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**SUMMARY:** ... This cluster explores the themes of LatCrit through the lens of class broadly conceived. ... LatCrit, critical race, and feminist scholars, including those who write in this cluster of essays, are moving towards a recognition of how cultural subordination is tied into political economy, and vice versa. ... In an essay that moves from personal narrative to social science and theory, Eden Torres explores the ways in which personal identity is constituted by class position. ... Further developing the insight that class interpenetrates culture, Ellen-J. Pader's essay on housing regulation identifies class-based practices as one system of cultural domination. ... Whether the restriction forces people out of a community, or forces them to change the ways a family lives together and sleeps, the goal is cultural domination. ... Because class is somewhat more mutable than other cultural identities, some members of the working class do ascend into the academy, but more importantly, they change their class status and cultural identity along the way. ... In light of Pouncy's essay, I conclude with the thought that perhaps critical legal theory will require differently angled tools and differently sharpened blades to engage the problem of class with the depth that LatCrit and critical race theory have engaged other intersecting forms of cultural oppression. ...

[\*831]

This cluster explores the themes of LatCrit n1 through the lens of class broadly conceived. Class as these authors invoke the concept, connotes both material inequality and deprivation of individuals, and societal systems of economic domination. With one exception, the essays examine the ways class constitutes the social world, ranging from the personal to the global. Eden Torres explores the role of class in personal and racial/ethnic identity, and considers how that identity is translated in encounters with the legal system. n2

Ellen-J. Pader delineates the class-ridden architecture of housing regulation. n3 Manuel J. Caro uses the case of North African immigration to Spain to suggest that economic domination is at the root of political subordination, including anti-immigrant racism. n4 Claire Moore Dickerson hones in on the role of Northern economic power in establishing the culture of international trading. n5 The common theme among these four essays is the reciprocal relationship between law and social context, including cultural constructions of identities, normalities, and moralities, as well as culture-laden expressions of class position.

A final essay by Charles R.P. Pouncy begins from the premise that ideologies of cultural subordination are rooted in the economic structures used to maintain particular distributions of assets, resources, [\*832] and opportunities, i.e., class. n6 He urges critical legal scholars to identify and theorize the processes by which these distributions are maintained, and proposes that heterodox economic analysis is the crucial methodological tool for the task.

### I. Linking Economic and Cultural Injustice

There is a history of tension between critical race theory and feminism on the one hand, and class-based analyses on the other. Claims that societal oppressions are grounded principally in class rather than in cultural identity have sometimes been understood to diminish the distinctive force of racism, nativism, sexism, and heterosexism. n7 The tension has led, in turn, to a tendency among identity groups not to theorize specifically about class. As Eden Torres puts it, "while it is impossible to talk about race without rubbing up against many of the complexities of class, we often have more trouble identifying and articulating the social processes of class oppression." n8

Economic injustices are rooted in political structure and practice, such as labor exploitation, labor market segmentation, and devaluation of domestic and reproductive labor, as well as in historically disparate access to governmentally-supported economic resources, such as mortgage and educational credit, tax deductions, veterans' benefits, or marital property rights. Cultural injustices grow out of societal representation, interpretation, and communication, and take the form of invisibility, disrespect, stereotyping, forced assimilation, cultural domination,

objectification, and violence. n9 The remedy for economic [\*833] injustice is restructuring of the political economy, whereas cultural injustice requires symbolic or representational affirmation and inclusion. n10

Does a focus on economic injustice come at the expense of work against cultural injustice? This is the either-or form in which the class versus identity issue has emerged in recent debates over affirmative action. Some who support continuation of the policy have argued that class disadvantage should supplant race as the remedial focus. n11

LatCrit, critical race, and feminist scholars, including those who write in this cluster of essays, are moving towards a recognition of how cultural subordination is tied into political economy, and vice versa. For example, Nancy Fraser urges scholars to conceive of cultural recognition and socioeconomic equality in ways that support, rather than undermine, one another. n12 Thus, redress of economic injustice need not subvert, and indeed may advance, our work against cultural injustice.

