsider jurisprudence,<sup>185</sup> LatCrit and allied scholars can create a lifeline to interested students from coast to coast with just one, well-designed summer program. This lifeline, we should emphasize, is pedagogically powerful because it brings together students interested in this field to study and learn together with serious scholars who are experienced and expert in LatCrit and other strains of critical theory. This project circumvents not only the curricular gaps of formal legal education but also the intellectual and social isolation inflicted on outgroup or progressive students and faculty in the typical law school setting; students not only have an opportunity to study topics omitted from their formal courses of study but also have the opportunity to do so among a multiply diverse group of peers and a similarly diverse group of faculty, all of whom take their interests and concerns seriously.<sup>186</sup> This project brings

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legal discourse as objective *until* “it becomes skewed ... because of an individual professor’s views”).

185. A recent survey indicates that merely a handful of the nation’s 200-plus law schools offer courses devoted “primarily” to the study of Latina/o communities and the legal issues that are especially germane to them. Francisco Valdes, *Barely at the Margins: Race and Ethnicity in Legal Education – A Curricular Survey With LatCritical Commentary*, 80 OR. L. REV. (forthcoming 2002). By comparison, five years earlier, in 1995, 66 law schools reported a total of 112 courses devoted “primarily” or partially to the study of law and sexual orientation or sexuality. See Francisco Valdes, *Tracking and Assessing the (Non)Inclusion of Courses on Sexuality and/or Sexual Orientation in the American Law School Curriculum: Reports from the Field After a Decade of Effort*, 1 NAT. J. SEX. ORIENT. L. 149 (1995). For further readings on the implications of curricular neglect, see Judith G. Greenberg, *Erasing Race From Legal Education*, 28 U. MICH. J.L. REF. 51, 67-75 (1994) (arguing that race is intentionally ignored in the curricula of legal education under the guise of color-blindness and as a result, students of color, and in particular, African American students, are alienated from their law school educations); Montoya, *Silence and Silencing*, *supra* note 15 (on the silence imposed on issues of race in classroom and judicial discourse).

186. See *supra* note 180 and sources cited therein on the conditions facing persons of color and women in legal education. For a snapshot of Latina/o (non)representation in the legal academy of the United States, see Michael A. Olivas, *The Education of Latino Lawyers: An Essay on Crop Cultivation*, 14 UCLA CHICANO-LATINO L. REV. 117, 129 (1994).

together a critical mass of interested students and faculty to study and advance collectively the gains of OutCrit scholars.

LatCrits have dubbed this initiative the 'Critical Global Classroom' or "the CGC" to underscore the fact that we are attempting to construct a formal classroom setting, devoted to serious sociolegal study that is global in its purview and critical in its approach. This unique study-abroad program is a student-oriented initiative synergistic with other LatCrit projects of the past several years, which similarly have been oriented toward students. For instance, two years ago LatCrits established a student-faculty listserv to operate as a kind of informal 'Cyber Classroom' devoted to LatCrit theory and, more generally, to outsider jurisprudence.<sup>187</sup> We also have prepared a LatCrit Primer, including a suggested table of readings, to help students in diverse locales to form local reading groups, and then to conduct a series of interactive discussion sessions.<sup>188</sup> The listserv and the Primer have been theorized to work hand in hand: students around the country can use the Primer as a common set of texts, which can form the basis not only of local discussion in the reading group sessions, but of cyber exchanges among students as well as faculty via the student-faculty listserv. Thus, we mail the Primers upon request to interested student reading groups, and encourage them to go beyond its introductory texts. As a result, students at law schools in every time zone have the opportunity to form interconnected reading groups, posting and exchanging comments on the listserv from time to time. Through these means and via these exchanges, students and law faculty throughout the country participate in the consolidation of a virtual community that may in time offer unique opportunities for mutual support, assistance and collaboration, including the organization of national projects and joint program events.

