

LatCrit VII: Coalitional Theory and Praxis: Social Justice Movements and
LatCrit Community
Progressive Pedagogy: Challenging Master Narratives with Racial and Ethnic
Curricular and Faculty Diversity

***119** BARELY AT THE MARGINS: RACE AND ETHNICITY IN LEGAL EDUCATION--A
CURRICULAR STUDY WITH LATCRITICAL COMMENTARY

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Introduction

Finding "Latinas/os" [\[FN1\]](#) in the law school curriculum at the dawn of the new millennium is no easy task, as illustrated by the two nationwide surveys of ***120** accredited law schools in the United States that comprise this project. [\[FN2\]](#) The near absence of Latinas/os in the curriculum, moreover, parallels the circumstances from which LatCrit theory emerged seven years ago. [\[FN3\]](#) LatCrit theory responds to the ***121** invisibility of Latinas/os in North American law and society despite our longstanding presence within the lands now known as the United States--a presence that, in some instances, predates the establishment of the country. [\[FN4\]](#) In many ways, ***122** these surveys and their findings reflect LatCrit's ambitions, the reasons behind its origins, and the challenges that we and allied scholars and activists have faced and continue to face. [\[FN5\]](#)

The absence of Latinas/os in the law school curriculum is made increasingly notable--and untenable--by structural shifts in North American society. These shifts include demographic trends that position Latinas/os as the largest "minority" ethnic and racial group in the United States, as well as by concomitant economic figures that make Latinas/os an increasingly lucrative market for capitalist attention and activity. [\[FN6\]](#) As Latinas/os become more salient in social and economic terms over the next several decades, our continued invisibility in discursive and curricular terms grows increasingly anomalous and insupportable, coming under heightening pressure.

For the moment, however, this survey and its findings confirm that the historic exclusion or marginalization of Latinas/os in the legal culture and larger society of the United

States continues to define the status quo in the formal curriculum of the "typical" law school in this country. At the same time, and as with the larger frames of law and society, the mixed results reported in this survey portray the initial stirrings of Latinas/os' formal inclusion in legal education within the United States. As outlined below, Latinas/os are to be found, but barely and only at the margins, of law school curriculum--a marginalization that includes, unfortunately, those portions of legal education that loosely may be described as race and ethnic legal studies. [\[FN7\]](#)

Reflecting LatCrit theory's multiple purposes or functions, [\[FN8\]](#) this project endeavors to encourage the incipient process, glimpsed in the combined findings presented below, of the meaningful inclusion of new courses on, or somehow directly relevant to, Latinas/os qua Latinas/os in the "typical" law school curriculum of the United States. In some key ways, this project is an effort to practice and perform LatCrit theory--to apply theorizing to the curriculum, and to employ the **123* insights of theory to guide LatCritical promotion of curricular and institutional reform. This project aims to help improve the quality of legal education in the United States regarding "Latinas/os" specifically, and race and ethnicity more generally, in ways that are congruent with LatCrit commitments to antiessentialism, multidimensionality, and antisubordination in theory and praxis. [\[FN9\]](#)

The surveys' findings are presented in three parts below, followed by an Appendix of tables and related documents. Part I of this article outlines the origins, history and methodology of this project. This opening is intended to provide a general understanding of the background of the project, as well as how and why it unfolded as it did. Part II summarizes the basic documentary results and findings of the two nationwide surveys comprising this study. This part is intended to provide a basic overview or sketch of the raw data. Part III concludes with some brief observations, and forward-looking thoughts and recommendations which, drawn from the data and anecdotal faculty accounts, further the basic objectives of curricular inclusion and improving educational quality. [\[FN10\]](#) This final part also includes the Syllabi Table, which describes the Syllabi Bank of 40-some course **124* syllabi submitted by individual faculty as part of this project. [\[FN11\]](#) The Appendix to the article then presents the five tables of results, which break down and present the combined raw data gathered via this project in their entirety, along with the questionnaires employed to conduct the two surveys. While the findings ultimately speak for themselves, [\[FN12\]](#) hopefully the information and brief discussion presented below will contribute to LatCrit theory's continuing efforts to promote principles and practices in furtherance of social justice and through formal legal education. [\[FN13\]](#)

I. Background and Methodology

The origins of this project can be traced back to students questioning the structure and limits of their formal legal education--an education that oftentimes excises Latinas/os' existence and experiences from casebooks and classrooms, thereby precluding formal consideration and discussion of how such a sociolegal record might or should substantially affect law- and policymaking today. [\[FN14\]](#) These queries, arising in law schools from coast to coast in the context of various presentations, conferences, or similar events devoted to critical legal theory or outsider jurisprudence, challenge the quality of legal education in substantive terms. [\[FN15\]](#) LatCrit theorists are thus called upon to take up the students' challenge and specifically question the continuing invisibility of Latinas/os in the law school curriculum as an integral component of our commitment to antisubordination praxis in law and society.

**125* Latinas/os' historic invisibility certainly is no accident; this history instead is explained by intentional motives of exclusion based on nativistic racism. [\[FN16\]](#) Thus,

one way to explain today's legacy of invisibility is the persistence of *126 institutionalized habits of thinking and doing in the legal academy that automatically replicate historic skews; intentional invisibility yesterday breeds institutionalized invisibility today. [\[FN17\]](#) The habits of the present--and their consequences--reflect and reinforce the past, in social as well as institutional terms. Nonetheless, this history does not provide a complete account of the status quo; while this broad historical account provides a general context for the status quo in legal education, it does not and cannot provide a comprehensive sense of the state of the legal curriculum vis-à-vis Latina/o communities and their particular sociolegal concerns, interests, or needs. This history may explain (at least in part) why Latinas/os have been absent from legal education, and contextualizes why we remain so, but it does not measure to what extent that invisibility continues today. It may help to explain "why" but not much else.

It thus became apparent that a more systematic effort to produce a "snapshot" [\[FN18\]](#) of the state of legal education on this question would be beneficial, if not necessary. Such an effort could provide a measure of Latinas/os' (non)inclusion in the contemporary law school curriculum and create a baseline for subsequent remedial efforts that may seem advisable in light of the findings. A nationwide law school study could also help to contextualize the anecdotal accounts and queries drawn from student questions, helping all interested parties to better understand both the national and local situation. Indeed, such a study--for all its inevitable limitations--could serve as a tool for many positive purposes. [\[FN19\]](#)

With this in mind, in fall 1999 I began to conceptualize and design this project as an effort to ascertain the place and prospects of "Latinas/os" in the contemporary law school curriculum. In spring 2000, we mailed questionnaires to the Dean of every member law school of the American Association of Law Schools (AALS). [\[FN20\]](#) Reflecting the project's origins, the questionnaire form, included in the *127 Appendix to this article, focused on courses that might be described as "primarily" devoted to "Latinas/os and the Law" as a category of study. In the parlance of this project, this type of Latina/o-focused course became known as a "primary" course, while other courses with some coverage of Latinas/os became "related" courses, as described in more detail below. [\[FN21\]](#)

A few weeks later, a duplicate of that questionnaire was sent to all non-responding schools asking, again, for the requested information. After that follow-up mailing, we followed up again via fax. Finally, a few weeks later, we contacted by telephone every school that still had not responded to obtain the requested information. The aim was to ensure as complete a compilation of curricular information as possible under the circumstances of this informal study. [\[FN22\]](#)

This initial documentation process included a request that each school identify the faculty member(s), whether full-time or otherwise, teaching the reported courses. This request allowed a follow-up with each identified faculty member to confirm the course information reported by the institution, and to obtain further information regarding the nature, content, and design of these courses. Through these direct faculty follow-ups we also elicited anecdotal accounts of classroom experiences to supplement the data gathered via the questionnaires. These follow-up efforts therefore served both to verify the statistical data as well as to amplify it.

Moreover, through these follow-up efforts we also were able to assemble a Syllabi Bank, discussed in more detail below. [\[FN23\]](#) This Syllabi Bank forms the main source of pedagogical information presented in this article to identify general approaches to, and materials used in, the teaching of the reported courses in American law schools today. [\[FN24\]](#) Ideally, the Syllabi Table presented in Part III of this article will help nurture the

development of similar courses by helping both new and experienced teachers to consider various approaches, materials, and organizational structures for use in these types of courses. [\[FN25\]](#)

In reviewing the findings of that initial data-gathering process, one particular detail quickly came to the fore: many schools responded "No" to the question about primary courses on "Latinas/os and the Law," but then remarked that their curriculum contained "related" courses on topics like "race" or "race relations" or "racism." In addition, but perhaps less surprising, was a similar type of response, in which schools said "No" to the question on primary courses, but then referred to more "mainstream" doctrinal courses, such as "immigration" or "civil rights" and the like, as providing some measure of Latina/o-focused coverage. These uncertain or **128* ambivalent responses, while reporting the absence of a primary course on Latinas/os and the Law, indicated some formal curricular coverage of Latina/o communities and their sociolegal circumstances in law courses devoted principally to race/ethnicity studies or in "mainstream" courses that are oftentimes (deemed) especially germane to Latina/o populations in the United States. These responses, and in particular those regarding the race/ethnicity courses, raised or renewed questions and issues that have been threshold matters in the inception and cultivation of LatCrit theory.

From the beginning of LatCrit theorizing in the mid-1990s, LatCrit scholars have, of course, interrogated "race" and "ethnicity" as social and legal constructs, thus engaging and continuing lines of critical inquiry developed in outsider jurisprudence a decade earlier. [\[FN26\]](#) LatCrit theorists, however, also have focused on questions relating to these two constructs that became threshold considerations for the formation of LatCrit theory as a distinct genre of critical legal theory. From the beginning of the LatCrit enterprise, LatCrit theorists have investigated the relationship of "race" and "ethnicity" to each other, as well as their interaction in the formation of populations within the borders of the United States (and beyond) that might be racially/ethnically described as "Latina/o." [\[FN27\]](#) This investigation surfaced as a threshold consideration in the formation and articulation of LatCrit theory precisely because the formation of "Latina/o" identities in the United States has remained--until now--a marginal area of legal studies, whether critical or conventional in nature.

In those early LatCritical exchanges, varied views were aired and discussed before a consensus emerged. [\[FN28\]](#) That consensus reflected a realization, adduced via the exchanges, that "race" and "ethnicity" were and are central to the construction of Latina/o lives and histories. Both were and are used to construct "Latina/o" identities in law and society, and consequently, both require(d) LatCritical **129* interrogation. Those early exchanges thus produced a collective realization that the separation of "race" and "ethnicity" in law and legal theory remained a blurry and unstable distinction that LatCrit theorists must--and did--reject in order to craft a socially relevant analysis of the Latina/o condition under the Anglocentric rule of the United States. [\[FN29\]](#) Since then, both race and ethnicity have remained central lenses of LatCritical inquiry. [\[FN30\]](#)

However, it appeared from the uncertainty conveyed in the ambivalent responses mentioned above that this consensus has yet to penetrate the formal curriculum. As a whole, they seem to indicate that "Latinas/os" receive only superficial or selective study in "related" law school courses--including those devoted explicitly to "race" or race relations--even though LatCrit theorists conclusively have shown the "salience" of race to the formation of Latina/o communities. [\[FN31\]](#) The responses described above therefore prompted a second round of fact-finding. To conduct this second round, we developed a second questionnaire--also included in the Appendix to this article--that requested both more expansive and specific information on "related" courses of various

types, and also on the level or extent of coverage within them focused on Latinas/os qua Latinas/os. [\[FN32\]](#)

In the 2000-2001 academic year, we undertook a data-gathering process similar to the initial one described above. But in this second fact-finding round, we also sought to identify all law school courses devoted to "race" or "ethnicity" and, for each such course, to ascertain whether, and if so to what extent, they included coverage that might be described as focused on Latina/o populations or the issues (deemed) most germane to Latinas/os. In this second round, therefore, the project's **130* purview expanded. We set out not only to take a snapshot of the curriculum on "Latinas/os" but also a snapshot of the curriculum on "race" and "ethnicity" more generally. Through this second round, we also were able to update the information gathered the prior year in all respects, and thus to present the "combined findings" for 1999-2000 and for 2000-2001, as summarized below and detailed in the five tables of the Appendix.