Manuel Caro traces the intersection of economic and cultural injustices. n13 Caro tells a story of the ways in which economic exploitation leads to cultural subordination. n14 From 1950 to 1980, Spain was a source of emigration rather than immigration. n15 In the European countries to which Spanish laborers went, they were discriminated against as exhibiting the stereotypical traits of "Mediterranean" populations, "'sloth, corruption, violence, and cultural backwardness.'" n16 In recent decades, Spain has enjoyed significant economic growth and has become a destination for a growing population of immigrant laborers, especially from North Africa. n17 These laborers do the back-breaking and poorly-paid work that the Spanish will not do, particularly in the agricultural sector. n18 Ironically, the Spanish today view these immigrant laborers through the same bigoted lenses that [\*834] other Europeans once viewed Spanish economic immigrants. n19

Caro describes the ways this social contempt is expressed, including aggressive policing, a generalized anti-immigrant hostility, inadequate and segregated housing, and culminating in an incident of mob violence directed at the laborers' camps. n20 Caro links Spain's current racism to its unification into Europe. n21 Where as once the European nations all hated each other ("the old ethnocentric racism"), citizens of the unified Europe now "differentiate themselves from non-European nationals," and, in particular, members of the Islamic cultures of Africa and Asia. n22 The pattern is a familiar one that closely tracks Anglo exploitation of Mexican and Chicana/o agricultural

labor in the United States, and the relationship of that economic domination to Anglo views of their own political and cultural superiority. n23

Focusing on distinct topics, Eden Torres, Ellen-J Pader, and Claire Moore Dickerson each argue that class and culture are reciprocally defined - such that class is culture. In an essay that moves from personal narrative to social science and theory, Eden Torres explores the ways in which personal identity is constituted by class position. n24 Coming from a poor or working-class family, Torres writes that this class position can create enduring feelings of shame, guilt, and internalized oppression. n25 "We carry these positions like scars." n26 Unlike race or ethnicity, Torres observes, it is sometimes possible to erase one's class identity and become class mobile. n27 This is her experience, coming from a working-class Chicana/o family and ascending to the relative class privilege of the academy. n28 This freedom, however, presents its own perils: "Assimilation of this type can be a kind of cultural genocide that separates us from seeing the political landscape through the eyes of the most intimate connections we may have had in our lives - our parents and our childhood family and friends." n29

[\*835] Despite the enduring and internalized shame of class position, Torres observes, neither a theory nor a politics of class resistance has emerged in this country. n30 Indeed, Torres writes, "mainstream culture encourages ... [everyone] to see the world from a middle-class perspective and to ignore class as a socioeconomic construct." n31 Quoting George Lipsitz, she describes an "'ideological middle-class ... [as] not so much a description of actual social roles or status as ... an affirmation of allegiance to competition, individual ambition, and the pursuit of material gain as the center of the social world.'" n32

This lack of "bite" to our class analyses carries over into the academy, but takes a different form. Torres observes that studying race, class, and gender "has become a peculiar kind of pleasure ... [,] one in which [theorists] get to identify with the oppressed rather than the oppressor ... . [This creates] a theoretical world in which everyone is oppressed in some way, and therefore, no one is." n33 More concerned with maintaining the theorist's political innocence than with effecting change, this shift in perspective does not lead to a foundational critique of capitalism. "We must not continue to simply conflate race, class, and gender," Torres concludes, "but also [work] to create a new economic system." n34

Further developing the insight that class interpenetrates culture, Ellen-J. Pader's essay on housing regulation identifies class-based practices as one system of cultural domination. n35 Through reference to the

historical development of current housing codes, Pader shows that the occupancy restrictions (number of people per house or per bedroom) are explicitly derived from upper-class English and Euro-American norms. n36 These restrictions go far beyond what is objectively necessary to protect health and safety, according to Pader. n37 Their underlying goals of the excess of protection are either to assimilate or to exclude immigrant and non-dominant ethnic populations. n38 Where the goal is assimilation, requiring everyone to have something like "a room of one's own" instills individualism through the desire for privacy and separation from others, as well as an investment in the propertied orientation of capitalism. By the same [\*836] measure, a spatial arrangement of separation pulls people away from the group interdependency that grounds a more communal or socialist orientation. n39 "This ratio of people to bedrooms combines a particular morality with the particular sociopolitical stance." n40 Where the goal is to exclude, Pader continues, restrictive codes may make it impossible for a family to find a home in a preferred location because of increased cost. n41 Pader cites to the many instances in recent years where restrictive occupancy limits have been enacted, and legally challenged, as a form of national origin discrimination, particularly against Latina/os. n42 Whether the restriction forces people out of a community, or forces them to change the ways a family lives together and sleeps, the goal is cultural domination. n43

Claire Moore Dickerson uses the conflation of class and culture to explore two current trading controversies between the economically powerful countries of the North and the poorer countries of the South over international commercial norms - prohibitions on bribery and patent protections in sales of AIDS drugs. n44 Embodying the individualist and wealth-maximizing definitions of success that prevail in their home countries, Dickerson observes that multinational corporations based in the North have sought to override different cultural values about doing business, n45 such as emphasis on group identity, which may include payment of bribes. Further, Northern corporations choose to ignore trans-border effects of their commercial activity. n46 Trans-border effects include the impact of maintaining intellectual property protections for the drugs to fight a disease that knows no borders. n47

Both Dickerson and Pader reveal how dominant groups translate their class-based interests into broadly applicable cultural norms that are then taken up in regulations. n48 When law draws on these [\*837] taken-for-granted understandings of social life, law implicitly incorporates and reinforces existing relations

of power and inequality. Clothed in objective reasonableness or normalcy, the regulations that result appear to derive from the nature of the world and not from political struggles for power and domination within it. Thus, law silently reproduces class.