Keeping with these projects, LatCrits have begun to develop and institute a LatCrit "Student Scholar Program" that will feature a writing forum or component designed to open new opportunities for interested students across the country to present their works at LatCrit conferences, and to publish them in LatCrit symposia. The basic concept is to gather together the resources necessary to allow for one or more students to participate in the Annual Conferences and similar LatCrit events, and to organize a committee to evaluate the submissions and administer the project on an annual basis. Through this initiative, we hope to provide a regular venue for recognizing student accomplishments, while also creating more opportunities both for programmatic and informal interactions that may help students, particularly students of color, to position them-

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187. This closed listserv has included about 50 faculty members and 50 students from schools all over the country. Although the listserv has remained relatively dormant during the past year or so, we fully anticipate its lively reactivation if and when the CGC project comes to life.

188. See *supra* note 155 and accompanying text on the LatCrit Primer.

selves for entry into the legal professorate. As with the others described above, this project synergistically aids longstanding LatCrit efforts to involve students in the Annual Conferences in more systematic ways.<sup>189</sup>

In all of these efforts, LatCrits have been conscious of the need to create interactive spaces and build institutions—beyond the relatively ephemeral live moments of the Annual Conferences—that are capable of incubating post-essentialist communities and post-subordination visions on concretely human terms. In each of these projects, LatCrit theory is performed as a knowledge-producing, community-building enterprise grounded in the cumulative insights and substantive principles articulated over time in and by outsider jurisprudence. From our perspective, these programmatic and student-oriented initiatives, as a set, respond to a Lat-Critical analysis of curricular entrenchment, institutional politics and social dynamics that combine to impede social progress within and beyond the legal academy.<sup>190</sup> It should and must be precisely so because the legal academy is a key site of contested power in this particular front of the culture wars raging round us.<sup>191</sup> The institution-building work that we do within the academy—especially in the form of student-oriented initiatives—is a “praxis” that we are well-positioned, if not uniquely-positioned, to perform, a praxis that also responds to the guideposts and functions that have grounded our work to date.

*C. New Horizons, New Homes: Sustaining LatCrit Theory as Anti-subordination Praxis*

Four initiatives—ongoing or upcoming—are especially noteworthy examples of LatCrits’ continuing efforts to construct spaces and institutions—homes—for the performance of LatCrit theory: (1) the expansion of the annual colloquium series on international and comparative law convened for the first two years in Spain to begin the ‘triangulation’ of LatCrit theory by linking the study Latinas/os to the study of Spain and of Latin America, and which now will rotate to other sites in different countries over the next several years; (2) the establishment of NGO accreditation with the United Nations for LatCrit, Inc., which will enable our direct participation in the articulation of international legal norms and human rights in that and similar venues of international lawmaking; (3) the development of webcasting capabilities and multimedia programming, which will permit us to disseminate LatCritical information globally and in more accessible formats; and (4) the inauguration of an annual retreat, scheduled to begin immediately after the Annual Confer-

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189. See *supra* notes 177-78 and accompanying text on student involvement in LatCrit programs.

190. Information on these and similar initiatives is posted from time to time to the LatCrit website at <[www.latcrit.org](http://www.latcrit.org)>.

191. See *supra* note 77 and accompanying text on the “culture wars” and their effects on outsider communities within the United States.



ences, and to focus primarily on long-term planning and institution-building. Below, we briefly describe each, and how they perform the theory.

### 1. Charting Globalization: The Rotating Colloquia in International and Comparative Law

As described above, the past five years have witnessed four LatCrit colloquia—including the first gathering in Puerto Rico—with the last two taking place in Malaga, Spain as part of ongoing efforts to internationalize LatCrit discourse.<sup>192</sup> This work now serves as the springboard for the initiation of a multi-year series of rotating seminars designed to extend both the internationalization and the triangulation of LatCrit theory. In the first two or three years, these new colloquia will convene in Latin American countries, and from there travel to other locales, such as South Africa, to ensure the continuing evolution of LatCrit theory as a transnational and multidimensional form of critical analysis. As with the Annual Conferences and other LatCrit projects, these colloquia will be an anti-essentialist, anti-subordinationist enterprise structured to fulfill LatCrit's functions and guideposts.