In this way, and over this time, the project took on its three main purposes, which are both interrelated and mutually-reinforcing. The first remains the original motivation: taking a snapshot of the study of Latinas/os qua Latinas/os in the formal law school curriculum. The second purpose is to produce a snapshot of the formal curriculum on race and ethnicity in "related" courses focused on these two constructs and their operation in law and society. The third purpose is to generate a better sense of the relationship between "Latinas/os" and "race" or "ethnicity" in the formal curriculum as reflected in the design, materials, and pedagogy of these courses--and in light of the early LatCrit exchanges and resulting consensus on this particular point. [\[FN33\]](#) In pursuing these three purposes, the combined findings presented here ideally will help to connect curricular analysis and reform to LatCrit discourse on the substance of these threshold questions, as well as on the perennial issues they continue to raise both in and outside of the classroom relating to legal education and social justice. [\[FN34\]](#)

Once the data from the two rounds of fact-finding were combined, the results became the basis of a presentation at the Seventh Annual LatCrit Conference (LatCrit VII) in Oregon during May 2002. At that presentation a group of about thirty scholars, students, and activists discussed the findings and their implications, as well as possible follow-up actions. After that discussion, we sent e-mail queries to all conference participants requesting confirmation or correction of the findings pertaining to their respective schools or courses, as well as soliciting supplemental or anecdotal information. [\[FN35\]](#) Finally, to conclude the fact-finding process, we sent targeted e-mails and visited school websites to finalize--as much as possible under the circumstances--the remaining specific gaps in the combined findings. [\[FN36\]](#)

Hopefully, the combined findings of the two surveys reported below will lend themselves to manifold reformatory uses by persons interested in curricular development on race, ethnicity, and LatCrit theory or, more broadly, outsider jurisprudence. As mentioned above, the identification of courses and faculty on the subjects of race, ethnicity, and Latinas/os can provide a basis for the formation of new networks to exchange information about course design and pedagogy, which, in turn, can aid the improvement of formal legal education on these topics. Similarly, the documentation of the mixed results reported below ideally will help to raise awareness--both within the academy and beyond it--of curricular needs and gaps. **131* This heightened awareness may yield needed reforms to ameliorate the histories and legacies of invisibility that still shroud Latinas/os and other marginalized groups in formal legal education. The snapshot provided by the combined findings also can help establish a baseline from which to measure progress--or its lack--in coming years, as we revisit this issue periodically. Finally, but most proximately, the combined findings can enable immediate follow-up actions in programmatic terms through various professional organizations or venues,

including, but not limited to, annual LatCrit conferences and other similar events. [\[FN37\]](#) In sum, the combined data are proffered here to all interested parties as building blocks toward the advancement of legal education on race and ethnicity generally, and especially on Latinas/os qua Latinas/os, at the turn of a millennium predicted to witness the emergence of this group as the nation's most numerous "minority" population. [\[FN38\]](#)

II. Summary of Combined Findings--2000 and 2001

As mentioned at the outset, the combined findings and results on "primary" and "related" courses gathered via the two data-finding phases of this project present a mixed picture both on race and ethnicity as well as on Latinas/os. A total of 164 schools responded to the first and/or second rounds of data-gathering described above [\[FN39\]](#) and, of these, 136 schools reported offering either or both types of courses. [\[FN40\]](#) Yet, 26 schools reported "none" to all categories of courses, [\[FN41\]](#) while another 21 schools either declined to participate [\[FN42\]](#) or neglected to respond to the repeated requests for information during the two-year fact-finding process. [\[FN43\]](#) Thus, almost all *132 of the AALS member law schools in the country--136 of 164--report offering some formal opportunity for the study of "race" and/or "ethnicity" and/or "Latinas/os" to their students. [\[FN44\]](#)

These 136 schools reported a total of 337 courses of either or both types. [\[FN45\]](#) Of these 337 courses, 20 are devoted "primarily" to Latinas/os and the Law, [\[FN46\]](#) while the others are deemed "related" to Latinas/os qua Latinas/os in one way or another--either in the form of "critical race theory" and other "race/racism/race relations" courses or in the form of more "mainstream" courses on topics like immigration and civil rights. [\[FN47\]](#) The project therefore identifies three types of "related" courses that reported providing some coverage of Latinas/os and the Law: (1) those that focus specifically on critical race theory, (2) those that focus more broadly on race, racism or race/ethnicity relations, and (3) those that focus on "mainstream" categories of legal doctrine oftentimes deemed especially germane to Latinas/os. The first of these "related" categories--"critical race theory" courses--distinguishes explicitly "critical" courses from the remainder. [\[FN48\]](#)

Of the 317 total "related" courses, 20 were on "critical race theory" [\[FN49\]](#) while another 113 were on "race/racism/race relations and the law." [\[FN50\]](#) The bulk of the remainder--182 courses--represent the more "mainstream" courses on general doctrinal topics deemed especially "related" to Latina/o communities. [\[FN51\]](#) In addition, of the 337 total courses identified in this project, 12 are clinical courses--one of these is in the "primary" category and the other eleven in "related" categories. [\[FN52\]](#) Thus, Latinas/os indeed may be found in several portions or pockets of the contemporary law school curriculum, including a handful of courses devoted specifically to this branch of legal studies. As discussed below, however, these findings provide a mixed picture that counsels against complacency.

*133 A. Primary Courses: "Latinas/os and the Law" Courses

The study found 20 schools offering 20 primary courses, of which 7 were devoted specifically to "Latinas/os and the Law" [\[FN53\]](#) while another 10 were devoted to courses on topics like "Comparative Law" that are focused on Latin American legal systems. [\[FN54\]](#) In addition, 2 more of these primary courses are devoted to "Legal Spanish" [\[FN55\]](#) while another is a clinical course--apparently, the only law school clinical course or program in the nation devoted entirely to Latina/o-identified issues or clients. [\[FN56\]](#) Eight of these 20 primary courses are taught "every year" while another twelve are offered "every other year" or less. Most of the primary courses are taught by

full-time faculty, and just over half of them--11--are offered for three academic credits. These courses attract enrollments that range from 7 to 20 students, although enrollment figures tend to cluster mostly in the low-to-mid teens. [\[FN57\]](#)

Perhaps unsurprisingly, the seven schools that offer the seven "Latinas/os and the Law" courses are in California and other Latina/o-intensive locales: 4--over half of the 7--are in California and the rest are in New Jersey and Illinois schools. [\[FN58\]](#) Apparently, some (if not all) of these seven primary courses are offered only--or chiefly--because individual faculty are interested in or committed to providing legal education to their local students on this topic, and because they decided to fill a curricular void in their respective institutions. [\[FN59\]](#) As a whole, then, very few law students have access to the "primary" courses and, of those, most are geographically concentrated in one state and a couple of other regions. Yet, the full-time status of the faculty teaching these courses at the identified schools suggests that these *134 offerings are likely to remain in the curriculum--at least for as long as these teachers are willing and able to carry these courses as part of their recurrent teaching loads. [\[FN60\]](#)

Interestingly, 4 of the 7 courses on Latinas/os and the Law--again, over half--were reported as a "new course" introduced to the curriculum in the year 2000. [\[FN61\]](#) From one perspective, then, these primary courses have more than doubled in the past couple of years. From this comparative perspective, the curricular trends are congruent with the larger demographic and economic trends in the United States, as noted earlier. [\[FN62\]](#) Three of these four courses, however, are scheduled to be offered "every other year"--and the scheduling cycle for the fourth new course on Latinas/os and the Law was reported as uncertain. [\[FN63\]](#)

In absolute terms, the bottom line is quite clear: most law students in the United States never will receive the opportunity to enroll in any "primary" course--whether devoted specifically to "Latinas/os and the Law" or focused on "Comparative Law" with an inter-American orientation--during the regular course of their formal legal education. Students in California and other Latina/o-intensive locales may fare a bit better, but even then they will have limited opportunities to enroll during their three years in law school: more than half of all primary courses--12 of the 20--are offered only every other year or less. [\[FN64\]](#)

This paucity of primary course offerings--of formal opportunities in legal education to engage in focused studies of Latina/o populations--without question projects into the present the historic invisibility of Latinas/os in legal culture and discourse. The combined results on "primary" courses therefore call for continued LatCritical scrutiny to encourage and track the evolution of the curricular trends toward fragile inclusion suggested by these findings, while at the same time confirming the need to expand and accelerate these belated trends to better match the larger social or demographic developments that they seem to effectively reflect. It is this beckoning that formulates LatCrit's principal challenge in curricular reform.

*135 B. Related Courses: "Critical Race Theory" Courses

In addition to the combined findings on the "primary" courses summarized above, 20 schools reported offering 20 "related" seminars or courses titled "Critical Race Theory" to enrollments ranging from 9 to 40 students, and 12 of these--over half--are offered every year. [\[FN65\]](#) Nearly all of these related courses also are taught by full-time faculty, usually for three credits or more. And about a third of these explicitly critical courses--7--reported providing some level of specific coverage devoted to Latina/o-associated issues or topics, ranging from "2 of 14 sessions" and "one eighth" of the course to "40%" of the course. [\[FN66\]](#) On average, however, the related courses on "Critical Race

Theory" that reported a level of specific coverage devoted to Latinas/os indicate that students in those courses should expect about 10-15% of the class to be devoted to Latinas/os. [\[FN67\]](#) In the final analysis, then, the combined findings seem to corroborate the indications on "race" and "Latinas/os" that were projected in the uncertain responses that triggered the project's second round of fact-finding: "race" critical courses provide some but limited coverage devoted "primarily" to Latinas/os and the law. [\[FN68\]](#)

C. Related Courses: "Race, Racism and Race Relations" Courses

Additionally, 85 law schools reported offering another 113 law courses on "Race, Racism and/or Race Relations." [\[FN69\]](#) These additional "related" courses typically are taught every year by full-time faculty to student enrollments of 3 to 80, usually for two to four academic credits. Of these 113 courses, about a quarter--27--specified the level of coverage devoted specifically to Latinas/os, and these levels ranged from several courses reporting "one week" to one course that reported "50%" of the course devoted to Latinas/os and the law. [\[FN70\]](#) On average, however, these additional "related" courses on race and the law reported devoting between 1 and 3 weeks of the semester, or again about 10-15% of the course, to the focused study of legal issues deemed especially germane to Latina/o communities or persons. [\[FN71\]](#) Thus, as with the critical race seminars or courses, these other race-related courses offer some, but limited, coverage of Latinas/os qua Latinas/os that *136 seem, again, to comport with the ambivalent responses of the project's initial data-gathering process. [\[FN72\]](#)

D. Related Courses: "Mainstream" Doctrinal Courses

Finally, 83 schools reported offering another 188 "related" law courses that are not generally focused on critical race theory or other race/ethnicity-related topics. [\[FN73\]](#) These other "related" courses typically train attention on "mainstream" areas or categories of legal doctrine and study, such as equal protection, international human rights, employment discrimination, immigration and naturalization law, civil rights, poverty law, criminal justice, and the like, all of which seem to be generally associated in the United States with Latina/o populations. These "related" mainstream courses are taught by a combination of full-time and non-full-time faculty to enrollments ranging from 3 to 90 students, usually for two to four credits, and typically on a yearly basis.

Of these 188 related "mainstream" courses, 91--about half--provided additional information on their levels of specific coverage focused on Latina/o issues. These levels ranged from several reports of "one class" to one report of "50%" of the class. [\[FN74\]](#) On average, however, the levels of specific coverage on Latina/o-associated issues reported for these related mainstream courses tend to be about 20% of the course, [\[FN75\]](#) thus indicating (perhaps in a counterintuitive way that may warrant some skepticism) that these courses tend to offer slightly more coverage of Latinas/os qua Latinas/os than those devoted to critical race theory or to race, racism and race/ethnicity relations.

