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LATCRIT IV SYMPOSIUM: ROTATING CENTERS, EXPANDING FRONTIERS: LATCRIT THEORY AND MARGINAL INTERSECTIONS: FOREWORD: Celebrating LatCrit Theory: What Do We Do When the Music Stops?

Kevin R. Johnson \*

**BIO:**

\* Associate Dean of Academic Affairs and Professor of Law, University of California, Davis School of Law. A.B., University of California, Berkeley; J.D., Harvard University. Thanks to Dean Rex R. Perschbacher for financial and other support for, and commitment to, LatCrit IV and my scholarship. The LatCrit IV Planning Committee (Rudy V. Busto, Robert Chang, Roberto Corrada, David Cruz, Laura Gomez, Elizabeth M. Iglesias, Guadalupe Luna, Pedro Malavet, Laura Padilla, Estevan Rael y Galvez, Dorothy Roberts, and especially Frank Valdes) worked incredibly hard to organize the conference. I thank them for giving me the opportunity to write this Foreword. The U.C. Davis Law Review, a cosponsor of LatCrit IV, should be commended for its commitment to publishing the conference proceedings. Editor in Chief Sarah J. Heidel and Executive Editors Sharon Fiedler, Laura Granier, and Stephanie Pennix worked long and hard to publish a quality symposium issue in a timely manner. The law school sponsors of LatCrit IV also deserve acknowledgment: U.C. Davis, U.C. Berkeley (Boalt Hall), UCLA, California Western, Florida, Loyola-Los Angeles, San Diego, Santa Clara, USC, Southwestern, Stanford, and the Center for Hispanic and Caribbean Legal Studies of the University of Miami School of Law. George A. Martinez, Leti Volpp, Mary Romero, Sylvia Lazos, Guadalupe Luna, and Chris Cameron offered thoughtful comments on a draft of this Foreword. Conversations with Frank Valdes, Lisa Iglesias, Celina Romany, Robert Westley, Pedro Malavet, Ediberto Roman, Tom Joo, Richard Delgado, and friends too numerous to name shaped my thinking on the issues discussed here. Kristi Burrows provided helpful editorial assistance.

**SUMMARY:** ... We see a full range of methodological approaches, from doctrinal analysis of the civil rights laws, to new theoretical approaches to international law, to narrative scholarship shedding fresh light on legal issues. ... Dean Rex Perschbacher of U.C. Davis praised "the remarkable ability of LatCrit IV scholars to blend academic theory . . . with one of the law's most positive attributes -- its link with people's day-to-day lives and their communities. ... On the heels of LatCrit I, a LatCrit colloquium at the Hispanic National Bar Association 1996 annual conference explored international law and human rights. ... This ambitious cluster proposes not one, but two, important international law perspectives that require future exploration. ... Similarly, Professor Ediberto Roman advocates a Critical Race approach to international law. Ferment in international law has spawned many new approaches, including New Approaches to International Law, Third World Approaches to International Law, and feminist approaches to international law. However, the impact of race on international law generally goes unexplored. ...

**HIGHLIGHT:** seamos la llave que abre let us be the key that opens

nuevas puertas a nuestra gente new doors to our people

que manana sea hoy let tomorrow be today  
ayer nunca se ha ido yesterday has never left  
demos en este instante let us all right now  
el primer paso: take the first step:  
por fin lleguemos let us finally arrive  
a nuestra Tierra Prometida! at our Promised Land! n1

[\*754]

#### Introduction

The fourth annual critical Latina/o theory conference (LatCrit IV) entitled "Rotating Centers, Expanding Frontiers: LatCrit Theory and Marginal Intersections," built on the scholarly and collegial successes of the first three. n2 On the shores of Fallen Leaf Lake at the Stanford Sierra Center near Lake Tahoe, n3 race scholars, students, and governmental officials, including Greg Stewart, General Counsel of the Equal Employment Opportunity Commission, from across the nation came together to discuss racial and other subordination in the United States. One of the most diverse conferences in legal (if not all) academia, LatCrit IV included African American, Asian American, Native American, Latina/o, Anglo, gay, lesbian, straight, and other participants. Legal academics, historians, sociologists, ethnic studies scholars, and students of many other disciplines facilitated the cross-fertilization of ideas. The varied backgrounds of the participants contributed immeasurably to the intellectual discourse. The following pages document those proceedings, including the scholarly achievements, intellectual ferment, and high ambitions, as well as the emerging tensions and fault lines in critical Latina/o theory.

The uninitiated might ask: just what is LatCrit? "LatCrit is a group of progressive law professors engaged in theorizing about the ways in which the Law and its structures, processes and discourses affect people of color, especially the Latina/o communi [\*755] ties." n4 In many ways, LatCrit is helping us delve deeper into the impact of the law on Latina/o lives, dispelling popular stereotypes without essentializing or bracketing the Latina/o experience. n5 But the LatCrit project has broader ambitions; it seeks 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." n6 This symposium exemplifies the breadth and expansiveness of LatCrit.