The basic concept is to identify several broad and flexible, yet coherent and recognizable, contemporary sociolegal themes or categories that can focus LatCrit attention across a wide variety of substantive areas, even as they enable more focused engagement in the particularities of any given society. Such themes might include: (a) the status of minorities; (b) corruption and anti-corruption strategies, understood broadly to include the impact of public and private abuse of power and privilege; (c) the meaning of democracy and the tensions between human rights and globalization; (d) the meaning of substantive security, given the well understood interdependence of justice and peace; and (e) the particular problems confronting women of color across different regions and nations.<sup>193</sup> While the structure of these international and comparative law colloquia remains unsettled, they are likely to be similar in structure and format to the prior LatCrit colloquia: publicized and open to all, but able to meet in plenary sessions at all times due to their smaller scale, as well as more focused in purpose and purview than the Annual Conference programs. Thus, we envision gatherings that bring together 20-40 scholars, activists and students from the LatCrit community of the United States, and from the host site and from other locales, to study, collec-

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192. See *supra* notes 163-74 and accompanying text on the prior three colloquia on international legal issues.

193. In an example of how these institution-building projects are designed to be synergistic, we expect that these initial thoughts about colloquium themes will be developed and refined during the First Annual LatCrit Retreat, another current institution-building project, which we expect to conduct in conjunction with the next conference, LatCrit VI, in Florida. For discussion of the retreats, see *infra* notes 207-08 and accompanying text.

tively and programmatically, the particular manifestations of the general themes as reflected in the realities of the host state and its region.

As with the Annual Conferences, this rotating colloquia series is being conceptualized as a multi-year project in which every gathering is interconnected to the others in substantive and human terms. We envision continuity based both on a conscious and self-critical development of interconnected programming, as well as on the sustained attendance and participation over time and across regional venues of the scholars, activists and students who join in this undertaking. As with the Annual Conferences, the objective is to ensure diversity and inclusion both in the planning process and in the program's events—while using the practice of geographic rotation to facilitate detailed study of specific settings that simultaneously help adduce more general or structural insights. This collective approach both to planning and to programming aims to nurture egalitarian, coalitional, inter-group communities that respect difference while building on commonalities to promote anti-subordination transformation. And, as with every other project, the plan is to foster substantive and human links between these colloquia and the Annual Conferences—links that invite participants from each to join in the other, and that create synergies between the two in every possible way.<sup>194</sup>

As with the conferences and prior colloquia, this new series also will generate scholarly publications aimed at promoting social transformation. But these colloquia also are designed to do more than expand the record of socially relevant knowledge produced via LatCrit theorizing and praxis. These colloquia are designed to produce a series of reports or papers that not only document local conditions but also chart recurrent patterns from local particularities—linking the particular to the general—to demonstrate in concrete, compelling terms the interlocking nature of structures that subordinate. In this way, and in keeping with multidimensional analysis, LatCrits may concentrate on exposing and critiquing the dynamics of transnational problems and their interlocking patterns as such, rather than in piecemeal fashion. As we describe immediately below, these interactive colloquia ideally will produce the substantive analysis and detailed record that effectively can ground future LatCrit projects focused on transnational issues and international policymaking.

## 2. Formalizing Praxis: International Policymaking and the LatCrit NGO

Securing recognition from the United Nations of LatCrit, Inc. as a “non governmental organization” (or “NGO”) represents the second current project designed to promote the evolution of LatCrit theory as a principled form of anti-subordination praxis. With this recognition, Lat-

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194. See *supra* note 108-55 and accompanying text on the “theory” behind the practices associated with the conferences and their planning process.

Crits will be entitled to participate formally in United Nations conferences and meetings through which the norms and rules of the emergent globalized civil order are being crafted—venues in which, for instance, international anti-discrimination conventions are being drafted and human rights formulations are being delineated.<sup>195</sup> As an “NGO” the LatCrit community, via LatCrit, Inc., will be able to practice the theory in various international fora that effectively form the crucible for contemporary international lawmaking.