E. Summary Assessment: "Primary" and "Related" Courses

While these figures indicate that most law schools provide one or more formal opportunities for the study of these socially and legally relevant topics when broadly framed to include "mainstream" courses, they also reflect that most schools still fail to provide their students with any opportunity to engage in the formal study of legal issues focused on "race" or "ethnicity" and/or "Latinas/os" in the context of a law school course. These numbers thereby show significant but qualified inclusion in absolute terms. Though this bottom line applies especially to the handful of "primary" courses on "Latinas/os and the Law" that reach only a severely limited number of students, it also

applies to all of the "related" courses--whether those focused on the study of "race" or those of a more general or "mainstream" nature--that allocate a relatively meager 10-20% of total course time to this topic.

Structurally, these combined findings depict a basic--and familiar-- two-track development of formal legal studies on Latinas/os specifically, and on race and *137 ethnicity more generally. The first "track" consists of "specialty" courses that are focused on "Latinas/os" or on "race/racism/race relations," while the second track consists of "mainstream" doctrinal courses devoted to more generalized topics like immigration, human rights, employment law, or civil rights. Enrollment figures for the Latina/o and race courses tend to concentrate in the 10 to 25 range, while the mainstream courses for the most part tend to be larger. Numerically, however, both "tracks" tend to reach relatively few American law students in any given year: for instance, in the two academic years spanning this project--1999-2000 and 2000-2001--law students in J.D. programs nationwide numbered 125,184 and 125,173, respectively. [FN76] Based on the findings reported here, about 5875 to 6506 students enrolled in all of the primary and related courses identified in this study during those two years. [FN77] Thus, using a rounded-off total of 125,000 J.D. students nationwide, less than 5% percent of all law students in the 1999- 2000 and 2000-01 academic years would have been enrolled in one of these courses. [FN78] Based on the combined findings reported by schools and faculty, less than 5 in 100 law students received any formal education on race, ethnicity, or Latinas/os and the Law during the past two academic years.

These student and enrollment figures of course raise numerous questions ripe for follow-up investigation: for example, why such low enrollments, why such limited coverage of Latinas/os in race courses, why so few courses on Latinas/os and the Law? On the whole and at best, these figures, in tandem with the overall combined results for all courses, thereby provide grounds for some cautious optimism: the mixed findings of this project depict a definite yet limited availability, accessibility, and delivery of formal educational opportunity regarding these topics during the process of a contemporary legal education in the United States. These results, in other words, depict a definite but limited penetration of the curriculum and consciousness of the contemporary American law school on these issues or topics.

These results also show a mixed, and perhaps not too surprising, geographic distribution for the current course offerings. By and large, as noted above, the combined findings of this project indicate that progress on "primary" courses devoted to Latinas/os and the Law, such as it is, is concentrated mostly in one state on the nation's West Coast. [FN79] Thus, the progress being made is not being made across the board, nor consistently throughout the country. These results show pockets, rather than blankets, of progress. On a systemic level, these results again depict a definite but limited penetration of formal legal education and discourse.

Perhaps the brightest spot in these results is that most of these courses are taught by full-time faculty, a detail that can correlate to the long-term sustainability and availability of these kinds of courses as part of the formal law school curriculum. These particular findings are significant because they suggest that these courses are being embraced by the category of faculty members with the most power and influence in American legal education-- those either with tenure, or those on the *138 track toward it. However, 6 of the 7 primary courses on "Latinas/os and the Law" are taught by Latinas/os, [FN80] and 1 by an Asian American who "could be Latino." [FN81] Similarly, it appears that all, or virtually all, of the twenty critical race theory courses identified in this study are taught by faculty-of-color, mostly Black or African American. [FN82] For reasons that follow-up research should probe, it appears that no white faculty regularly teach either in the primary courses or in the "critical" courses on race. [FN83] Thus, the

existence of these courses in the formal law school curriculum seems rooted more in the incremental diversification of the legal professorate during the past twenty years than in the embrace of race/ethnicity studies by the still-predominantly white legal academy of the United States. [\[FN84\]](#)

While reflecting some progress toward formal inclusion in the curriculum, these findings consequently do not reflect a general climate of increased acceptance for the study of these issues in legal academia generally. Nor do these combined findings necessarily reflect a climate of increased institutional acceptance for the students, faculty, and staff that embody these issues, and that in recent decades have begun to populate the corridors or classrooms of American law schools. Rather, these findings indicate that entrepreneurial faculty of color and interested students in today's law schools have teamed up to carve out a relatively "safe zone" for these courses, and for the formal study of these issues, within institutional contexts that otherwise may lend little more than neglectful tolerance to their initiatives and activities. [\[FN85\]](#)

These combined findings, in other words, capture in concrete terms the difference that diversity can make. [\[FN86\]](#) These findings demonstrate the existence of courses that are available today chiefly, it seems, because faculty-of-color have elected to develop, introduce, and teach them. These findings consequently indicate **139* tangible, though not necessarily institutional or attitudinal, progress regarding awareness of, and concern for, the presence and treatment of racial/ethnic minorities or interests in today's law schools. Yet these mixed findings make one wonder whether any progress in the formal law curriculum would be evident but for the presence of minority faculty and interested students--and whether such courses can be sustained in spite of the onset of backlash and retrenchment via the "culture wars" that already have decimated diversity and begun to resegregate some prominent law schools around the country. [\[FN87\]](#)

This brief summary of highlights indicates how the findings regarding the numbers and types of "primary" and "related" courses being offered as of 2000-01 at specific schools present some cause for cautious optimism, and much need for determined perseverance. This summary indicates limited yet actual progress in comparative terms but continued marginality and vulnerability in absolute terms. This summary, and the snapshots that the reported information provides of legal education at the turn of the millennium, counsel LatCritical praxis on curricular reform to preserve and expand the tentative gains of recent years.

To help sort through these mixed findings and results, and thus to help orient the future direction of curricular reform efforts in this area, the following data are broken down into five sets of findings in the Summary Table of Combined Findings that begins on the next page. The summary categories presented below, in order of presentation are: Schools, Courses, Scheduling, Credit, Enrollment, and Faculty, respectively. This summary table, then, is supplemented with the set of five tables presented in the Appendix to this article, which together break down the combined data according to the type of course--whether "primary" or "related"--for each school. [\[FN88\]](#) The summary table included here provides a quick statistical overview to accompany this sketch of the combined findings, while the five tables in the Appendix provide the data in their entirety as reported by schools and faculty. [\[FN89\]](#)

**140* Summary Table of Combined Findings--2000 and 2001

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**141* III. Observations and Recommendations

The mixed results reported in the summary discussion and table above, and amplified in the tables presented below in the Appendix, make for some forward-looking, if general, observations regarding both the current situation of and near-term prospects for legal education on Latinas/os specifically, and on race/ethnicity generally. [FN90] Perhaps the most striking aspect of the status quo depicted by the findings of this project is the crucial importance of individual law teachers and scholars who are filling the voids of knowledge created by the silence and ignorance that shrouds, today as it has over the ages, the subject of Latinas/os, race, and ethnicity in American law, life, and society. [FN91] As noted above, the "primary" courses of "Latinas/os and the Law," as well as the "related" courses on critical race theory, are taught exclusively (or virtually so) by faculty of color who have taken on the task of introducing and incorporating those courses into their institution's formal curriculum. [FN92] This threshold observation in turn underscores the importance of faculty diversity in both demographic and intellectual terms to ensure the expansion and sustainability of these recent curricular reforms.

Recognition of these threshold observations should motivate proactive action to ensure the sustainability and continuation of these developments, especially in light of the culture wars that have instigated sociolegal backlash and begun to resegment legal education in racial and ethnic terms. [FN93] These threshold observations, in other words, counsel LatCritical theorizing and activism around *142 curricular reform in this area in order to resist the likely effects on the curriculum as a function of the larger retrenchment triggered by cultural warfare. [FN94] These efforts must continue to focus on faculty and student diversity; as suggested by the combined findings reported here, this diversity--both among faculty and students--provides the important institutional critical mass toward curricular reform.

In addition, and more specifically, LatCritical curricular praxis must aim to foster a multidimensional pedagogy that reflects the advances of outsider jurisprudence and LatCrit theory in recent years. [FN95] LatCritical curricular praxis must promote the study of Latinas/os in relationship to race and ethnicity within intergroup frameworks that include international and comparative perspectives as well as interdisciplinary materials and analyses, and these frameworks additionally must help to center intragroup diversities that affect law and policy. [FN96] LatCritical praxis must embrace the study both of specific group histories and how they fit into larger patterns of subordination based on colonialism, identity politics, systems of supremacy, capitalism, and, most recently, corporate globalization. [FN97] These intergroup frameworks and cross-disciplinary approaches must be designed to help cultivate intra- and intergroup reconciliation and critical coalitions devoted to antisubordination legal reform and social transformation. [FN98] In sum, LatCritical *143 curricular praxis requires LatCrit theorists to apply and "perform" the theory in formal curricular contexts. [FN99]

To be most effective, this LatCritical praxis must be cognizant of, and engage, the various categories of curricular coverage documented by this project: first, the "primary" courses and, second, the several types of "related" courses. [FN100] In each of these course categories, a foundational task is helping to ensure the ongoing incorporation of the burgeoning legal literature on Latinas/os and on race/ethnicity into formal course materials. [FN101] Within this effort, however, LatCritical praxis must pay particular attention to the expansion of course materials specifically for "primary" courses. This question arises from the observation that, to date, no standard text is readily available for courses that might be described as focused on "Latinas/os and the Law."

At the moment, the three most likely sources of standardized text materials in either the "primary" or the "related" race courses, as indicated by the Syllabi Bank created as part of this project, are: *Race and Races* (Juan Perea, Richard Delgado, Angela Harris, and Stephanie Wildman eds., 2000); *A Reader on Race, Civil Rights and American Law*

(Timothy Davis, Kevin Johnson, and George Martinez eds. 2001); and *The Latino/a Condition* (Richard Delgado and Jean Stefancic eds. 1998). Each of these books is excellent; as illustrated by the Syllabi Bank, these new or recent sources of course materials are being put to good use. [\[FN102\]](#) Each of these books in its own way is responsive to pressing curricular needs noted and documented in this study.

Sometimes, as the Syllabi Bank illustrates, faculty elect to use them (and other sources) in synergistic combinations. And because the editors of these books consciously elected to collect social and historical materials, these books do more than teach students about "law" in traditional, case-bound studies; they help faculty teach these courses in innovative ways. The books (and similar materials) have helped to facilitate the cross-disciplinary, trans-doctrinal nature of today's primary courses, as well as many of the related courses on critical race theory or on race, racism and race relations.

Conversely, none of these fine books is particularly focused on "Latinas/os" and "law" as a unit of formal legal study in the United States. [\[FN103\]](#) This observation is **144* not in the nature of a critique, for each fulfills a particular kind of important need; the trio of books introduced over the past several years, and presently being used in many of the reported courses, clearly have gone a long way toward alleviating the sore lack of standardized materials that previously existed. Their collective creativity has enabled innovative, cross-disciplinary pedagogy, but it also has raised a key question: whether a casebook focused on "Latinas/os and the Law" is a needed resource to build on their strengths while enlarging the universe of options and approaches available to teachers and students. [\[FN104\]](#)

Of course, LatCritical discussion of this question must include some consideration of the current state of Latina/o legal studies--both the relative scarcity of courses focused on "Latinas/os and the Law" as well as the limited coverage of Latinas/os reported in the various categories of "related" courses. From a substantive LatCritical perspective, additional materials that focus on Latinas/os and law obviously would be a welcome addition to the available tools in contemporary legal education. The mixed findings reported here, though, also can be interpreted to raise "doubts" over the existence of a "market" for additional materials, especially materials "narrowly" focused on Latinas/os and law. These mixed findings therefore might impose external "market" limitations on reformatory possibilities that we might pursue and implement. Thus, collective and deliberate discussion about both substance and strategy is a necessary next step--a step toward considering whether the development of additional materials is not only substantively warranted but also practicable, and if so, how. Without question, the three most-frequently used books, as a set, provide the best available materials today. Nonetheless, our collective challenge is to consider whether we now need to--and can--fuse their strengths into a casebook tailored to law school courses focused on Latinas/os qua Latinas/os.