## II. Theorizing Class Within LatCrit

Eden Torres argues that creating knowledge of class means more than just expressing concern for exploitation and economic difference; it demands "a commitment to a ... theoretical position." n49 "While it may not be as pleasurable as anti-racist work it seems obvious that we need to spend just as much energy creating theoretical frameworks around class as we do around race." n50 How will LatCrit integrate the insights of the scholars writing in this cluster?

A natural beginning might be the narrative, which has become an important tool for critical legal traditions, including LatCrit. n51 This reflects "acceptance of the wisdom that counter-stories are needed to counteract the conventional wisdom in our society." n52 There are some risks inherent in the narrative method, particularly where experiential analysis is used to develop knowledge about class. As Eden Torres observes, class may be a painful question for academics who come from poor and working-class families. n53 Class may also be hard to critically examine, in different ways, for the children of inter-generational privilege. Both groups are integral parts of the LatCrit community. Dialogue from class experience thus has the potential to divide those who have other solidaristic ties, especially around race, ethnicity, language, and culture.

Because class is somewhat more mutable than other cultural identities, some members of the working class do ascend into the academy, but more importantly, they change their class status and cultural identity along the way. These class migrants have a complex [\*838] identity, one that Eden Torres insightfully describes as "a shifting positionality, [that is] based largely on appearance, [and] does not mean [an] escape [from] the cultural significance of growing up working class or poor." n54 For their part, academics from relatively privileged backgrounds may have difficulty acknowledging how they have benefited from a system of oppression. Thus, no matter what our origins, a dialogue about class among academics is a dialogue among relatively class-privileged members of society. It is possible, but not easy, to challenge fundamentally an economic order within which we have a vested interest.

Further, because experiential analysis and narrative writing is itself a classed practice, relying on this

critical method may tend to obscure further the experiences of the poor and working class. Poor and working-class people do not dialogue with the predominantly upper-class members of the academy in scholarly journals, and rarely speak at scholarly conferences.

For all these reasons, opening narrative space for investigations of class will require LatCrit to keep its eyes focused on "the ethical substance, political objectives and emotional dimensions of [its] practice of liberation politics," n55 and in particular two of its broad principles, "rotating centers" n56 and "cultivating community and coalition." n57 Elizabeth Iglesias nicely captures the ways the two principles fuse when she notes,

the practice of "rotating centers" ... requires a mutual commitment to remain engaged over time. Only members of a community committed to fostering an inclusive and collaborative anti-subordination project for the long haul can afford to decenter their own compelling problems to focus, instead, on the problems confronting people other than themselves. n58

A cornerstone premise of LatCrit theory is that the various forms of subordination are deeply intertwined, creating what Frank Valdes calls "webs of power". n59 LatCrit theorists consistently call for coalition building, reaching beyond political coalitions to embrace "epistemic coalitions" to learn the complex truth and the interconnections [\*839] amongst the various socially marginalized groups in society. n60 These are not just communities of knowledge, but moral and political communities. LatCrit must make this commitment specifically about the potentially divisive issue of class. As Mari Matsuda writes, "the instrumental use of coalition-building to achieve certain political goals is merely the beginning of the worth of this method. The deeper worth of coalition is the way in which it constructs us as ethical beings and knowers of our world." n61

Narrative and experiential analysis is, of course, just one of the interdisciplinary methods of critical theory. The essay by Charles Pouncy that concludes this cluster contends that "our ability, as critical legal scholars, to formulate appropriate praxis methodologies is limited ... by the historic conflict between the competing jurisprudential schools of critical legal studies and law and economics." n62 "If LatCrit and critical race theory are to create lasting change reaching to the heart and roots of the subordination project," he argues, "they must overcome their resistance to economic analyses as a mode of interdisciplinarity." n63