Thus, the basic purpose of this initiative is to interject LatCritical analysis, and the lessons of outsider jurisprudence, into the deliberations and discussions that are formulating international law and policy on the rights of all humans, and in particular on the rights of women, minorities, workers, poor persons, immigrants and other vulnerable groups. These lessons include, of course, the early lessons—intersectionality, multiplicity and anti-essentialism—as well as more recent insights.<sup>196</sup> A fundamentally crucial aspect of this initiative, therefore, is the promotion of multidimensional critical analyses in international fora—analyses that recognize and target the interlocking nature of different forms of oppression and privilege based on different axes of social position and group identity, whether race, ethnicity, sex, gender, class, sexual orientation, religion, ability, nationality or other similar constructs. Only through multidimensional analyses that produce multidimensional interventions can LatCrits “get” at the cosynthetic nature and interconnected dynamics of entrenched supremacist ideologies and practices, whether in domestic or international settings.<sup>197</sup>

And this is where the international and comparative law colloquia provide a synergistically substantive platform for the NGO initiative. Because the colloquia will feature programs designed to produce detailed multidimensional analyses of particular states or regions while charting interconnections among the particularities of each state or region, the reports or publications they generate effectively can serve as a basis, a platform, for the ideas, positions and agendas that we promote collectively through this NGO project. These rotating colloquia therefore will produce knowledge not only in the traditional form of academic publications, like the annual law review symposia, but also in the form of concrete, substantive strategies that will help to shape our collective formal activities as an NGO. In this way, we hope increasingly to interject multidimensional analyses and approaches into the discourses and docu-

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195. As we note below, the first occasion is the upcoming World Conference Against Racism, Racial Discrimination, Xenophobia and Related Forms of Oppression sponsored by the United Nations and scheduled to convene in Durban, South African during August 2001; *see generally* INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS (Henry J. Steiner & Philip Alston eds., 1996)

196. *See supra* notes 45 and 85-87 and sources cited therein on these and related concepts.

197. *See* Kwan, *Jeffrey Dahmer*, *supra* note 13 on cosynthesis.

ments of the emergent international civil order as another form of socially relevant and principled anti-subordination praxis. As an NGO, LatCrits should aim not only to aid substantively in specific issues or venues but, more generally, also to help foster a culture or consciousness of multidimensionality in international policymaking—a mindset that remains sorely lacking both in domestic as well as in international levels of law and policy despite years of work among critical legal scholars.<sup>198</sup>

As with the rotating colloquia—indeed, as always—LatCrits must take care in developing this project to ensure that it is genuinely coalitional with relevant persons, groups or interests from other parts of the world. More specifically, the LatCrit NGO project proactively must be designed to anticipate and avert potential associations with Anglo American arrogance in international fora.<sup>199</sup> And here, again, is where this project and the upcoming colloquia intersect once more: the NGO activities not only need to be grounded in the transnational yet particular analyses adduced through the colloquia series and their planning processes. They also need to be designed, spearheaded and staffed by individuals whose sustained participation and personal commitment provide the needed experience to negotiate these delicate issues of inter-group and transnational collaboration in a spirit of mutual engagement and respect – once again linking the production of new knowledge to the nurturing and expansion of authentic community based on shared principles and practices. The colloquia, in other words, can help not only to generate the substantive positions and multidimensional agendas that we pursue as an NGO, but also the very planners and spokespersons who, in turn, represent LatCrit as an NGO in formal settings to articulate and advocate the substance of our collective analyses.<sup>200</sup>

Thus, while the details remain necessarily sketchy at this point, over the next several years we anticipate that LatCrits will be developing the colloquia and NGO projects hand in hand to draw the maximum benefits of both. Happily, the first steps already are underway. The colloquia series already is being planned in a three-to-five year cycle with overlapping planning committees. In the meantime, LatCrits also have begun to investigate the procedure and process for securing NGO accreditation in

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198. See *supra* notes 101-02 and sources cited therein on international law in LatCrit theory.

199. This concern has been well articulated by various scholars in recent years. See, e.g., Isabelle R. Gunning, *Arrogant Perception, World Traveling, and Multicultural Feminism: The Case of Female Genital Surgeries*, in *CRITICAL RACE FEMINISM: A READER* 352 (ADRIEN K. WING ed., 1997); Iglesias, Foreword—*Human Rights and LatCrit Theory*, *supra* note 60, at 180; Hope Lewis, *Between Irua and "Female Genital Mutilation": Feminist Human Rights Discourse and the Cultural Divide*, 8 HARV. HUM. RTS. J. 1 (1995); Ileana M. Porras, *A LatCrit Sensibility Approaches the International: Reflections on Environmental Rights as Third Generation Solidarity Rights*, 28 U. MIAMI INTER-AM. L. REV. 413 (1996-97); Henry J. Richardson, III, "Failed States," *Self-Determination, and Preventive Diplomacy: Colonialist Nostalgia and Democratic Expectations*, 10 TEMPLE INT'L & COMP. L.J. 1 (1996).