In this and other ways, this project underscores the need for increased opportunities to exchange ideas and suggestions between faculty already teaching in this area as well as others who may be interested in doing so. To begin with, LatCritical praxis must attend promptly to potential programmatic efforts that enable interested parties to discuss questions such as the one posed above about the need for a casebook--and that spotlight the need for curricular reforms toward the greater inclusion of Latinas/os in formal legal education. Whether in LatCrit conferences or other outsider venues--or whether in more "mainstream" venues--LatCrit theorists must spearhead the effort to form panel discussions, roundtable presentations, and similar events that enable current teachers to develop their thoughts and practices, and that also help raise the level of scholarly and institutional awareness on this issue and its importance in light of recent and ongoing demographic trends. [\[FN105\]](#)

One model to consider as we contemplate LatCritical discussion of reformatory possibilities is the "Critical Race Studies Concentration" ("CRSC") *145 developed in recent years at the UCLA School of Law by faculty of color interested in expanding curricular opportunities to their students relating to race and the law. This model--to date unique in legal education--combines both "primary" courses and a variety of "related" courses, including "mainstream" courses, to organize a broad yet focused study of race, racism and race relations in the United States. This unique curricular innovation should serve as a key point of reference--or even may serve as a concrete point of departure--for a LatCritical conversation on curricular reform.

The CRSC covers five broad areas of study--history, theory, comparative subordination, doctrine, and practice--and was put together by seven tenured law faculty at UCLA who already were engaged in areas of "teaching and writing [that] probe the links between racial inequality, racial classification, and the American legal system." [FN106] They devised this curriculum because the "deep interconnection between race and law, and particularly the ways in which race and law are mutually constitutive, is an extraordinary intellectual challenge with substantial practical implications . . . [i]n an increasingly racially diverse nation." [FN107] This program now is available to second-and-third year UCLA law students, and is especially aimed toward students "who seek advanced study and/or practice in race and the law, critical race theory, civil rights, public policy and other legal practice areas that are likely to involve working with racial minority clients and communities or working to combat racial inequality." [FN108] The CRSC is designed to "offer an advanced curriculum that will foster students' systematic and more rigorous study in this area of growing interest to scholars, lawyers, and the general public." [FN109]

The CRSC curriculum is organized in four parts: two "core" courses, two "comparative subordination" courses, two "applied" courses, and a "substantial" writing requirement. Students first must complete two core requirements: the law school's courses on Civil Rights and Critical Race Theory. Next, students must take two elective courses in comparative subordination, selecting at least one course from the following list: Asian American Jurisprudence, Federal Indian Law, Latinos/as and the Law, or Comparative Racialization & the American Legal System. The second of the courses necessary to satisfy the "comparative subordination" component of the CRSC may be selected from another list, which includes: Women & the Law, Disability Law, Sexual Orientation & the Law, American Legal History, and Law & Terrorism. CRSC students next must take two "Applied Courses"--one each from two different lists of elective courses corresponding to "doctrine" [FN110] and to "practice." [FN111] Finally, students must complete a "substantial writing" requirement, either working independently with a CRSC faculty member or through an approved *146 seminar. [FN112] In addition to this program of formal study, students are invited to attend or help to organize extra- curricular activities related to race and the law, including on-campus events and editorial work on UCLA law journals devoted to race or ethnicity and the law.

The specific courses offered as part of the CRSC curriculum necessarily vary from year to year, along with faculty schedules and other institutional considerations. However, the substantive core and specific focus of the CRSC, as well as its basic curricular purpose and schema, are clear: students are offered the formal opportunity to study race and law in a focused, structured curriculum that is integrated into the three-year cycles of legal education. And successful completion of the CRSC is similarly recognized in, and integrated into, the formalities of graduation: upon completion of these four requirements with a B- grade average or better, graduating students will receive a special notation on their UCLA law school diplomas. [FN113]

The impetus for the CRSC reflects the kinds of student concerns about "traditional" curricular gaps that prompted this very study: an opportunity for formal legal study of long-neglected areas that is "systematic and more rigorous" than the idiosyncratic efforts of individual faculty, which is the most that students across the country can expect from their institutions today. Moreover, the CRSC's curricular design reflects this study's basic findings: the CRSC curriculum blends courses that, in the parlance of this study, would be designated "primary" courses together with all three kinds of "related" courses on (1) "critical race theory" and (2) "race, racism and race relations" and (3) mainstream doctrinal courses on civil rights, immigration, and the like. In so doing, the CRSC underscores a crucial lesson for similar reformatory efforts: curricular reform must address and engage both "mainstream" as well as "boutique" courses. While the former, with their broad parameters of study, are insufficiently focused to provide in-depth education, they are necessary to establishing a substantive understanding of doctrinal links and policy frameworks that affect race and ethnicity as legal or social concepts. At the same time, the latter--precisely because they are tightly focused on the subject--provide the otherwise missing opportunity for deep study and focused reflection that complements the doctrinal and other elements of a formal legal education in the United States today. As the CRSC illustrates, the two types of courses are necessary as mutually complementary, and mutually reinforcing, aspects of a formal legal education devoted to race and ethnicity.

The CRSC curriculum begins with two "core" requirements. The first of these is a broad (but apparently not necessarily critical) introduction to "civil rights" law, while the second core requirement is completion of a focused (and apparently necessarily critical) introduction to "critical race theory." Afterward, the CRSC curricular structure directs students toward comparative studies in subordination, and the range of courses available to satisfy this two-course requirement makes it clear that students are expected to study "race" (or "ethnicity") in relationship to other identity markers, and in the context of cross-group formation and inter-group relations. [\[FN114\]](#) Next, CRSC students are directed to enroll in two "applied" courses that ^{*147} are designed as opportunities to "practice" the knowledge earned through the core and comparative courses, thus providing a praxis-oriented component to the CRSC curriculum. Finally, the writing requirement ensures that students will help to produce knowledge that may be disseminated to others in the form of written work products. In these interrelated ways, students learn not only to reject essentialized notions of race (or other axes of identity) but also to study race (and other axes of identity) in comparative, cross-group frameworks designed to counter subordination in, among, or between "different" categories of social or legal identity. [\[FN115\]](#) In these ways, the CRSC is completely congruent with LatCrit theory and its longstanding commitments to antiessentialism, multidimensionality, and antisubordination in and through legal education, discourse, and praxis.

The origins and operations of the UCLA CRSC also illustrate another point reflected in this study's findings: curricular reform oftentimes depends on the proactive interventions of interested faculty (and students). As is the case with so many of the courses at other law schools reported in the five tables of the Appendix to this article, the CRSC curriculum at UCLA springs from the efforts of individual faculty members who, in this instance, also were able to act collectively to secure formal institutional reform of the curriculum. Indeed, the program literature makes plain that the CRSC "builds" on the pre-existing resources represented by the group of individual faculty members who make the CRSC possible. [\[FN116\]](#) Thus, the CRSC underscores the importance not only of faculty (and student) diversity in legal education, but also of creating a "critical mass" of interested faculty so that similar "programs" of formal study may become institutionally viable.

Finally, the CRSC curriculum touches on, but leaves open, a substantive issue over stance and method that runs through the findings of this project as well: whether the study of race and ethnicity is necessarily a "critical" enterprise given the histories and legacies that are the subject of such studies. In theory, of course, the answer would appear to be "no" but in practice, the question that arises is: how does one design a serious program to study race, ethnicity, and the law in the United States today without effectively adopting a "critical" perspective toward the histories and legacies that constitute the object of such study? Neither the CRSC curriculum nor the findings of this study provide an answer, but both certainly point to this question as an important part of future conversations. [\[FN117\]](#) The table immediately following shows the organization of this innovative curricular program.

***148** UCLA "Critical Race Studies Concentration" Courses--2001

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As the CRSC makes plain, curricular reform is possible. Moreover, curricular reforms can emanate from faculty directly--though they must work collectively to secure institutional acceptance. But curricular reform in turn depends on the pre-existence of faculty and students interested in such reforms--and able to craft and sustain them personally. As with the project's other findings, the CRSC confirms the substantive potential and impact of diversification in legal education. Perhaps most importantly, however, the CRSC teaches that formal curricular reforms indeed can be designed to be congruent with LatCrit insistence on antiessentialism, multidimensionality, and antisubordination in scholarship and praxis. [\[FN118\]](#)

The CRSC thus helps to set the stage for collective consideration of the findings reported here, and the questions they raise. These findings and questions, of ***149** course, additionally should take into account the information reported by faculty at other schools, who as individuals are helping to provide curricular opportunities relating to race and ethnicity in legal education to students who otherwise would have less or none. The information provided by individual faculty members around the country both confirms and amplifies the observations drawn from the CRSC, and vice versa. These faculty members, and in particular those who submitted anecdotal information or course syllabi, represent a source of experience and perspective that, like the CRSC, should inform LatCritical discussion of curricular reforms.

To help contextualize this discussion, the Syllabi Tables presented immediately below list the various faculty members teaching in relevant areas who submitted their course syllabi for inclusion in the Syllabi Bank as a means of encouraging interested faculty to share information and ideas on course development and pedagogy. As with the tables of the Appendix that follows this article, these Syllabi Tables break down the various courses according to their categories: first the "primary" courses and then the three types of "related" courses--critical race theory courses, race/racism and race relations courses, and mainstream courses. While it is impracticable to reproduce here the hard-copy syllabi collected via this project for the creation of a Syllabi Bank, these Syllabi Tables enable faculty to contact each other directly to discuss areas of mutual interest based on the courses they teach or are considering teaching. [\[FN119\]](#)

Syllabi Table: "Primary" Courses--2000 and 2001

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***150** Syllabi Table: "Critical Race Theory" Courses--2000 and 2001

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***151** Syllabi Table: "Critical Race Theory" Courses--2000 and 2001

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**152* Syllabi Table: Other/Mainstream "Related" Courses--2000 and 2001

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**154* Conclusion

This project shows that the stirrings that produced LatCrit theory seven years ago have only recently begun to penetrate the formal curriculum. The coming years will determine whether this stirring is only a beginning--or already a plateau created by the sociolegal backlash spurred by cultural warfare. For better or worse, the coming years will see either the development and maturation, or the retrenchment and stagnation, of a discipline now in apparent infancy. Therefore, LatCrits and others interested in ensuring the former and foreclosing the latter should embark on conscious collaborations toward the ongoing development of our materials and methods relating to courses on these topics.

Fortunately, the LatCrit community--and the works we collectively have produced since 1995--already have put into place some of the necessary conditions and networks for programmatic discussion of curricular issues and reformatory initiatives. During the past seven years, LatCrit scholars have formed collaborative projects that position us to intervene collectively as well as individually to improve the state of legal education on Latinas/os, race, and ethnicity. Furthermore, during these past seven years we collectively have also produced a body of work that can help to inform the substance of such interventions. During the past seven years, we have traveled the path that brings us to today--and positions us for tomorrow.

However, to embark on a LatCritical praxis devoted to curricular reform, we must work collaboratively over a multi-year timeframe: to make a difference on this front of our social justice struggles, LatCrit theorists and activists must marshal our resources and focus our attention for the long haul. Yet, with LatCrit networks of knowledge and discourse growing, interested teachers, students, and administrators increasingly have opportunities to invigorate each other's imaginations and, over time, mutually enhance our collective success toward the meaningful inclusion of education on Latinas/os into the law school experience of more North American students.