LatCrit events have become known as celebrations of wideranging intellectual interchange, marked by frank, tough, and critical discussion; tensions arise and tempers flare. n7 LatCrit IV was no different. Capitalizing on the successes of LatCrit III, LatCrit IV generally was positive, upbeat, and focused on scholarship and community. This description is not meant to mute tensions that arose during the conference and will likely resurface within LatCrit. Nonetheless, LatCrit IV focused on the substantive in a positive and generally constructive way.

The essays in this symposium issue reflect differences of opinion and sincere efforts to grapple with the complexities of the issues facing Latinas/os and other subordinated peoples in the United States. As Professor Frank Valdes aptly put it, LatCrit theory, like all scholarly movements, is "under construction." n8 In forming this new intellectual community, LatCrit theorists, unified by their experiences as outsiders in the law, seek to move the law toward new frontiers. n9

In my mind, the contributions to this symposium demonstrate the strength, vibrancy, and potential of LatCrit scholarship. Racial identity, diversity, commonality, religion, gender, class, and international linkages, among many other topics, are scrutinized. The [\*756] richness, ambition, insight, and foresight of these essays show dedicated scholars attempting to reveal and remedy the various subordinations, especially that of Latinas/os, afflicting modern social life in the United States. We see a full range of

methodological approaches, from doctrinal analysis of the civil rights laws, n10 to new theoretical approaches to international law, to narrative scholarship shedding fresh light on legal issues. n11 As we begin a new century, such eclecticism, energy, excitement, and engagement are necessary and essential for scholars truly committed to the antisubordination project.

Once again, the melding of theory and practice, a bedrock principle of LatCrit theory, n12 played a prominent role at LatCrit IV. This issue offers an important cluster of essays focusing on making theory practical. n13 Other contributions engage legal doctrine and the making of law by legislatures and courts. Such inquiries are crucial to prevent LatCrit from becoming a purely intellectual exercise. Dean Rex Perschbacher of U.C. Davis praised "the remarkable ability of LatCrit IV scholars to blend academic theory . . . with one of the law's most positive attributes -- its link with people's day-to-day lives and their communities." n14

Narrative scholarship can be seen in the latest LatCrit installment, reflecting acceptance of the wisdom that counter-stories are needed to counteract the conventional wisdom in our society. n15 LatCrit narrative helps us better understand "Latina/o marginality and vulnerability traceable to dominant race/ethnicity norms of AngloAmerican society." n16 The stories employed in the symposium [\*757] essays address a broad range of issues, from insights about the complexities of, and tensions at, LatCrit conferences n17 to discussions of the vulnerability experienced by untenured law professors of color. n18

Part I of this Foreword situates the essays comprising the written record of the LatCrit IV conference into the existing body of LatCrit literature and shows how this scholarship poises the movement for theoretical development. The five clusters are (1) Diversity, Commonality, and Identity, (2) Religion, Subordination, and Gender, (3) Class, Workers, and the Law, (4) LatCrit Praxis, and (5) International Linkages and Domestic Engagement. Part II discusses the evolution of LatCrit, including its past achievements and future aspirations, as well as its potential pitfalls. Ultimately, we all -- LatCrit scholars, organizers, participants, and other interested bystanders -- must be vigilant to ensure the survival of this emergent project so that it satisfies its lofty, all-important objectives.

#### I. LatCrit IV: A Celebration of Intellectual Interchange

The contributions to this symposium reflect the intellectual breadth and ambition of LatCrit theory. At the same time, they reveal the ferment and potential fault lines that will shape future theoretical development. Ultimately, this development hopes to influence the law to improve the status of Latinas/os and other people of color.

##### A. Diversity, Commonality, and Identity

A cornerstone premise of LatCrit theory is that the various forms of subordination in U.S. society, if not the world, are deeply interrelated and intertwined. n19 Woven together into the American so [\*758] cial fabric, racial, gender, sexual orientation, class, and other subordinations all warrant careful inquiry. This section amply demonstrates the breadth of experiences relevant to LatCrit inquiry.