200. See *supra* note 119 and sources cited therein on "human resources" and related concerns.

anticipation of the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Forms of Oppression, which is scheduled to meet in South Africa next year, during August 2001. While these two efforts inevitably will take several years to unfold and consolidate, and while no one can predict with certainty where they ultimately will lead, these initiatives indicate a promising vitality in the LatCrit community after these five years of toil, as well as a continuing collective commitment to performing the theory always in critical and self-critical fashion, and always keeping it grounded in the functions and guideposts we have sought to bring to life during these past five years.

### 3. Reaching for the Global: Multimedia Projects and LatCritical Webcasting

The third current institution-building initiative is similarly synergistic with the colloquia and NGO projects described immediately above. This third project comprises several media-related projects that range from producing an overview video of LatCrit, Inc. and its projects to developing global webcasting capabilities. This initiative, like the others, builds on past practices to perform the theory in principled ways.

From the outset, LatCrit program planners have videotaped all or part of prior LatCrit conferences and colloquia, slowly building a visual record of our encounters and progress—as well as our stumbles and ruptures.<sup>201</sup> Not coincidentally, we have done so each year with the conscious purpose of making the conference programs more widely accessible through the use of this footage. We have done so, in other words, to provide opportunities for “virtual” attendance as well as to preserve a record of our gatherings. Until now, however, this footage has remained archived, awaiting the day when LatCrits would possess the human and other resources to use this asset in a substantively productive way.<sup>202</sup>

Fortunately, this footage now provides a partial basis for the production of a short video designed to introduce wider audiences to our collective record and diverse community, and to do so in concrete, human terms. As LatCrit turns five, this video has become extremely timely; as the LatCrit community has grown, so have the need and the calls for some form of introductory material that can convey, in readily accessible terms, a basic sense of the LatCrit community and its many diversities. This video project—along with an introductory brochure, which presently is being developed for production in both Spanish and English,

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201. In the early years, videotaping was comprehensive, covering all program events. Those videos were used to transcribe the proceedings of the conference for preparation of the symposia, but the growth of the conferences both in numbers and complexity have forced us to discontinue that practice. Today, videotaping is selective to ensure a continuity of LatCrit's “video history” from the first gathering to the present.

202. The LatCrit video archives are stored for safekeeping with us as LatCrit co-chairs.

respond to these growing calls.<sup>203</sup> Through this video and brochure, we hope to create an effective and efficient introduction of our work, our community and our aspirations to those around the nation, the hemisphere and the globe who may be interested in forming common cause with LatCrit's anti-essentialist, anti-subordination agendas. By introducing and explaining ourselves through the devices of this video and brochure—as well as the Primer—we hope to expand the circles of communication and collaboration that represent LatCrit theory, community and praxis beyond the physical reaches attainable through traditional texts, programs and personal interactions.

At the same time, the planning committees for the Annual Conferences are moving toward video-conferencing as an alternative to the high cost and cumbersome dynamics of telephone conference calls. To date, the conference planning process has involved varying numbers of persons who communicate via email and conference calls to ensure that all LatCrit programs balance inclusion and continuity in light of past experience and future aspirations, and to ensure that our rotation of centers and streaming of programs reflect the multiple diversities of the LatCrit community.<sup>204</sup> However, as the substantive themes, demographic identities and geographic regions that we endeavor to cover programmatically have grown during these past five years, our collective ability to juggle the details of the Annual Conference planning process through email and conference calls has been increasingly strained.<sup>205</sup> Because this strain is a result of a principled approach to conference planning that seeks to perform the theory, the cure rests not in a curtailment or abandonment of our basic commitments to openness and inclusion. Instead, the cure rests in our finding new and better ways to ensure that the conference planning process continues to be a form of ethical praxis.