**155* In sum, the "snapshot" of legal education on "Latinas/os" specifically and on "race" or "ethnicity" generally that is presented in this project ideally will help raise awareness of the gaps and needs in these areas of the contemporary law school curriculum. Hopefully, this snapshot will help to motivate and orient follow-up projects and interventions to help address and remedy the curricular shortcomings documented here. Without question, the LatCrit community should help to spearhead the discussion and implementation of the curricular reforms that we collectively conclude might be warranted by the findings discussed above, and presented in full detail below in the five tables of the Appendix to this article. The invisibility of Latinas/os in the law school curriculum has persisted for far too long and the LatCrit community must ensure that Latinas/os' growing place in society is reflected with an increased visibility in legal education.

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Footnotes:

[\[FNd1\]](#). Professor of Law and Co-director, Center for Hispanic & Caribbean Legal Studies, University of Miami. I am grateful to all the administrators and faculty who took the time

to participate in this study, and to the handful of assistants (named in note 21) who, during the past two years, have helped me to compile and assess the data gathered for this project. I am equally grateful to the members and editors of the Berkeley La Raza Law Journal, and in particular Victor Rodríguez, for lending their limited time, capable work, energetic spirit, and extraordinary talents to improve the final report presented here. In addition, I thank the participants of the LatCrit VII conference who helped me think through the various ways of interpreting and presenting the data gathered via this study. Finally, I thank Steve Bender and Keith Aoki for helping the LatCrit community produce another important conference and symposium. All errors are mine.

[FN1]. "Latinas/os" of course are a multiply diverse yet generally recognized social group. For demographic portraits of Latina/o heterogeneity, see Berta Hernandez-Truyol, [Building Bridges - Latinas and Latinos at the Crossroads: Realities, Rhetoric and Replacement](#), 25 *Colum. Hum. Rts. L. Rev.* 369 (1991); Gerald P. Lopez, [Learning About Latinos](#), 19 *Chicano-Latino L. Rev.* 363 (1998); Gloria Sandrino-Glasser, [Los Confundidos: De-Conflating Latinos/as' Race and Ethnicity](#), 19 *Chicano-Latino L. Rev.* 69, 75-77 (1998); see also Juan F. Perea, [Los Olvidados](#), 70 *N.Y.U. L. Rev.* 965 (1995). Similarly, "LatCrit theory" comprises many scholars with varying views, and therefore it is somewhat misleading to speak of "LatCrit theory" in the singular. Nonetheless, the multiply 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, *Latina/o Ethnicities*].

Latinas/os' multiple diversities have sparked spirited discussions over the naming and labeling of the group. See, e.g., 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 *Tex. 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 Diveristy, 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 U.S. Dep't of Commerce, Bureau of the Census, Form D-1, Question Seven (2000) (copy on file with author). See generally Alex M. Saragoza et al., [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). These discussions have included LatCritical exchanges over the relative utility of "race" and "ethnicity" in social or legal analysis of "Latina/o" communities. See *infra* notes 28-31 and accompanying text on these early exchanges. Thus, each time LatCrit theorists and other analysts speak of "Latinas/os," we do so and for accuracy's sake must take care to always do so, in a way that foregrounds multiple "internal" diversities, including those based on nationality, ethnicity, race, immigration background and status, class, religion, gender, sexual orientation, dis/ability, and other categories of identity and identification that have been rendered relevant to antistatist analysis socially and/or legally. 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 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 intergroup 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); Guadalupe T. Luna, ["La Causa Chicana" and Communicative Praxis, 78 Denv. U. L. Rev. 553 \(2001\)](#) (theorizing the relationship between Chicana/o studies and LatCrit Theory and community building praxis); Victoria Ortiz & Jennifer Elrod, [Reflections on LatCrit III: Finding "Family", 53 U. Miami L. Rev. 1257 \(1999\)](#) (unfolding a metaphorical analysis of LatCrit as a "family" of differences); 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 intragroup justice and solidarity); 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).

[FN2]. As described below, this project unfolded in two data-gathering phases using two different questionnaires to survey law schools: first on "primary" courses devoted to "Latinas/os and the Law" and, later, on various "related" courses devoted to critical race theory, to race, racism and race relations, or to mainstream doctrinal topics generally deemed important to Latina/o and other communities of color in the United States, such as civil rights or immigration law courses. See infra notes 20-34 and accompanying text.

[FN3]. The term "LatCrit" was coined at a 1995 colloquium, held in Puerto Rico, on the relationship of critical race theory to "Latina/o" communities. From that colloquium, the annual conferences then flowed. On the emergence of a "LatCrit" subject position, see 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 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, Coalitional Theory]; see also Francisco Valdes, Foreword - Poised at the Cusp: LatCrit Theory, Outsider Jurisprudence and Latina/o Self-Empowerment, 2 Harv. Latino L. Rev. 1 (1997) (introducing the papers and proceedings of the first LatCrit conference). 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 (1997); 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 \(1998\)](#). C f . Margaret E. Montoya, [LatCrit Theory: Mapping Its Intellectual and Political Foundations and Future Self-Critical Directions, 53 U. Miami L. Rev. 1119 \(1998\)](#) [hereinafter, Coalitional Theory].

Information on LatCrit theory, including the full text of the inaugural LatCrit symposium based on the First Annual LatCrit Conference, can be obtained at the LatCrit website, www.latcrit.org. For other LatCrit symposia, including those based on subsequent conferences or colloquia, 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 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 Denv. U. L. Rev. 467 \(2001\)](#) (LATCRIT V); Symposium, Latinas/os and the Americas: Centering North-South Frameworks in LatCrit Theory, 54 U. Fla. L. Rev. (forthcoming 2002) and 54 Rutgers L. Rev. (forthcoming 2002) (LATCRIT VI). In addition, two joint symposia have been published during this time. See 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. Reform 203 \(2000\)](#).

[FN4]. The colonial records and imperial legacies that shape(d) the Americas are well documented, of course, including the expansion of its borders by the United States to annex areas like Puerto Rico and the southwestern states, which remain areas of high Latina/o concentration today. See, e.g., Rodolfo Acuna, *Occupied America* (3d ed. 1988) (assessing Chicana/o communities as internal colonies of the United States); Richard C. Trexler, *Sex and Conquest: Gendered Violence, Political Order, and the European Conquest of the Americas* (1995) (documenting and discussing the patriarchal and homophobic aspects of the conquest); 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"); see also [Symposium, Understanding the Treaty of Guadalupe Hidalgo on Its 150th Anniversary, 5 Sw. J. L. & Trade Am. 1 \(1998\)](#) (reviewing the treaty by which the United States annexed Mexican lands and persons, and the treaty's violation since then). See generally Richard Drinnon, *Facing West: The Metaphysics of Indian-Hating and Empire-Building* (1990); Charles Gibson, *Spain in America* (1966); Ramon Gutierrez, *When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality and Power in New Mexico, 1500-1846* (1991); Francis Jennings, *The Invasion of the Americas: Indians, Colonialism and the Cant of Conquest* (1975); Walter LaFeber, *Inevitable Revolutions: The United States in Central America* (2d ed. 1993); Lyle H. McAlister, *Spain and Portugal in the New World, 1492- 1700* (1984); *Native American Testimony: A Chronicle of Indian-White Relations from Prophecy to Present* (Peter Nabokov ed., 1991); David J. Weber, *The Spanish Frontier in North America* (1992). For a discussion of colonialism's and globalization's combined effects from one LatCritical perspective, see Francisco Valdes, [Race, Ethnicity and Hispanismo in Triangular Perspective: The "Essential" Latina/o and LatCrit Theory, 48 UCLA L. Rev. 305 \(2000\)](#).

[FN5]. For an overview discussion of LatCrit theory's evolution, and engagement of various social and legal issues over time and presently, see Elizabeth Iglesias & Francisco Valdes, *Afterword - LatCrit at V: Institutionalizing a Post-Subordination Future*, 78 Denv. U. L. Rev. 1261 (2002) [hereinafter, LatCrit at V].

[FN6]. These social and economic trends have been noted in LatCrit theory from the outset, and have helped to inform the emergence and evolution of LatCrit theory over the past seven years. See, e.g., Rachel Moran, *Neither Black Nor White*, 2 Harv. Latino L. Rev. 61, 61-65 (discussing these trends in national and regional contexts). See generally Francisco Valdes, *Latina/o Ethnicities*, supra note 1, at 1-11 and 24-30 (discussing the emergence of LatCrit theory from critical race theory, and the importance of these jurisprudential developments in an increasingly multicultural society).

[FN7]. As noted above, this study documents both "primary" courses devoted principally to "Latinas/os and the Law" as well as three types of "related" courses that also provide some coverage of this general topic, as follows: (1) courses on critical race theory; (2) courses on race, racism and race relations; and (3) courses on mainstream doctrinal categories, like civil rights and immigration, that generally are deemed important to Latina/o communities or persons. See supra note 2; see also infra notes 38-89 and accompanying text. Generally, I would include the "primary" courses, as well as the "related" courses on critical race theory and on race, racism and race relations, to constitute loosely "race and ethnic legal studies" in the context of this curricular survey because these courses are consciously framed and aimed at educating students in "race, ethnicity and the law" as a coherent and important unit of study.

[FN8]. In my view, LatCrit theory aims to fulfill four interrelated functions: (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. 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 \(1998\)](#) [hereinafter, Under Construction].

[FN9]. "Essentialism" and "antiessentialism" 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, differences that can produce consequences for lawmaking and policymaking decisions. Essentialist categories oftentimes divert or inhibit attention to intragroup differences, helping to consolidate a group's agenda around the group's internal elites. See, e.g., Angela P. Harris, [Race and Essentialism in Feminist Legal Theory](#), 42 Stan. L. Rev. 581 (1990); 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). By contrast, "antiessentialist" theory seeks to reveal intragroup differences to resist relations of subordination and domination that may exist within and among the members of any particular group. Therefore, "antisubordination principles and analysis, applied in critical and self-critical ways, provide the substantive limits for and directions of antiessentialism in LatCrit theory, community, and praxis ... antiessentialism is no end unto itself; its utility is defined in relation to a contextual antisubordination purpose. In LatCrit theory, community and praxis, antisubordination ideally always contextualizes and informs antiessentialism." Thus, the former anchors the latter. Elizabeth M. Iglesias & Francisco Valdes, [Expanding Directions, Exploding Parameters: Culture and Nation in LatCrit Coalitional Imagination](#), 5 Mich J. Race & L. 787, 815-16 and [33 U. Mich. J.L. Reform 203, 231-32 \(2000\)](#); see also Iglesias & Valdes, Coalitional Theory, supra note 3, at 513-21 (discussing antiessentialism and antisubordination in LatCritical analysis). Various RaceCrit and LatCrit scholars have continued to develop concepts and tools of critical legal theory to build on these foundational concepts, 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); Darren Leonard Hutchinson, Out Yet Unseen: A Racial Critique of Gay and Lesbian Legal Theory and Political Discourse, 29 U. Conn. L. Rev. 561 (1997) (on multidimensionality); Peter Kwan, [Jeffrey Dahmer and the Cosynthesis of Categories](#), 48 Hastings L.J. 1257 (1997) (on cosynthesis); Francisco Valdes, [Sex and Race in Queer Legal Culture: Ruminations on Identities and Inter-Connectivities](#), 5 S. 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 \(1995\)](#) (urging greater efforts along these lines to promote multifaceted projects of social transformation).

[FN10]. Faculty teaching in these areas were asked to share anecdotal accounts and observations of teaching experiences to help contextualize the raw data, and these accounts now are part of the LatCrit Curriculum Project Files.

[FN11]. The Syllabi Tables describe the syllabi contained in the Syllabi Bank, whereas the Syllabi Bank itself consists of hard copies of approximately 40 syllabi submitted by individual faculty members for various courses. The Syllabi Bank is available upon request to: latcrit@law.miami.edu. For further discussion of the Syllabi Bank, see infra note 119, accompanying text and tables.