Pouncy lays out the critique of the neoclassical economic theory that underpins law and economics work, which he terms "the economic adjunct of political conservatism," and concludes that it is not a critical tool. n64 Pouncy posits, however, that institutional political economy, a "heterodox" economic theory based on "an evolutionary analysis of the institutions mediating production, distribution and exchange in society," is such "a critical system of economic thought." n65 Institutional political economy focuses on "long-term change, historical contextuality and socio-cultural factors." n66 For institutionalists, the economy is not a natural system shaped by invisible hands, but a political and social structure "shaped by human action through the exercise of power." n67 The goal of institutional economics is not efficiency (which Pouncy terms "a static preservative concept"), but the creation of opportunity through the process of "social provisioning." n68

In light of Pouncy's essay, I conclude with the thought that perhaps critical legal theory will require differently angled tools and differently [\*840] sharpened blades to engage the problem of class with the depth that LatCrit and critical race theory have engaged other intersecting forms of cultural oppression. As Pouncy optimistically concludes, and I agree, "any job can be accomplished if we have the right tools." n69

#### FOOTNOTE-1:

n1. The broad objectives of the LatCrit project are to further (1) "The Production of Knowledge"; (2) "The Advancement of Transformation"; (3) "The Expansion and Connection of Struggle(s)"; and (4) "The Cultivation of Community and Coalition." 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 \(1998\)](#).

n2. See generally Eden E. Torres, Power, Politics, and Pleasure: Class Differences and the Law, [54 Rutgers L. Rev. 853 \(2002\)](#).

n3. See generally Ellen-J. Pader, Space of Hate: Ethnicity, Architecture and Housing Discrimination, [54 Rutgers L. Rev. 881 \(2002\)](#).

n4. See generally Manuel Caro, Tying Racism in El Ejido to Spanish and European Politics, [54 Rutgers L. Rev. 893 \(2002\)](#).

n5. See generally Claire Moore Dickerson, Culture and Transborder Effects: Northern Individualism Meets Third-Generation Human Rights, [54 Rutgers L. Rev. 865 \(2002\)](#).

n6. See generally Charles R.P. Pouncy, Institutional Economics and Critical Race/LatCrit Theory: The Need for a Critical "Raced" Economics, [54 Rutgers L. Rev. 841 \(2002\)](#).

n7. The Critical Legal Studies (CLS) movement, for example, challenged civil rights as part of its thoroughgoing challenge to the idea that law is a tool for social progress. See, e.g., Alan D. Freeman, Antidiscrimination Law: A Critical Review, in *The Politics of Law: A Progressive Critique* 96 (David Kairys ed., 1982) [hereinafter *The Politics of Law*]; Robert W. Gordon, New Developments in Legal Theory, in *The Politics of Law*, supra at 281. Critical race theorists responded that CLS had failed to articulate a satisfactory theory of either the origins of, or remedies for, racism. Richard Delgado, *The Ethereal Scholar: Does Critical Legal Studies Have What Minorities Want?*, 22 Harv. C.R.-C.L. L. Rev. 301, 322 (1987). See also Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 Harv. C.R.-C.L. L. Rev. 323, 331 (1987) (calling upon CLS scholars to go beyond their stated political commitments on racial issues to the "practice of critical scholarship and the development of theory"); Patricia J. Williams, *Alchemical Notes: Reconstructing Ideals from Deconstructed Rights*, 22 Harv. C.R.-C.L. L. Rev. 401, 405 (1987) (asserting that CLS overlooks the extent to which civil rights have helped racial minorities).

n8. Torres, supra note 2, at 853.

n9. The economic-cultural distinction is drawn from Nancy Fraser, *From Redistribution to Recognition? Dilemmas of Justice in a "Post-Socialist" Age*, 212 *New Left Rev.* 68, 70-74 (1995), and is used to address the affirmative action debate by Sumi K. Cho, *Multiple Consciousness and the Diversity Dilemma*, [68 U. Colo. L. Rev. 1035, 1044-47 \(1997\)](#).

n10. See Fraser, supra note 9, at 73.

n11. See, e.g., Richard D. Kahlenberg, *Class-Based Affirmative Action*, [84 Cal. L. Rev. 1037, 1097 \(1996\)](#) (arguing that class-based affirmative action should "supplant, rather than supplement race-based" affirmative action) (emphasis in original); Christopher Edley, Jr., *Not All Black and White: Affirmative Action, Race, and American Values* 81 (1996).

n12. See Fraser, supra note 9, at 71-73.

n13. See generally Caro, supra note 4.

n14. Id. at 893-99.

n15. Id. at 895.

n16. Id. at 897 (quoting Mathew Carr, *Spain: Racism at the Frontier, Race & Class*, Jan.-Mar. 1991, at 93-97).

n17. Id. at 895-96.

n18. Id. at 893.

n19. Id. at 901-02.

n20. Id. at 902-05.

n21. Id. at 899-02.