Testing the technology and its possibilities, conference planners therefore have purchased and connected a pair of Logitech videocams in a pilot project designed to introduce this new format in time for the planning process of LatCrit VII, sponsored by the University of Oregon School of Law and scheduled for May 2002. We hope eventually to use the knowledge, capabilities and resources derived from these projects to build a webcasting program that will permit a direct and global transmission of LatCrit theory and outsider jurisprudence. To do so, we can imagine everything from posting the LatCrit brochure on the website for anytime viewing, to live webcasting of particular events, to producing a “lay persons” rendition of critical theory as applied to current events across the world. Indeed, we envision this initiative as perhaps leading up to a television-style program in which LatCritical analyses of current affairs

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203. See *supra* note 155 and accompanying text on the LatCrit Primer and brochure.

204. See *supra* notes 108-30 and accompanying text on the planning process of the annual conferences.

205. See Transition Memo from LatCrit IV to V (copy on file with authors).

internationally are web cast in roundtable formats. This program, while still a gleam in the eye of LatCrit planners, can broadcast our summer colloquia, Annual Conferences, or other special events. The basic objective to be pursued through these efforts over the next several years is to make LatCrit theory, and outsider jurisprudence more generally, widely accessible to agents of social change throughout the world via the LatCrit website on the internet: the basic idea is to employ the technology of the internet to disseminate anti-essentialist practices and anti-subordination discourses more widely and effectively.<sup>206</sup>

#### 4. Building the Institution: The Annual LatCrit Retreat

The fourth current project designed to perform the theory—an annual retreat devoted to the nourishment of LatCrit, Inc. as an institution through strategic long-term planning—also is designed to ensure the sustainability of LatCrit theory as a diverse discourse and community of activist scholars, activists and students committed to ethical anti-subordination praxis. While the retreats, like the Annual Conferences, are open to all and are publicized as such, the concept calls specifically for recent, current and future Annual Conference co-chairs, and other members of the conference planning committees, to gather with the co-chairs of LatCrit, Inc. and other LatCrits from the Board of Directors, and also with those who are spearheading specific projects, in order to share information and resources, to coordinate activities and plans, and to identify or create coalitional synergies whenever possible. These retreats, therefore, will bring together individuals from the Annual Conferences, from the corporate entity and from the various “special projects” underway at the time to develop strategic plans in a critical and self-critical discussion of our collective aspirations, advances, shortcomings, and prospects. Meeting in various plenary sessions of differing formats over

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206. On more substantive levels, this initiative also will yield conference programming dedicated to exploring the “digital divide” within the LatCrit community as well as throughout inter/national society, programming which follows up on the stream of events during the past several years on communications and related issues. For instance, at LatCrit III Plenary Panel Three was on “*Anti-subordination and the Legal Struggle Over Control of the ‘Means of Communication’: Technology, Language and Communicative Power*” while at LatCrit IV Plenary Panel Three was on “*Literature and Arts as Anti-subordination Praxis: LatCrit Theory and Cultural Production*” and a concurrent panel focused on “*High Tech Communication as Anti-subordination Problematic*.” This year, Plenary Panel Three was on “*Multicultural Artistic Representations in Mass Media: Capitalism, Power and Cultural Production*.” For reflections on the implications of the digital divide for LatCrit theory, see Iglesias, Foreword—*LatCrit III*, *supra* note 14, at 657-59; Madeleine Mercedes Plasencia, *The Politics of Race on the Electronic Highway: An Analysis of the Video Dialtone Redlining Cases, and the Nynex Consent Decree in Roxbury*, 15 *TOURO L. REV.* 513 (1999) (describing how discriminatory redlining practices of telecommunications companies threaten to shut minority neighborhoods out of communications revolution); Madeleine Plasencia, “*Suppressing the Mother Tongue*”: *Anti-Subordination and the Legal Struggle Over Control of the Means of Communication*, 53 *U. MIAMI L. REV.* 989 (1999) For more information on the LatCrit conferences and programs, see <[www.latcrit.org](http://www.latcrit.org)>.

a several-day period, these discussions annually should distill from the struggles and exigencies of the moment a common understanding of our present trajectories and future possibilities in light of our experience with the original guideposts and functions.