[FN12]. This article endeavors to summarize the findings' highlights and to draw some basic observations from the raw data presented in the five tables of the Appendix, but does not attempt to interpret the data in any definitive and conclusive manner. In keeping with LatCrit norms and ideals, this act of interpretation is a collective task of the LatCrit community, which now can draw on this project as well as other sources of information to consider and devise plans of action toward curricular reforms.

[FN13]. It bears emphasis that LatCrit theory and praxis are aimed not only at law and society writ large, but also at the structures and practices of legal education, as well as our own projects and plans. See generally Iglesias & Valdes, *LatCrit at V*, supra note 5, at 1309-14 (focusing on LatCrit efforts to reform the norms and practices for the production of legal scholarship).

[FN14]. This phenomenon is corroborated in the anecdotal information collected via this project, which is intended to supplement, and to help contextualize, the raw statistics gathered through the curricular questionnaires. For example, one faculty member teaching a "related" course on immigration reported that "many students are hungry to talk about race ... some express relief that we are finally talking about the elephant in the room, when it gets ignored in so many other classes." See LatCrit Curriculum Project Files (copy on file with author).

[FN15]. Oftentimes, students specifically query why their legal educations are so poor in critical theory and in "outsider" studies. As a result, LatCrit theorists have begun to establish programs that can serve as "lifelines" to law students who may be isolated in their "home" institutions. For a more detailed discussion of this problem, see Francisco Valdes, [Insisting on Critical Theory in Legal Education: Making Do While Making Waves, 12 La Raza L.J. 137 \(2001\)](#). These LatCrit programs include the Critical Global Classroom, a study abroad summer program devoted to social justice legal studies in international and comparative frameworks undertaken in partnership with The University of Baltimore School of Law: because study abroad programs are open to students nationwide, the "CGC" will permit students from all law schools in the United States to gather in a "safe" educational environment to explore issues omitted or marginalized in their schools' formal curriculum. For more information on the "CGC" and other student-oriented LatCrit initiatives, see Iglesias & Valdes, *LatCrit at V*, supra note 5, at 1327-32.

[FN16]. The significance of minority presence in the legal academy, discussed in more detail infra at notes 80-87 and accompanying text, 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](#), 9 *Tex. J. Women & L.* 167 (2000) (discussing how the LSAT continues to project that history into the present); see also Robert Stevens, *Law School: Legal Education in America From the 1850s to the 1980s* (1983) (providing a comprehensive account of the politics--including the identity politics--that dominated the institutionalization of formal legal education). See generally Nicholas Lemann, *The Big Test: The Secret History of the American Meritocracy* (1999) (providing a similar history focused, more generally, on the standardized tests used in various educational settings in the United States).

As RaceCrit and LatCrit scholars have amply documented, 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., Charles R. Lawrence III, [Two Views Of The River: A Critique Of The Liberal Defense Of Affirmative Action](#), 101 *Colum. L. Rev.* 928 (2001); Susan Sturm & Lani Guinier, [The Future of Affirmative Action: Reclaiming the Innovative Ideal](#), 84 *Cal. L. Rev.* 953 (1996); see also 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); 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* 32 (Francisco Valdes, Jerome McCristal Culp, Jr. & Angela P. Harris eds., 2002); 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 Educ.* 313 (2000).

In addition, LatCrit scholarship has focused on the problems associated with actualizing a multidimensional, antiessentialist, antisubordination ethic and practice in the legal academy and profession. See, e.g., 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. Reform* 329 (2000) (discussing how 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); Sumi K. Cho, *Essential Politics*, 2 *Harv. Latino L. Rev.* 433, 441 (1997) (calling on scholars of color to combat the "big and little murders" that occur daily at law schools across the country); Virginia P. Coto, [LUCHA, The Struggle for Life: Legal Services for Battered Immigrant Women](#), 53 *U. Miami L. Rev.* 749 (1999) (describing alternative models for 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); 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, 606-07, 655-56 (1999) (reflecting on 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. Reform* 263 (2000) (critiquing how minority students are silenced in the classroom); Dorothy E. Roberts, *The Paradox of Silence: Some Questions About Silence*

[as Resistance](#), 5 Mich. J. Race & L. 927; 33 U. Mich. J.L. Reform 343 (2000) (elaborating some resistance strategies for minority students to help them survive the law school experience); Pamela J. Smith, The [Tyrannies of Silence of the Untenured](#), 33 U.C. Davis. L. Rev. 1105 (2000) (analyzing the vulnerabilities of untenured faculty).

[FN17]. "Latinas/os" historically have been elided in the public discourses and national politics of the United States, as well as in legal analysis and theory. See generally 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). This kind of historical practice eventually becomes internalized culturally; in other words, it becomes institutionalized, as was recognized by the federal government in the decision to establish programs to end institutionalized racism through "affirmative actions" designed to disrupt the repetition of historical habits. See generally James E. Jones, Jr., The Origins of Affirmative Action, 21 U.C. Davis L. Rev. 383, 395 (1988) (explaining that "affirmative action" was directed at "patterns of past discrimination built into institutional systems so they are re-created without the necessity of malice" or actual intent). Similarly, historic patterns of Latina/o invisibility are now built into institutional systems, and may be re-created without the necessity of malice or intent.

[FN18]. Because of faculty mobility and annual changes to curricula at various schools, this project only can document the information reported by schools and faculty in response to the two questionnaires employed in this study, or that we obtained via school websites and catalogs for those schools that "neglected" or "declined" to respond to the questionnaires and our follow-up efforts. See *infra* notes 41-43 and accompanying text.

[FN19]. Because this study is based chiefly on the information reported by schools and faculty, the information provided (or omitted) by these sources necessarily establishes the parameters and limits of the findings presented here. It thus bears emphasis that this study is but a first step toward mapping and understanding the (non)inclusion of Latinas/os in the law school curriculum. This study therefore cannot and does not claim to provide definitive details or answers to the many issues broached here, or otherwise raised by the data. However, this study does create the most complete "picture" or snapshot of Latinas/os in the formal law curriculum that exists to date, and thus serves as a springboard to follow-up efforts. Ideally, this study will encourage LatCrit scholars and other interested parties to develop the findings and observations presented below to promote a greater inclusion than is reported here.

[FN20]. "We" refers to a small team of dedicated assistants, to which I am profoundly grateful, including: Cari Bergnes, Beatriz Garrido, Ardlisse Monasterios, Jessica Serna, and Belkys Torres. The spring 2000 questionnaire is included in the Appendix to this article. The law schools to which the questionnaire was sent were taken directly from the 1999-2000 Directory of the AALS. In total, 164 AALS-member law schools were included in the study.

[FN21]. The "primary" courses were the principal focus of the study, but in the process of gathering data, three types of "related" courses became important: related courses on (1) critical race theory, (2) race, racism and race relations, and (3) mainstream doctrinal categories, like civil rights and immigration, which generally are deemed important or especially germane to Latina/o populations in the United States. See *infra* notes 31-32 and accompanying text.

[FN22]. The project, as noted earlier, surveyed the AALS member schools identified in the 1999-2000 AALS Directory of American Law Teachers. See *supra* note 20.

[FN23]. See *infra* note 119, and accompanying text and tables.

[FN24]. The Syllabi Bank consists of hard copies of approximately 40 syllabi for various courses generously contributed by individual faculty for this purpose. Ideally, the Syllabi Bank will make it easier for interested faculty to introduce and teach these courses in their respective institutions. Copies of the Syllabi Bank are available upon request to latcrit@law.miami.edu. The Syllabi Tables presented below in the text of this article lists the syllabi, courses, and faculty who helped to create this Syllabi Bank.

[FN25]. Interested faculty may contribute additional syllabi to the Syllabi Bank, as a way of keeping it current or expanding its coverage, by sending syllabi to the author at the Miami School of Law.

[FN26]. 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). In my view, LatCrit theory is one strand in outsider jurisprudence, along with critical race theory, critical race feminism, Asian American scholarship, and Queer legal theory. See generally 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); see also Elizabeth M. Iglesias, Foreword--[LatCrit Theory: Some Preliminary Notes Towards a Transatlantic Dialogue](#), 9 *U. Miami Int'l & Comp. L. Rev.* 1 (2000-01) (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). Though voluminous and diverse, much of the early critical work on "race" in law and legal theory was conducted under the rubric of critical race theory. For the most recent collection of works on critical race theory, see *Crossroads, Directions and a New Critical Race Theory* (Francisco Valdes, Jerome McCristal Culp, Jr. & Angela P. Harris eds., 2002).

[FN27]. For instance, the 1995 colloquium at which the term "LatCrit" was coined, and at which the First Annual LatCrit Conference was initially conceived, was focused on the role of "Latinas/os" in critical race theory specifically. For the proceedings of that colloquium, see *Colloquium, Representing Latina/o Communities: Critical Race Theory and Practice*, 9 *La Raza L.J.* 1 (1996). A few months later, the LatCrit I program was focused on race and ethnicity in relationship to the possibility of Latina/o pan-ethnicity. For more information on the LatCrit I conference, including the full text of the symposium based on its program, visit www.latcrit.org. See also *infra* notes 28-31 and sources cited therein on "race" and "ethnicity" in LatCrit analysis of "Latina/o" concerns.

[FN28]. Compare Ian F. Haney Lopez, [Race, Ethnicity, Erasure: The Saliency of Race to LatCrit Theory](#), 85 *Cal. L. Rev.* 1143 (1997); 10 *La Raza L.J.* 58 (1998) (on race) and Perea, *The Black/White Binary Paradigm of Race*, *supra* note 17 (on ethnicity). For a discussion of this exchange and the consensus that, in my view, it produced, see Valdes, *Under Construction*, *supra* note 8, at 1108-22.

[FN29]. For some examples of LatCrit engagements on race, for instance, see Ian F. Haney Lopez, *Retaining Race: LatCrit Theory and Mexican American Identity in Hernandez v. Texas*, 2 *Harv. Latino L. Rev.* 279 (1997) (examining the racialization of Latinas/os through the text of a Supreme Court opinion); 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) (describing the author's racialization as a Latino growing up in California); Cheryl Little, [Inter-group Coalitions and Immigration Politics: The Haitian Experience in Florida](#), 53 *U. Miami L. Rev.* 717 (1999) (discussing the racial politics among Latina/o groups on immigration issues); Guadalupe Luna, *On the Complexities of Race: The Treaty of Guadalupe Hidalgo and Dred Scott v. Sandford*, 53 *U.*

[Miami L. Rev. 691 \(1999\)](#) (comparing and contrasting "race" and its operation in a Latina/o and African American identity context); George A. Martinez, *The Legal Construction of Race: Mexican-Americans and Whiteness*, 2 *Harv. Latino L. Rev.* 321 (1997) (reviewing court opinions that label, and construct, racial identities for Latinas/os); George A. Martinez, [African-Americans, Latinos and the Construction of Race: Toward an Epistemic Coalition](#), 19 *Chicano-Latino L. Rev.* 213 (1998) (examining racial politics between Latinas/os and African Americans to encourage coalitional group efforts); Rachel Moran, *Neither Black Nor White*, 2 *Harv. Latino L. Rev.* 61 (1997) (analyzing Latinas/os' anomalous position in U.S. racial categories).

[FN30]. These engagements have been programmatic, and designed to advance race critical studies in LatCrit venues and ways. For a discussion of programmatic efforts, see Iglesias & Valdes, *LatCrit at V*, supra note 5, at 1292-98.

[FN31]. See, e.g., Enid Trucios-Haynes, [Why "Race" Matters: LatCrit Theory and Latina/o Racial Identity](#), 12 *La Raza L.J.* 1 (2001) (outlining why "race matters" in social and legal analysis of the Latina/o condition, and specifically in LatCrit theory); see supra notes 26-29 and sources cited therein on race studies in LatCrit theory; compare infra notes 67-78 and accompanying text on the findings reported here.