A much-debated issue at all LatCrit conferences has been the need to expand the discussion of civil rights discourse beyond simply African American and White relations. n20 LatCrit III focused our attention on the African American experiences in an important panel entitled "From Critical Race Theory to LatCrit to BlackCrit? Exploring Critical Race Theory Beyond and Within the Black/White Paradigm." n21 Nobody seems to disagree with the need for a multiracial understanding of civil rights in the United States; indeed, such analysis has gone on for quite some time. n22 However, objections to the sustained LatCrit criticism of the "Black-White paradigm," as it has been denominated, have emerged. Sensitivity in this area is especially necessary. Like all communities, anti-African American sentiment exists in some quarters of the Latina/o community. All interested in civil rights must take great care not to exacerbate, tap into, or capitalize upon such sentiment in advocating for Latina/o civil rights. n23 Unfortunately, however, the subject has not always been approached as delicately as it could have been. n24 [\*759]

Besides the focus on the Black-White paradigm, LatCrit discourse also has considered the connections between the subordination of Latinas/os and other racial groups. Beginning in earnest at LatCrit II and continuing at LatCrit III, n25 LatCrit has analyzed the relationship between Latinas/os and indigenous peoples. In Mexico and other Latin American countries, the mixing of native and European peoples, known as mestizaje, has been the norm. n26 Over time in the United States, there have been efforts, part of the assimilation process imposed on Latinas/os, to downplay indigenous roots and emphasize a Spanish ancestry. n27 As influential Chicano/a Studies scholar Rudy Acuna, a keynote speaker at LatCrit IV, put it in referring to the Chicano/a experience in Los Angeles, efforts were made to be "Anything But Mexican." n28

Several conference presentations analyzed the intricacies of the indigenous heritage of Latinas/os. Professor Berta Hernandez describes her painful reaction as others at LatCrit IV questioned her exploration of her native ancestry because no tribe claimed her as a member. n29 This challenge to Professor Hernandez's interrogation of her identity misses the central point of recognizing racial mixture among Latinas/os, which has relatively little to do with tribal membership. "Despite the fact that most Chicanos have substantial indigenous ancestry, Chicanos do not generally, as a group, identify as an Indian tribe." n30 Sadly enough, coerced assimilation [\*760] led to destruction of tribal cultures, denial of indigenous roots, and efforts to strive to be white. To counteract this unfortunate history, Chicano/a activists embraced mestizaje and the recognition of our native ancestors. Chicanismo employs positively the phrase "La Raza" (the race) to connote that mestizos, a mixture of Spanish, native peoples, and others in Mexico, are in fact a separate and new race. n31

Professor Hernandez's story further suggests the need to avoid blind application of other group's experiences to Latinas/os and to ensure sensitivity by all LatCrit participants. If one of the most prolific scholars of the LatCrit movement can feel under attack, n32 we should all take pause.

Bringing her federal Indian law expertise to bear on LatCrit theory, n33 Professor Rebecca Tsosie's presentation considered the parallels between Native American and Chicano/a struggles for land. n34 Similar to Latinas/os, Indian peoples historically have suffered due to coerced assimilation at the hands of the U.S. government. n35 Professor Tsosie observed that, just as land is important to the identity of native peoples, it also plays a role in the Chicano/a movement, specifically the mythical Aztlan. n36 Her preliminary ideas on this [\*761] subject raise important issues for future inquiry. Importantly, Aztlan and land do not appear to be as central to Chicano/a identity or to activism as they are to Indian tribes. n37 "Few Chicanos advocate the secession of Aztlan as a realistic solution to problems facing the community"; however, "the idea that Chicanos are indigenous to the Southwest remains powerful today." n38 Chicano/a activism over land in the past centered on efforts to reclaim lands in New Mexico and Arizona based on legal claims under the Treaty of Guadalupe Hidalgo. n39

Considering the status of native Hawaiians through a LatCrit lens, Professor Eric Yamamoto, who has analyzed interracial conflict, n40 shows how the perception of native Hawaiians, based on the performance of a hula dance, may affect judges and judging. n41 He opines that the Supreme Court's decision in *Rice v. Cayetano*, n42 "probably the most important Hawaiian rights case ever," n43 might well rest on whether indigenous Hawaiian communities are characterized as a political or a racial group. His insights about the centrality of judicial perceptions to the resolution of the dispute dem [\*762] onstrate that culture's impact on the law is well worth LatCrit inquiry. n44

Two intriguing essays focus attention on the place of Filipinos in the American racial mosaic. n45 Although Filipinos commonly are thought of as "Asians," this classification, like all racial ones, is not inevitable. The Philippines once was a Spanish colony and the SpanishAmerican War of 1898 brought the Philippines under U.S. colonial control for half a century. n46 Due to the legacy of Spanish colonialism, Filipinos share cultural, religious, and other affinities and similarities with Latinas/os. Like Latinas/os, Filipinos have long been racialized in the United States, especially in California. n47

Consistent with his previous call for interracial understanding, n48 Professor Victor Romero analyzes how commonality between Latinas/os and Filipinos may allow for "building bridges" between the groups. n49 Advocating the investigation of minority-on-minority oppression, n50 he identifies schisms among Asian Americans and Latinas/os by analyzing his naturalization interview with a hostile Latina Immigration & Naturalization Service officer. Showing the fluidity of racial identity, Professor Romero tells of the differences in how he is treated by those that see him without knowing his last name (and assume because of his physical appearance that he is Asian) and those that have not seen him but assume that he is Latino because of his Spanish surname. n51 This shows the importance [\*763] that surname and phenotype can play in racial identity and racial identification. n52