n22. Id. at 900.

n23. See generally Rodolfo Acuña, *Occupied America: A History of Chicanos* (2d ed. 1981) (tracing the history of Mexican migration north of the Rio Bravo); David Montejano, *Anglos and Mexicans in the Making of Texas, 1836-1986* (1987) (analyzing the history of migrant Mexicans in Texas).

n24. See generally Torres, supra note 2.

n25. Id. at 861.

n26. Id. at 854.

n27. Id. at 854-55.

n28. Id. at 860-61.

n29. Id. at 854-55.

n30. Id. at 863.

n31. Id. at 855.

n32. Id. at 862 (quoting George Lipsitz, *Class and Consciousness: Teaching about Social Class in Public Universities*, in *Class Issues: Pedagogy, Cultural Studies, and the Public Sphere* 9, 11 (Amitava Kumar ed., 1997)).

n33. Id. at 859.

- n34. *Id.* at 860.
- n35. Pader, *supra* note 3.
- n36. See *id.* at 882-85.
- n37. See *id.* at 885-87.
- n38. *Id.* at 888-91.
- n39. *Id.* at 886.
- n40. *Id.*
- n41. *Id.* at 883.
- n42. *Id.* at 888-91. The exclusionary impact of building codes on Latina/o populations in the colonias of the U.S.-Mexico border is another instance of class-based housing quality standards with culturally subordinating effects. See generally Jane E. Larson, Informality, Illegality, and Inequality, [20 Yale L. & Pol'y Rev. 137 \(2002\)](#); Jane E. Larson, Free Markets Deep in the Heart of Texas, [83 Geo. L. J. 179 \(1995\)](#).
- n43. Pader, *supra* note 3, at 891-92.
- n44. See generally Claire Moore Dickerson, *supra* note 5.
- n45. *Id.* at 868-71.
- n46. *Id.* at 871-76.
- n47. *Id.* at 876-77.
- n48. See, e.g., *id.* at 869-70 (detailing how the United States and its northern allies worked to secure the adoption of the OECD Anti-Bribery Convention, which effectively relieved United States multinationals from the competitive disadvantage they had suffered under more restrictive domestic laws); Pader, *supra* note 3 at 887 (describing how the incorporation of occupancy standards that stem from "European, upper-class lineage" in American housing codes has served to discriminate against non-dominant ethnic groups).
- n49. Torres, *supra* note 2, at 863 (quoting J-K Gibson-Graham, The End of Capitalism (as we knew it): A Feminist Critique of Political Economy 57 (1996)).
- n50. *Id.* at 860.
- n51. See, e.g., Berta Esperanza Hernandez-Truyol, LatIndia II - Latinas/os, Natives, and Mestizajes - A LatCrit Navigation of Nuevos Mundos, Nuevas Fronteras, and Nuevas Teorias, [33 U.C. Davis L. Rev. 851 \(2000\)](#) (using personal narrative to explore the indigenous threads of Caribbean Latina/o identity).
- n52. Kevin R. Johnson, Foreword: Celebrating Latcrit Theory: What Do We Do When the Music Stops?, [33 U.C. Davis L. Rev. 753, 756 \(2000\)](#).
- n53. See Torres, *supra* note 2, at 854 (observing that class position affects our life experiences and the important roles that race and gender play therein).
- n54. See *id.* at 854.
- n55. 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, 579 n.9 \(1999\)](#).
- n56. See Athena D. Mutua, Shifting Bottoms and Rotating Centers: Reflections on LatCrit III and the Black/White Paradigm, [53 U. Miami L. Rev. 1177, 1178 \(1999\)](#).
- n57. Valdes, Foreword: Under Construction: LatCrit Consciousness, Community, and Theory, *supra* note 1, at 1093-94.
- n58. Iglesias, *supra* note 55, at 626.
- n59. Francisco Valdes, Piercing Webs of Power: Identity, Resistance, and Hope in LatCrit Theory and Praxis, [33 U.C. Davis L. Rev. 897, 897 \(2000\)](#).
- n60. E.g., George A. Martinez, African-Americans, Latinos, and the Construction of Race: Toward an Epistemic Coalition, [19 Chicano-Latino L. Rev. 213, 221-22 \(1998\)](#).
- n61. Mari J. Matsuda, Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition, [43 Stan. L. Rev. 1183, 1184 \(1991\)](#).
- n62. Pouncy, *supra* note 6, at 842.
- n63. *Id.* at 842-43.
- n64. *Id.* at 843.
- n65. *Id.*
- n66. *Id.*

n67. Id. at 845.

n68. Id. at 846.

n69. Id. at 852.