[FN32]. This second questionnaire requested respondents to "specify as best as possible the approximate amount of class time actually devoted to issues focused substantially on Latinas/os and the law (for instance, the number of weeks or class sessions)" devoted to that purpose. See infra Appendix. Thus, the data presented here on "levels" of coverage focused on Latinas/os in "related" courses is framed in these terms, as well as in percentages. See, e.g., infra notes 66-68, 70-72, 74-75, and accompanying text on the levels of coverage in various types of "related" courses.

[FN33]. See supra notes 28-31 and sources cited therein on race (and ethnicity) in LatCrit theory.

[FN34]. See supra notes 14-17 and 86-87 and sources cited therein on the history and state of formal legal education in the United States.

[FN35]. Anecdotal information also was included occasionally in cover notes that accompanied the responses to the questionnaires. Throughout this article, I refer to anecdotal accounts from time to time to illustrate or amplify the information and observations based on the raw data collected via the two questionnaires and related follow-up efforts.

[FN36]. This project's limitations bear reminder from time to time. In particular, this project's findings are limited chiefly by the information actually and accurately provided--or omitted or erroneously reported--in the responses to the questionnaires that comprise this study. See supra note 19. For example, schools sometimes reported information inaccurately or incompletely, or neglected or declined to report information. See infra notes 41-43.

[FN37]. See infra note 105 and accompanying text on some follow-up programmatic events already under discussion, and contemplated for the next annual LatCrit conference in May 2004.

[FN38]. See supra note 6 and sources cited therein on recent and current demographic statistics.

[FN39]. See supra notes 20-33 and accompanying text describing the project's two phases.

[FN40]. For the combined "overall" findings, see *infra* Table 5 of the Appendix.

[FN41]. The 26 schools reporting "none" on all courses or questions were: Arkansas-Fayetteville, Arkansas-Little Rock, Baylor, Case Western, Catholic University of America, Drake, Louisville, Loyola-Chicago, Loyola-New Orleans, Maine, Michigan, Michigan State, Mississippi College of Law, Montana, Northeastern, Notre Dame, Ohio Northern, Oklahoma, Pepperdine, Quinnipiac, South Dakota, Southern Illinois, Texas, Virginia, Wyoming, and Yale. Of these 26 schools, 4 of them apparently do have some courses relevant to this study. These schools are Arkansas, Case Western, Northeastern, and Yale. Thus, after the follow-up research, 22 of these 26 appear truly to have "none." These remaining 22 schools are: Arkansas-Fayetteville, Baylor, Catholic University of America, Drake, Louisville, Loyola-Chicago, Loyola-New Orleans, Maine, Michigan, Michigan State, Mississippi College of Law, Montana, Notre Dame, Ohio Northern, Oklahoma, Pepperdine, Quinnipiac, South Dakota, Southern Illinois, Texas, Virginia, and Wyoming. This kind of discrepancy based on (non)reported information illustrates one limitation in this study. See *supra* note 19.

[FN42]. The 6 schools declining to respond to the questionnaires were: (1) Brooklyn, where the Dean's secretary affirmatively notified us that "no one could help" with the survey after our third call; (2) Harvard, where the Dean's secretary advised us that the school would "not respond" to the survey, without providing any reason, and again on the third call; (3) Mercer, where the Dean's secretary advised us that the Dean had received the survey and "that it was at his discretion to answer"; we never received a response; (4) Toledo, where the Dean's secretary advised us that the school "did not have time" to respond to the questionnaire; (5) Wake Forest, where the Dean's secretary "explained that the Dean had received the survey several times but had chosen not to respond"; and (6) William & Mary, where "no one was able to help" provide a response after repeated calls and messages. LatCrit Curriculum Project Files (copy on file with author). Any information presented below respecting these schools therefore derives from the schools' official websites and related research.

[FN43]. This "neglect" was quite persistent, in light of the numerous follow-up contacts via fax and phone. The 15 schools in this category are: Arizona, Baltimore, Duquesne, Georgia State, Gonzaga, Kentucky, New Mexico, Richmond, San Francisco, Suffolk, Temple, Utah, Washburn, University of Washington, and Whittier. In each instance, we followed up on the two questionnaires numerous times and each time were asked to "call back"--but we never received either a completed form nor any other communication refusing or declining to do so. LatCrit Curriculum Project Files (copy on file with author). Any information presented below respecting these 15 schools therefore derives from the schools' official websites and related research.

[FN44]. This estimate is based on the number of AALS member schools in the 1999-2000 Directory. See *supra* note 20.

[FN45]. For an overview of the combined findings, see *infra* Part II, Summary Table of Combined Findings.

[FN46]. For the results on the "primary" courses, see *infra* Table 1 of the Appendix.

[FN47]. For the results on the "related" courses, see *infra* Tables 2-4 of the Appendix.

[FN48]. It bears note that legal studies devoted to "race" or "ethnicity" or even "Latinas/os" are not always "critical" in perspective or approach.

[FN49]. For the results on the critical race theory courses, see *infra* Table 2 of the

Appendix.

[\[FN50\]](#). For the results on the race, racism and race relations courses, see *infra* Table 3 of the Appendix.

[\[FN51\]](#). For the results on the mainstream "related" courses, see *infra* Table 4 of the Appendix.

[\[FN52\]](#). The 12 clinical courses and respective schools are: Criminal Justice Clinic (Howard), Legal Aid Clinic (Idaho), East San Jose Community Law Center Clinical Service (Santa Clara), Civil Clinic (North Carolina), Indian Country Environmental Justice Clinic (Vermont), Clinic for Asylum, Refugee and Immigrant Services, Farmworker Legal Aid Clinic, Federal Tax Clinic, Civil Justice Clinic (Villanova), Civil Rights & Community Justice Clinic (Washington), Immigration Law Clinic (West Virginia), and Immigration Clinic (William Mitchell). See *infra* Table 5 of the Appendix. Of these, the Farmworker Legal Aid Clinic at Villanova is deemed a "primary" course because it was reported to be devoted "100%" to Latina/o clients. See *infra* note 56.

[\[FN53\]](#). The 7 "Latinas/os and the Law" primary courses and respective schools are: Latinas/as and the Law (UC Davis), Latinas and the Law (UCLA), Latinas/os and the Law (California Western), Latinas/os and the Law (Illinois), Latinas/os and the Law (Loyola-Los Angeles), Latinas and Native Americans: LatCrit Theory (Northern Illinois), and LatCrit: Beyond the Black/White Paradigm (Seton Hall). See *infra* Table 1 of the Appendix.

[\[FN54\]](#). The 10 "Comparative Law" primary courses and respective schools are: Comparative Law: Latin American in the U.S. (Alabama), Temas Especiales en Derecho Internacional (American), Inter-American Human Rights Law (American), Comparative Law: Latin American Law (Connecticut), Law and Politics in Latin America (Northeastern), Seminar on Constitutional Relation between the U.S. and Puerto Rico (Puerto Rico), Latin American Legal Development (Richmond), Latin American Law and Institutions (Southwestern), Latin American Business Law (Stetson), and Immigration Law: Problems in Mexican Migration To The U.S. (Wisconsin). See *infra* Table 1 of the Appendix. As one anecdotal account illustrates, primary courses on Latin America or on comparative law can be linked to Latina/o-focused studies: "many of the themes [in these types of courses] are relevant to the Latina/o experience in this country--questions of race, sexuality, sexual orientation are common to discussions of culture both in Latin America and Latina/o communities" in the United States. "In fact," continues one faculty respondent teaching in this area, "my aim is to analyze critically many aspects of Latino/a-ness in the hope of interrogating assumptions about both Latin American and these communities in the U.S." LatCrit Curriculum Project Files (copy on file with author).

[\[FN55\]](#). The 2 "Legal Spanish" primary courses and respective schools are: Legal Spanish (Florida State) and Spanish for American Lawyers (North Carolina). See *infra* Table 1 of the Appendix.

[\[FN56\]](#). This clinical course is the Farmworker Legal Aid Clinic (Villanova). See *infra* Table 1 of the Appendix. This clinic is included as a primary course because Villanova reported that: "100% of the clinic's clients are Latinas/os." LatCrit Curriculum Project Files (copy on file with author).

[\[FN57\]](#). See *infra* Table 1 of the Appendix.

[\[FN58\]](#). The schools in California are: UC Davis, UCLA, California Western, and Loyola-Los Angeles; in New Jersey, the school is Seton Hall. The two Illinois schools are Illinois and Northern Illinois. See *infra* Table 1 of the Appendix.

[\[FN59\]](#). For example, the anecdotal accounts indicate that individual faculty members have taken the initiative, especially in recent years, requesting to teach these courses--sometimes in response to "student demand" or interest. These accounts include those that have produced the "new" courses on Latinas/os and the Law introduced in the past year or two. See *infra* note 61.

[\[FN60\]](#). On the other hand, anecdotal information reveals that some of these courses are precarious. In one instance, the course was introduced as an "overload" course for a faculty member scheduled to go on sabbatical the following year. Similar factors bring into question the staying power of these (and other) courses identified in this project. See *infra* note 64 for some examples of these factors and similar variables.

[\[FN61\]](#). The 4 "new" "Latinas/os & Law" courses are: Latinos/as and the Law (UC Davis), Latinos and the Law (UCLA), Latinas/os and the Law (California Western), and LatCrit: Beyond the Black/White Paradigm (Seton Hall). See *infra* Table 1 of the Appendix.

[\[FN62\]](#). See *supra* note 6 and sources cited therein on Latinas/os' growing presence in the United States.

[\[FN63\]](#). The 3 new courses scheduled to be offered "every other year" are: Latinos and the Law (UCLA), Latinas/os and the Law (California Western), and LatCrit: Beyond the Black/White Paradigm (Seton Hall). The scheduling cycle remains uncertain for Latinos/as and the Law (UC Davis). See *infra* Table 1 of the Appendix.

[\[FN64\]](#). Course offerings "every other year" or less effectively mean that upper-level students eligible for enrollment in these courses will have at most one opportunity during their second or third year of law school to enroll in such a course, but the vagaries of academic and student schedules oftentimes produce conflicts that prevent students from enrolling in courses. These factors can include, in addition, faculty sabbaticals and visits to other schools, which interrupt these limited course offerings and make access to them even more elusive. Thus, the scarcity of these course offerings, coupled with the typical demands or limitations on student and faculty schedules, can inhibit access to these educational opportunities as a practical matter, and despite the formal inclusion of the course in the curriculum. See, e.g., *supra* note 60 and *infra* note 85 for some examples of these and similar exigencies.

[\[FN65\]](#). See *infra* Table 2 of the Appendix.

[\[FN66\]](#). The course reporting the highest level of coverage in this category was Critical Race Theory (North Carolina). See *infra* Table 2 of the Appendix. Interestingly, however, as one faculty respondent noted in an anecdotal account relating to critical race courses, sometimes Latina/o-identified topics can enliven race discussions: in that instance, "language rights was the hottest (most controversial) topic" of the semester. LatCrit Curriculum Project Files (copy on file with author).

[\[FN67\]](#). Of necessity, this estimate is based on those courses within this category that elected to provide specific information on Latina/o-focused coverage.

[\[FN68\]](#). See *supra* notes 66-67 and accompanying text on these responses; see also *infra* Table 2 of the Appendix.

[\[FN69\]](#). See *infra* Table 3 of the Appendix.

[\[FN70\]](#). The course reporting the highest level of coverage in this category was Race and Law (Vermont Law School). See *infra* Table 3 of the Appendix. The general status quo is

aply captured in one faculty respondent's anecdotal account: "Each time I teach the [Law and Race] seminar, I lament the fact that I don't do more regarding Latinos and Latinas." LatCrit Curriculum Project Files (copy on file with author).

[FN71]. Again, this estimate of course is based on those courses within this category that provided specific information on Latina/o-focused coverage.

[FN72]. See supra notes 70-71 and accompanying text on these responses; see also infra Table 3 of the Appendix.

[FN73]. See infra Table 4 of the Appendix.