In a similar vein, Professor Leti Volpp, whose vibrant scholarship considers the complex relationship between law, culture, race, and gender, n53 analyzes the difficulties historically faced by the courts in fitting Filipinos into a racial category under California's antimiscegenation laws. n54 Evidence used by the courts and policymakers to determine whether Filipinos were subject to the antimiscegenation laws once again demonstrate how race is socially, not biologically, constructed. n55 Professor Volpp's analysis of the antimiscegenation laws raises fascinating points, among them the observation that many of the prevailing stereotypes about Filipino men, such as their "sexual passion," had long been held about African American men. n56 Her analysis also suggests some anomalies, however. For example, why weren't the antimiscegenation laws applied to people of Mexican ancestry? Why, if people of Mexican ancestry were treated as white under these laws, was concern not expressed about relationships between Filipino men and Mexican "girls"? n57 One legal classification treated Mexicans as White (i.e., not subject to the antimiscegenation laws) while social custom treated them as non-White (i.e., society did not penalize Filipino/Mexican relationships). n58 This suggests that Filipinos and Mexican-Americans may have different as well as common experiences. It more generally suggests that race mixing was not a concern unless "Whites" were part of the mix.

Professor Romero's and Volpp's essays raise the intriguing question whether Filipinos are Latinas/os. Professor Volpp directly poses the question whether "we should place Filipino/as within the [\*764] rubric of Latina/o, primarily because of a shared legacy of Spanish colonization." n59 Similar questions might be asked about other groups whose histories bear commonalities with the Latina/o experience. Are people of Jamaican ancestry from the Caribbean Latinas/os? n60 This once again illustrates the "messiness of race," n61 its uncertain borders, and the inherent contradictions of socially constructed meanings.

This cluster of papers makes it clear that the process of racialization is complex, affecting different groups in different ways. n62 Latinas/os comprise a truly complex racial mixture of peoples facing complex identity choices. By political necessity, Latinas/os have built coalitions at different historical moments. n63 Filipinos, for example, were a critical component of the United Farm Worker movement. n64 Geography plays a crucial role in the racialization process as well. n65 For example, intermarriage rates between Anglos and Mexican Americans are high in California's urban centers, but much lower along the border with its high racial tensions. n66

We should be sensitive to the complex interaction between law and racial mixture. On the one hand, racial mixture shapes law. The antimiscegenation laws responded to the mingling of the races and the fear that intermarriage and mixed race offspring might undermine racial hierarchy. n67 Racial mixture, however, need not [\*765] be feared. n68 Juan Gomez Quinones, for example, observed that, in New Spain, "the process of mestizaje . . . which moved from Central America to New Mexico . . . undermined racial prejudice in its wake." n69 It also changed the way that racism manifested itself. n70 On the other hand, the law shaped racial mixture in that the antimiscegenation laws limited intermarriage and, thus, racial mixture.

#### B. Religion, Subordination, and Gender

The understatement of LatCrit I probably was Professor Keith Aoki's prescient observation that "religion and spirituality are submerged not far below the surface of emerging Latina/o Critical Theory." n71 The complexities of religion flashed in a tense emotional outburst at LatCrit II. n72 Religion, specifically Catholicism, obviously is a difficult topic for many Latinas/os. n73 It proves all the more complex because Catholicism, for example, has contributed to the subordination of women, lesbians, and gay men; at the same time, it has been at the core of important social movements, such as the Chicano/a Movement of the 1960s, the United Farm Workers' organizing efforts of the 1960s and 1970s, and the Sanctuary movement of the 1980s. n74 Catholicism, as well, remains an impor [\*766] tant aspect of Latina/o culture, and shapes individual identities. We cannot fully understand Latinas/os without appreciating the impact of Catholicism on the historical development and current status of our communities.

Latinas/os must squarely and critically address the problematic aspects of religion on the community. n75 The papers in the Religion, Subordination, and Gender cluster contribute to the ongoing LatCrit analysis. The author of foundational work on the legal history of the enforcement of the Treaty of Guadalupe Hidalgo, which ended the U.S./Mexico War in 1848, n76 Professor Guadalupe Luna considers how the Catholic missionaries subordinated, often violently, native peoples and taught them how to subordinate women. n77 Her analysis of this legal history demonstrates how the concept of "saving souls for Christianity" authorized unmitigated brutality against indigenous peoples. n78 In the name of the Father, missionaries forcibly restructured tribal societies to bring them into compliance with a "patriarchal ideology." n79 This historical chapter starkly shows the role played by the Catholic Church in the subordination of indigenous Californians and women.