By scheduling the retreat to begin a day after the conference, and at the same or nearby location, we hope to facilitate attendance and participation by minimizing costs and logistics while maximizing the physical presence of LatCrits drawn to the conference. By carving out “quality time” to reflect and focus on the big picture over several days in a relatively small-group setting, we hope to foster a keener self-awareness of our collective and individual work as a form of ethical praxis that always must perform the theory. And by training attention squarely on institution-building through long-term planning, we hope to protect and develop the relatively independent spaces that enable our continual progress toward envisioning and incubating a post-subordination. This retreat, like the other special projects described here, thus represents another formal venture designed to activate and apply the anti-essentialist principles and anti-subordinationist ambitions of the fluid band of scholars, activists, students and others who, through their commitments and exertions, have helped to create LatCrit theory, praxis and community during these past five years and who, hopefully, will continue to do so at least for the next five as well.<sup>207</sup>

But, again, to continue this work and secure the sustainability of these various projects requires not only the continuing investment of LatCrits’ creativity, time and energy—among both veterans and newcomers—but also an expanding pool of economic resources to support our collective projects over the next several years. To continue the work of the past five years, we must devise means of cultivating not only the necessary, intergenerational human resources but also of raising the necessary funds to place LatCrit’s growing menu of projects on a sound and stable financial footing for the long term.<sup>208</sup> To continue LatCrit theory, praxis and community, in other words, we must continue to build the institutions capable of housing the past, present and future of this vibrant and promising yet young and fragile jurisprudential experiment. It is for this purpose, chiefly, that we contribute this Afterword to this wonderful symposium.

### CONCLUSION

In this Afterword, we have sought to celebrate the first half of LatCrit’s first decade in tempered yet hopeful tones. Our hopes are fueled by the progress of the intellectual journeys that we have taken as a commu-

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207. We anticipate the first LatCrit retreat will take place next year in Florida, in conjunction with LatCrit VI at the University of Florida in 2001.

208. See *supra* notes 108-30 and accompanying text on long-term planning and related issues.



nity during the past five years. Unfinished though they are—and always will be—these journeys depict significant progress both in the substantive development of LatCrit theory as well as in the consolidation of a multiply diverse community grounded in a mutual commitment to the critical and self-critical performance of the theory in all that we undertake. Our hopes similarly are fueled by the broad array of new projects that are poised to take us collectively and synergistically beyond the Annual Conferences. At the same time, our hopes are tempered both by the fundamental fragility of this experiment and by the sociolegal climate of culture war, backlash and retrenchment that envelops us, and that licenses or emboldens institutional hostility to outsider jurisprudence and scholars. Fragility and hostility do not a good combination make. And yet, it is the lot of outsider jurisprudence, including LatCrit theory.

What outsider scholars have accomplished thus far, as a community, is remarkable. But the progress forged to date is neither secure nor self-sustaining. Whatever plans or successes we might share today could be gone tomorrow—unless we remain at all times cognizant of our collective limitations or shortcomings and vigilant against their indulgence, manipulation or exploitation. In our view, among these vulnerabilities is undue dependence on institutions that are not our own because—despite the platitudes—fundamentally they do not share our commitments to anti-essentialist, anti-subordinationist theory and praxis. As experience has shown, we simply cannot expect elite-identified institutions that control legal education for the benefit of traditional Euro-heteropatriarchal elites to transform themselves, nor allow us easily to transform them.

In sum, the portrait of LatCrit at five that we depict here displays a vital but tentative experiment in outsider jurisprudence. To ensure that LatCrits and OutCrits will have something more to celebrate five years hence, we must turn now to the business at hand: institution-building. And to that end, we issue a call to all: join the growing LatCrit community, now, in the project of ensuring the long-term sustainability of outsider jurisprudence as a form of praxis that performs the theory to incubate a post-subordination future.

Though we cannot know at the outset where the new initiatives described above and similar or related efforts might take us, and though we never can forget the complex fragility of this collective experiment, we *do* know that institution-building must be the next collective priority. Otherwise, the promise and potential of our past work and progress in time will dissipate, or perhaps evaporate, under the pressure of backlash, and even inertia. By building communities and institutions to perform the theory *now* in critical and self-critical ways, we hope to set the stage for a collective celebration of LatCrit at ten—and perhaps even beyond—as a form of ethical praxis grounded solidly and self-critically in anti-essentialist, anti-subordination principles. In these and related ways, we

proffer LatCritical contributions to the ongoing evolution of outsider jurisprudence in the United States. In these and ongoing ways, the Lat-Crit community seeks to incubate and secure a just civil society, both in local and global terms. In these ways and over time, we progressively institutionalize LatCrit principles and practices to join with the like-minded everywhere in critical coalitions toward a post-subordination future.