[FN74]. The two courses reporting the same highest levels of coverage in this category are Legal Control of Discrimination (Nebraska) and Jurisprudence: Critical Lawyering (St.Mary's). See infra Table 4 of the Appendix. In their anecdotal accounts, faculty members suggested that the areas in mainstream courses most likely to elicit Latina/o-focused discussion included profiling, preemptory challenges, English-only regulations, and similar topics. LatCrit Curriculum Project File (copy on file with author).

[FN75]. As noted above, supra note 67, this estimate necessarily is based on those courses within this category that actually provided specific information on Latina/o-focused coverage. See supra notes 73-74 and accompanying text on these responses; see also infra Table 4 of the Appendix.

[FN76]. The student figures are derived from the American Bar Association's website, www.abanet.org (last visited on September 16, 2002).

[FN77]. These figures are based on the "low" and "high" enrollment figures reported by schools and faculty. See infra Table 5 of the Appendix.

[FN78]. These figures and calculations produce a generous estimate, as they include all students in courses over the two-year period spanning this project (1999-2000 and 2000-2001), and a student who enrolled in more than one course during that time additionally may "count" as more than one for these calculation.

[FN79]. See supra notes 53-64 and accompanying text on the "Latinas/os and the Law" courses.

[FN80]. This observation is based on the author's personal knowledge of the faculty in question.

[FN81]. Robert S. Chang, Racial Cross-Dressing, 2 Harv. Latino L. Rev. 423 (1997) (observing how the author, "Asian American" also "could be" Latino).

[FN82]. This observation is also based on the author's personal knowledge of the faculty in question, but the assessment is complicated by some schools' reports that the faculty teaching these courses "vary" over time.

[FN83]. As noted above, these assessments are based on the author's personal knowledge of the faculty identified in the study as teaching these courses, but these assessments are complicated by reports that teaching faculty can "vary" over time for some courses. See supra note 64, 82.

[FN84]. See supra note 15-17 and sources cited therein on diversity in legal education; see also infra notes 86-87 and source cited therein on the relationship between diversity and reform in legal education. See generally www.abanet.org for more detailed statistics

on both faculty and student diversity spanning from 1963 to 2001.

[FN85]. When individual faculty members take the initiative in introducing these courses, they oftentimes do so in conjunction with student interest, see *supra* note 59, and also in the face of general institutional indifference. For example, one anecdotal account reports that, "Since I am the only one on my faculty willing or able to teach [a Race and Law] course, it is unlikely it will be available every year. In fact, I'm pretty sure it will not be offered next year. I am also picking up some other courses next year or the year after, which will make it even more unlikely that I can teach Race and the Law every year." LatCrit Curriculum Project Files (copy on file with author); see also *supra* notes 60 and 64 for other reports on the introduction of these courses. This "take it or leave it" institutional attitude reflects a general indifference to the accessibility and sustainability of these courses, which also is typified in the student queries providing the original impetus for this project. See *supra* notes 14-15 and accompanying text on the project's origins.

[FN86]. See 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* 32 (Francisco Valdes, Jerome McCristal Culp, Jr. & Angela P. Harris eds., 2002) (making a connection between the emergence of critical race theory in the late 1980s to the ongoing diversification of the legal professorate, and to student activism that help to prod that diversification).

[FN87]. See generally Andrea Guerrero, *Silence at Boalt Hall: The Dismantling of Affirmative Action* (2002) (documenting the process of resegregation at one prominent institution). For more on the culture wars and critical legal theory, 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 *Denv. 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). 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 Chris Black, *Buchanan Beckons Conservatives to Come "Home," Boston Globe*, Aug. 18, 1992, at A12; Paul Galloway, *Divided We Stand: Today's "Cultural War" Goes Deeper than Political Slogans*, *Chi. Trib.*, Oct. 28, 1992, at C1; see also 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).

[FN88]. For a more detailed description of these categories, see *supra* note 7.

[FN89]. The Appendix also contains the two principal questionnaire forms used in the project. See *supra* notes 14-15 and accompanying text describing the project's origins and history.

[FN90]. As explained earlier, the data is presented with only minimal interpretation to invite collective analysis and follow-up action. See *supra* note 12.

[FN91]. See *supra* note 16 and sources cited therein on exclusionary identity politics in

the legal professions.

[FN92]. See supra notes 80-84 and accompanying text on faculty for these two categories of courses.

[FN93]. These culture wars--and the sociolegal ambience of hostility toward race and ethnicity that they have excited--may help to explain the refusal (or "neglect") of various schools to respond to this project's questionnaires and follow-up contacts, designed simply to document the study of race and ethnicity in their respective formal curricula. See supra note 42 and 43; see also supra note 87 and sources cited therein on the culture wars and critical legal theory.

[FN94]. For example, one anecdotal account reports that students "were afraid to take [a course on Latinas/os and the Law] because of how it might affect their resumes (stigma)" while another account reported that "there have been a few students who were critical of race-talk" in a related course. The first of these examples echoes similar concerns concerning courses on sexuality or sexual orientation and the law. See generally 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'l. J. Sexual Orientation L. 149 (1995). Moreover, both of these examples illustrate the complex dynamics of "silencing" that suppress critical race and LatCritical studies in the legal academy--dynamics that are part of the culture wars. See Montoya, Bender and Roberts, respectively, supra note 16 and their articles on silence and "silencing" in contemporary legal education.

[FN95]. See supra note 9 and sources cited therein on multidimensional analysis and related topics.

[FN96]. See Iglesias & Valdes, LatCrit at V, supra note 5, at 1314-15 and 1324-27 on diversity and transnationality, respectively, in LatCrit analysis and praxis.

[FN97]. See generally supra note 4 and sources cited therein on colonialism and its legacies.

[FN98]. Coalitional discourse and praxis is central to LatCritical analysis. See, e.g., Iglesias & Valdes, Coalitional Theory, supra note 3, at 562-57 (discussing theory and solidarity in both intra- and intergroup contexts); see also Kevin R. Johnson, Some Thoughts on the Future of Latina/o 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 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 intragroup justice and solidarity); Eric K. Yamamoto, Conflict and Complicity: Justice Among Communities of Color, 2 Harv. Latino L. Rev. 495 (1997) (analyzing intergroup grievances and relations among groups of color). By "critical coalitions" I mean alliances based on a thoughtful and reciprocal interest in the goal(s) or purpose(s) of the coalition. A "critical" coalition--unlike strategic forms collaboration--is the sort of collaborative project that results from a careful and caring commitment to the substantive reason(s) for it, and that produces on all sides a reformatory agenda and cooperative dynamic that reflects this mutual commitment. See Francisco Valdes, [Outsider Scholars, Legal Theory and OutCrit Perspective: Postsubordination Vision as Jurisprudential Method](#), 49 DePaul L. Rev. 831, 835-38 (2000) (elaborating critical coalitions). For further discussion of this concept, see Julie A. Su & Eric K. Yamamoto, Critical Coalitions: Theory and Praxis, in Crossroads, Directions

and a New Critical Race Theory 379 (Francisco Valdes, Jerome McCristal Culp & Angela P. Harris eds., 2002).

[FN99]. And as with the theory and other forms of praxis based on the theory, LatCritical pedagogy is best aimed at combating interlocking forms of subordination, including those that are embraced in "Latina/o" cultures or contexts. One anecdotal account describes the experience with gender and sexuality/sexual orientation in a Latinas/os and the Law course that met twice per week, in which 12 of 14 students were Latinas/os and 5 were men:

I spent one week on gender/sexuality ... The gender discussion on day one was terrific--the students were engaged and talkative and drawing both on the texts and their own experiences [but] the day on sexual orientation ... was disappointing--only one man showed up and the students were not really able to engage the question of homophobia in the Latino community, which [the faculty member] had attempted to center. LatCrit Curriculum Project Files (copy on file with author).

[FN100]. For further description of these course categories, see supra note 7.

[FN101]. This task includes, in part, keeping abreast of the LatCrit symposia. See generally supra note 3 and sources cited therein.

[FN102]. As explained earlier, the Syllabi Bank consists of hard copies of syllabi submitted by individual faculty as part of this project. The Syllabi Bank therefore is available only in hard copy, and may be obtained by contacting the author at Miami.

[FN103]. The first book, for example, provides a comprehensive and richly detailed history of racial construction in inter-group settings using inter-disciplinary materials, including court opinions, but is not focused on Latina/o communities or issues. The second is a reader of secondary texts on the topics of race, civil rights and law covering, again, multiple racialized/ethnicized groups, but does not include court opinions. The third is focused specifically on Latinas/os and includes many selections that speak to legal issues, but also does not include court opinions.

[FN104]. As a practical matter, one place to begin is with the texts of the twelve LatCrit symposia that LatCrit theorists have produced during the past seven years, since the emergence of LatCrit theory in 1995. See supra note 3 and LatCrit symposia cited therein. These texts provide the basis of a reader focused specifically on the intersection of "Latinas/os and the law"--a reader that would need to be supplemented with key or relevant court opinions, and with those discussed in the readings.

[FN105]. With this kind of follow-up action in mind, the organizing committee for the next annual LatCrit conference--LatCrit VIII at Cleveland- Marshall School of Law--already has begun to plan for a program event to carry forward the possibilities of LatCritical curricular reforms. For more information on the LatCrit VIII program, please visit the LatCrit website at www.latcrit.org.

[FN106]. These faculty members are: Devon Carbado, the CRSC director, Kimberle Crenshaw, Carole Goldberg, Laura E. Gomez, Cheryl I. Harris, Jerry Kang, and Khaled Abou El Fadl. Brochure, UCLA School of Law, Critical Race Studies Concentration (copy on file with author).

[FN107]. Id.

[FN108]. Id.

[FN109]. Id.

[\[FN110\]](#). The "doctrine" courses from which CRSC students must select one are: Federal Courts, Employment Discrimination, Race-conscious Remedies, Immigration Law, Urban Housing, Criminal Procedure, Education Law, or Election Law. Id.

[\[FN111\]](#). The "practice" courses from which CRSC students must select one are: Community Law Practice, Public Policy Advocacy, Street Law, Law & Social Change, Law & the Poor, Quantitative Methods in the Law, or Civil Rights: Public Interests Litigation. Id.

[\[FN112\]](#). Seminars include: Race & Gender, Race & Criminal Law, Legal Philosophy-- Feminist Contributions, Selected Topics on the U.S. Civil Rights Commission, Tribal Law, and Islamic Law & Human Rights. Id.

[\[FN113\]](#). Id.

[\[FN114\]](#). See supra notes 109-112 and accompanying text on the "comparative subordination" courses.

[\[FN115\]](#). One pending apparent question about congruence is the CRSC's substantive purview, which appears to be chiefly "domestic" (rather than transnational) in nature. LatCrit theorists long have embraced the notion that legal studies of race, ethnicity, and similar constructs cannot be guided by the prevailing domestic/foreign dichotomy and must, instead, be designed to dismantle such false dichotomies. See, e.g., Colloquium, [International Law, Human Rights, and LatCrit Theory, 28 U. Miami Inter-Am. L. Rev. 177 \(1997\)](#). For an excellent example of ongoing efforts in this area, see Tanya Kateri Hernandez, [Multiracial Matrix: The Role of Race Ideology in the Enforcement of Antidiscrimination Laws, A United States-Latin American Comparison, 87 Cornell L. Rev. 1093 \(2002\)](#). One obvious idea is that the CRSC curriculum could add "comparative" courses that are transnational in scope to the established program of study.

[\[FN116\]](#). See Brochure, UCLA School of Law, Critical Race Studies Concentration (copy on file with author).

[\[FN117\]](#). The question is raised both in this study and in the CRSC curriculum by the co-existence of "critical" and non-critical courses, a status quo that beckons queries over pedagogy, stance, and the like.

[\[FN118\]](#). See supra note 9 and accompanying text.

[\[FN119\]](#). As explained earlier, the hard copy Syllabi Bank may be obtained as a set upon request from the author.