Building on Professors Iglesias's and Valdes's analysis of religion, n80 Professor Terry Rey analyzes how the sacred religious symbol of the Virgin Mary contributes to Latina subordination. n81 Professor Rey offers examples of how Latin American Catholicism functions [\*767] as a "repressive and antisubordination force in Latin American history and cultures and select diasporic Latina/o communities." n82 Viewing Marianist Catholicism as Max Weber's "legitimizing authority" (legitimierende Macht), Professor Rey critically analyzes the symbols of the Virgin for Latinas. n83

Religion, however, continues to present vexing perplexities for LatCrit theorists. Central to the organizing of the original LatCrit conference (as well as LatCrit IV) and a knowledgeable observer of the impact of the law on women of color, n84 Professor Laura Padilla highlights the intricacies posed to Latinas by religion. n85 She contends that "religion simultaneously subordinates Latinas while serving as a source of strength" n86 and considers the important role of religion in Latina/o culture and family. n87 Far from an apologist for Catholicism, Professor Padilla considers the racial and gender discrimination in the Church, noting for example the fact that it was not until 1970 that the first Mexican American bishop was ordained by the American Catholic Church and that less than one percent of the nuns in the United States are Latina. n88 Professor Padilla contends that, although Latinas may look to the Church for solace, they must reconstruct the Church in their image.

In analyzing religion, one wonders whether national origin differences, as well as class differences, might exist among Latinas/os with respect to Catholicism. One would expect Cuban immigrants, for example, who have experienced the Castro government's attempts to stifle religion, to have a different perspective on the subject than Mexican immigrants and Mexican American citizens. n89 [\*768] Similarly, as with all religion, class differences divide the Latina/o community. As Richard Rodriguez's famous *Hunger for Memory* n90 illustrates, devout Catholicism often flourishes with first generation immigrants as well as blue collar and farm workers. Rodriguez's own transformation shows that reaching professional status has often meant for many Latinas/os downplaying or abandoning their spirituality.

Importantly, we must not essentialize the Catholic Church as a unified monolith, because parts of the church have lent support to social justice movements. n91 Liberation theology has transformed some sectors of the Church, as have clergy who have fought for social justice in various locales. n92 Theological

teaching may be relevant to legal analysis. n93 For example, some contend that religious convictions mandate more generous, less punitive immigration and welfare laws. n94

As these essays make clear, we must be forever attentive to how Latinas are mistreated, legally, religiously, and otherwise. n95 Spousal abuse is an obvious, all-too-common example. Professor Donna Coker analyzes how, as suggested by influential articles on the concept of intersectionality, n96 spousal abuse disparately affects women of color. n97 She highlights social science research illustrating this [\*769] point and calls for additional remedial action. Professor Coker's article fits in with the burgeoning Critical Race Feminism movement, which posits that women of color are disparately affected by the law. n98 The focus on the particular forms of oppression suffered by women of color invites further inquiry into the class, gender, and race disadvantages facing Latinas in employment, housing, and immigration. n99 Immigration law deserves especially close scrutiny, as it has had a devastating effect on the well-being of undocumented Latinas in this country, undermining their legal rights and, tragically enough, increasing the violence done to them. n100

The study of the subordination of Latinas is of central importance to the LatCrit project. LatCrit, as an intellectual community, is committed to not replicating the dynamics of subordination. We must continue to analyze how that subordination originates and perpetuates itself through religious and other social institutions.

### C. Class, Workers, and the Law

Class issues are especially salient for Latinas/os in the United States. n101 Early in LatCrit, attention was paid to the diversity among Latinas/os, including class diversity among national origin groups. n102 The LatCrit III symposium included a cluster on "In [\*770] ter/National Labor Rights: Class Structures, Identity Politics and Latina/o Workers in the Global Economy." n103 The essays in this cluster on Class, Workers, and the Law continue this important discussion.

A thoughtful observer of racial stratification in the United States, n104 Professor Tanya Hernandez raises the important issue of intra-Cuban class and racial conflicts. n105 She documents the history of repression of Afro-Cubans, replete with atrocities, and shows how in modern times they are poorer on the whole than most Cubans. More recently, class and race differences have, for example, contributed to lukewarm Cuban American support for continued refugee admissions in south Florida. n106 Today's Cuban migrants are poorer and Blacker -and, not coincidentally, less popular in the United States -- than ones of times past. Professor Hernandez questions whether LatCrit theory's "antidomination goal can be achieved if we as scholars do not explicitly challenge the Latin American model of discounting our own racial diversity . . ." n107 Importantly, Latinas/os must uncover racial subordination within their communities, which by necessity requires a race conscious approach. Professor Hernandez ties this into criticism of class-based affirmative action by contending, in effect, that its failure in Cuba suggests a similar fate in the United States. Such comparisons must remain tentative, although the central point remains well taken.