## APPENDIX

*LatCrit at V: List of Publications*

1. Colloquium, *Representing Latina/o Communities: Critical Race Theory and Practice*, 9 LA RAZA L. J. 1 (1996)
2. Symposium, *LatCrit Theory: Naming and Launching a New Discourse of Critical Legal Scholarship*, 2 HARV. LATINO L. REV. 1 (1997) (LATCRIT I)
3. Colloquium, *International Law, Human Rights and LatCrit Theory*, 28 U. MIAMI INTER-AM. L. REV. 177 (1997)
4. Joint Symposium, *LatCrit Theory: Latinas/os and the Law*, 85 CAL. L. REV. 1087 (1997), 10 LA RAZA L.J. 1 (1998)
5. Symposium, *Difference, Solidarity and Law: Building Latina/o Communities Through LatCrit Theory*, 19 UCLA CHICANO-LATINO L. REV. 1 (1998) (LATCRIT II)
6. Symposium, *Comparative Latinas/os: Identity, Law and Policy in LatCrit Theory*, 53 U. MIAMI L. REV. 575 (1999) (LATCRIT III).
7. Symposium, *Rotating Centers, Expanding Frontiers: LatCrit Theory and Marginal Intersections*, 23 U.C. DAVIS L. REV. 751 (2000) (LATCRIT IV)
8. Colloquium, *Toward a Transatlantic Dialog: Spain, Latinas/os and LatCrit Theory*, 9 U. MIAMI INT'L. & COMP. L. REV. (2000)
9. Joint Symposium, *Culture, Language, Sexuality and Law: LatCrit Theory and the Construction of the Nation*, 33 U. MICH J.L. REFORM 203 (2000); 5 MICH J.R. & L. 787 (2000)
10. Symposium, *Class in LatCrit: Theory and Praxis in a World of Economic Inequality*, 78 DENVER U. L. REV. 467 (2001) (LATCRIT V)
11. Symposium, *Latinas/os and the Americas: Centering North-South Frameworks in LatCrit Theory*, 54 U. FL. L. REV. (2002) and 54 RUTGERS L. REV. (forthcoming 2002) (LATCRIT VI)

12. *Symposium*, Coalitional Theory and Praxis: Social Movements and LatCrit Community, 80 U. OREGON L. REV. (forthcoming 2002) (LATCRIT VII)

*LatCrit at V: Calendar of Programs*

1. October 1995, Colloquium on Representing Latina/o Communities: Critical Race Theory and Practice, San Juan, Puerto Rico
2. May 1996, First Annual LatCrit Conference, San Diego, California (LATCRIT I)
3. October 1996, LatCrit Colloquium on International Law and Human Rights, Miami, Florida
4. May 1997, Second Annual LatCrit Conference, San Antonio, Texas (LATCRIT II)
5. May 1998, Third Annual LatCrit Conference, Miami, Florida (LATCRIT III)
6. May 1999, Fourth Annual LatCrit Conference, Lake Tahoe, California (LATCRIT IV)
7. June 1999, First Annual Colloquium on International and Comparative Law, Malaga, Spain
8. May 2000, Fifth Annual LatCrit Conference, Denver, Colorado (LATCRIT V)
9. June 2000, Second Annual Colloquium on International and Comparative Law, Malaga, Spain
10. May 2001, Sixth Annual LatCrit Conference, Gainesville, Florida (LATCRIT VI)
11. May 2001, First Annual Planning Retreat, Miami, Florida
12. May 2002, Seventh Annual LatCrit Conference, Portland, Oregon (LATCRIT VII)
13. May 2002, Second Annual Planning Retreat, Portland, Oregon
14. August 2002, Third Annual Colloquium on International and Comparative Law, Santiago, Chile and Buenos Aires, Argentina