More generally, Professor Hernandez's article implicates broader questions concerning Afro-Latinas/os. Scholarship has begun to focus attention on Black immigration to the United States from the [\*771] Caribbean n108 and other nations. n109 Additional inquiry must be focused on Mexican, Cuban, Puerto Rican, and other Latinas/os of African ancestry; the experience in each of these communities, inside and outside the United States, differs from that of non-Afro Latinas/os in important respects. Scholarship on this topic is emerging. n110 This phenomenon demonstrates once again the diversity of the Latina/o experience and how LatCrit theorists must take care not to homogenize or essentialize the communities.

Other essays in this cluster document how the law continues to adversely affect working class and poor Latinas/os. Dean Christopher David Ruiz Cameron skillfully analyzes how the ban of gas-powered leaf blowers by the city of Los Angeles, supported by environmentally conscious celebrities, negatively affected Mexican gardeners. n111 He effectively ties this movement into the fundamental LatCrit tenets of Latina/o

invisibility and forced assimilation. Class dynamics cannot be missed in a story in which white Hollywood media stars seeking more personal comfort and environmental aesthetics advocate changes in the law that would make the lives of poor Mexican workers harsher than they already are. Although interests of environmentalists and people of color have been [\*772] aligned in the environmental racism movement, n112 this case study reflects the continuing class and racial divisions on environmental issues. n113

The next contribution analyzes how the law has used proxies -facially neutral substitutes for racial classifications -- to discriminate against Latinas/os, with particular impacts on poor and working class Mexican immigrants. n114 Immigration status n115 and language discrimination, n116 two issues of central importance to LatCrit inquiry, constitute two proxies for race that discriminate subtly yet with impunity against Latinas/os. Professor George Martinez and I, n117 "writing squarely as law professors," n118 analyze how the anti-bilingual education initiative known as Proposition 227 adopted by the California voters in June 1998, in effect discriminated against Spanish-speaking persons of Mexican ancestry. This measure fits [\*773] into a longer history of discrimination against people of Mexican ancestry in the Golden State. n119 The discrimination by proxy concept may prove to be an important doctrinal tool that has the potential of increasing Latinas/os' and other subordinated peoples' ability to attack the often subtle discrimination directed at them. As discrimination is driven underground, legal doctrines must evolve in sophistication to keep up with ingenious, facially neutral devices that discriminate.

Professor Pamela Smith offers a perspective on the difficulties of minority "workers" -- law professors -- in legal academia. n120 Her essay serves as a reminder to those among our ranks with tenure to consider the experiences, perspectives, and perceived vulnerability of the untenured, even at relatively safe settings such as LatCrit conferences. The discussion group of untenured professors that originated at LatCrit IV should be continued at future conferences. Moreover, Professor Smith tells of the kindness offered her as she entered the turbulent waters of legal academia by a tenured African American professor, Isabelle Gunning, who serves as a model for us all. n121

Placing into doubt the ability of LatCrit theorists to influence the law and help the subordinated, Professor Larry Cata Backer, an important voice on welfare "reform," n122 offers a gloomy forecast about the future impact of critical scholarship on the courts. n123 He presents the results of searches of computer databases showing few judicial citations to leading Critical Race scholars, which he interprets as suggesting that hope of changing the law through scholarship may be misplaced. However, even if citations fail to register on the computer databases, critical scholarship may well inform and influence judicial decision-making in subtle ways, through, for example, amicus curiae briefs and by educating the next generation of lawyers. Critical theory indeed may help bring about shifts in ways of thinking about the law. For example, even if a court [\*774] does not cite Paul Butler's famous jury nullification article, n124 national attention has been raised about the racial implications of the criminal justice system.

Professor Backer further posits that the evidence indicates that state courts may be more likely to adopt a critical bent than the federal courts. In light of the anti-Latina/o sentiment in the states, often embedded in laws upheld and enforced by the state courts, n125 this optimism seems unwarranted. The trust in federalism requires a leap of faith and, at a minimum, a considerable amount of further investigation. n126

Is there reason for hope? Bill Tamayo, Regional Attorney for the Equal Employment Opportunity Commission ("EEOC") who has written important work on civil rights issues, n127 documents recent EEOC efforts to protect Latina/o farm workers. n128 Tamayo discusses outreach programs of the EEOC, including training of California Rural Legal Assistance attorneys about the law of sexual harassment. He recounts the EEOC-initiated litigation culminating in an over \$ 1.8 million settlement for the atrocious sexual harassment of farm worker Blanca Alfaro. n129 Such successes warrant celebration. One wonders, however, how effective litigation like this will ultimately prove to be, especially given the fact that farm worker labor conditions have been shameful for years without significant change. n130

#### D. LatCrit Praxis

LatCrit theory has an enduring commitment to putting theory into practice. n131 In this spirit, Professors Sumi Cho and Robert [\*775] Westley offer a history of progressive political activism at U.C. Berkeley's Boalt Hall School of Law that contests the conventional wisdom. n132 They contend that student activism from the 1960s to the 1990s was central to the development of Critical Race Theory. To shed light on that contention, they focus on the history of U.C. Berkeley's Boalt Coalition for a Diversified Faculty, an organization in which both authors played leadership roles as law students. This history is absent from the official record of this distinguished law school. Their historical research shows that the student activism that facilitated the formation of Critical Race Theory was not just a Harvard-centered phenomenon, as is commonly understood. n133 Because Critical Race Theory helped create the intellectual space necessary for the emergence of LatCrit theory, n134 its roots and its fortunes in legal academia are important to this project.

As history reveals, art also can be employed for political ends. n135 In a fascinating LatCrit IV panel on "Literature and Arts as Antisubordination Praxis: LatCrit Theory and Cultural Production," the panelists explored the nexus between art and LatCrit theory. Professor Pedro Malavet offers his perspectives on this panel, while describing his "accidental" descent into LatCrit theory. n136 His narrative tells how he was radicalized by a rough-and-tumble initiation into the legal academy and moved from traditional to critical scholarship with a Latina/o bent. In addition, Professor Malavet touches on the link between law, culture, and subordination. n137

Offering a specific example of art as praxis, Nicholas Gunia analyzes Jamaican music as a form of resistance. n138 He places the resistance into context by describing the racial stratification in Jamaica and the religious and social movement of Rastafarianism. Like the old [\*776] slave songs in the United States, n139 this form of Jamaican music constitutes a type of resistance to subordination. Viewing art as resistance in certain circumstances sheds light on current social phenomena such as gangsta rap and gang membership. n140

Although radically different from art, clinical teaching holds the promise of linking theory and practice. n141 Professor Alfredo Mirande Gonzalez, an established Chicano/a Studies scholar n142 turned law professor, utilizes the narrative form to reflect on teaching clinic students how to put the law into practice. n143 Attempting to follow the methodological path blazed by Derrick Bell n144 and Richard Delgado, n145 Professor Mirande uses fictitious field reports from a clinical placement similar to those he did as a student in Stanford's now-defunct Lawyering for Social Change Program. Through alter ego Fermina Gabriel, Professor Mirande raises questions about critical theory. His imaginary dialogue, however, fails to present a unified thread of inquiry and neglects relevant LatCrit and critical lawyering scholarship. n146 Most troubling, Professor Mirande's fiction lacks gender sensitivity. n147 Work that neglects subordinations undermines the LatCrit project. In addition, narratives, particularly those not based in personal experience, have [\*777] come under vitriolic attack as of late. n148 Narrative in scholarship must tread with care in order to avoid scathing critiques that have recently become fashionable and undermine LatCrit theory's scholarly mission.

#### E. International Linkages and Domestic Engagement

For many reasons, including globalization, immigration, and technological advancement, to name a few, the local and the global are increasingly intertwined. n149 LatCrit has been central in considering the international. On the heels of LatCrit I, a LatCrit colloquium at the Hispanic National Bar Association 1996 annual conference explored international law and human rights. n150 At the forefront, Professor Elizabeth Iglesias focused LatCrit attention on the importance of human rights to international economic law and the Latina/o condition in the United States. n151 LatCrit III saw a discussion of "Global Intersections." n152 LatCrit IV also focused on the international. Professor Celina Romany, the author of influential scholarship on women's rights as international human rights, n153 offered an inspiring keynote speech entitled "Global Capitalism, Transnational Social Justice and LatCrit Theory as Antisubordination Praxis."

Because the expansion of the Spanish colonial empire shaped the evolution of Latin America, "empire" is a central concept for Latinas/os to consider in evaluating their place domestically and internationally. n154 Reviewing Vday Singh Mehta's book *Liberalism* [\*778] and *Empire: A Study of Nineteenth-Century British Liberal Thought*, n155 Professor Tayyab Mahmud articulates his vision of the impact of empire-building and how colonialism is important to liberal thought. n156 He contends that liberalism also calls for racial, class, cultural, and other exclusion.

Consistent with this pessimistic version of liberalism, Professor Tim Canova criticizes the claim that meaningful positive economic and social transformation for developing nations can be accomplished through the efforts of the International Monetary Fund (IMF). n157 This criticism finds intellectual support in the longstanding critique of liberalism. n158 Professor Canova astutely applies LatCrit teachings to the study of the international economic system. He claims categorically that "the global monetary system, and the IMF in particular, systematically subordinates entire nations of color." n159 In making his case, Professor Canova disagrees with the relative optimism of Professor Enrique Carrasco about the IMF's transformational potential. n160 Whatever the relative strength of his argument on the merits, Professor Canova's mode of criticism should serve as a positive role model for LatCrit theorists. Admitting Professor Carrasco's laudable goal of protecting vulnerable groups in Latin America and respectfully treating his views, n161 Professor Canova constructively questions the means of achieving that end.

Considering the domestic impacts of international developments, Professor Chantal Thomas critically evaluates the effects of the "globalization" of the world economy on the United States, marred as it is by deep and enduring racial and economic inequality. n162 She opines that, despite the frequent trumpeting of the benefits of the emerging global economy, "without intervention, globalization may instead lead to increased socioeconomic inequality and economic volatility." n163 Indeed, "it is . . . possible that globalization will generally entrench existing structural inequalities, and that some of these inequalities will be racial in character." n164 Consequently, Professor Thomas asks us to consider the possible racial impacts in the United States resulting from the development of a global economy.

Professor Thomas thoughtfully demonstrates the inextricable links between the global and the local, the overlapping nature of class and racial inequality, and the interrelationship between the subordination of various groups, especially African Americans and Latinas/os. These, of course, all are central to LatCrit theory. n165 The article also suggests questions for future inquiry. Importantly, by distinguishing between Latina/o immigrants and the well-established Mexican American community in the inner cities, n166 Professor Thomas obliquely raises the question of how migration and labor flows into the United States, part of the globalization of the world economy, figure into her analysis. The domestic racial [\*780] impact, if any, of international migration has been the subject of considerable controversy. For example, prominent labor economist Vernon Briggs has long contended that "mass migration" from Asia and Latin America has injured the African American community. n167 Similarly, some commentators claim that the impoverished state of farm workers in the United States can only be improved with a clamp down on undocumented immigration from Mexico. n168 These difficult issues, representing potential fault lines among subordinated communities, warrant close attention.

This ambitious cluster proposes not one, but two, important international law perspectives that require future exploration. A keen observer of the international legal scene, n169 Professor Gil Gott suggests the need for a new genre of "Critical Race Globalism," which would "expressly link[] racial with international justice struggles." n170 He views white supremacy as a global phenomenon, thereby requiring global solutions. Similarly, Professor Ediberto Roman advocates a Critical Race approach to international law. n171 Ferment in international law has spawned many new approaches, including New Approaches to International Law, Third World Approaches to International Law, and feminist approaches to international law. n172 However, the impact of race on international law generally goes unexplored. Demonstrating the inability of various methodological approaches to account for race, Professor Roman calls for an expressly

race-based perspective and articulates the case for race being at the center of international discourse. n173 Importantly, events in Latina/o history, such as the U.S./Mexican War and the Treaty of Guadalupe Hidalgo n174 as well as the Spanish/American War and the subsequent denial of constitutional rights to racialized peoples in U.S. territories, n175 need concentrated analysis with race at the forefront. This racial history continues to impact the present and therefore warrants future LatCrit analysis.

## II. Future Challenges and Trajectories?

We are at a critical juncture in the evolution of LatCrit theory. In the next few pages, I identify future challenges and potential pitfalls. Importantly, although we should celebrate LatCrit theory's early success, we must brace ourselves for growing pains, internal tensions, and external critique.

### A. LatCrit Must Remain Inclusive

Critics might claim that the LatCrit movement has strayed from its Latina/o roots. The "rotating centers" concept captured in the title to LatCrit IV, however, allows us to be inclusive and to consider the subordination of other peoples of color and the relationship to Latinas/os' status in the United States. n176 As LatCrit theorists have observed, n177 Latina/o subordination is related to and connected with other subordinations. To fully understand one, we must comprehend them all.

Moreover, the inclusiveness of LatCrit theory is an important source of strength that holds great promise for the future. Inclusiveness has fostered coalitions and mutual self-help. It has built good will and promoted serious scholarship in new and important ways. Inclusiveness allows the LatCrit community to engage in ongoing intellectual ferment and allows it to remain dynamic rather than static. [\*782]

### B. External Challenges and Internal Tensions

As LatCrit matures, we must anticipate external challenges and continuing, perhaps mounting, internal tensions. The maturation process may well subject LatCrit to attack, such as that leveled at Critical Race Theory, feminist jurisprudence, and other critical genres. n178 As we prepare for external critiques, we should keep in mind that Critical Race Theory ("CRT") has been vulnerable to attack because critics have ascribed certain intellectual positions as part of CRT orthodoxy. Yet, CRT remains difficult to reduce to fundamental tenets because its fluid and eclectic approach encompasses diverse methodologies from many disciplines. n179 LatCrit should retain the prerogative to define and redefine itself rather than be defined by critics. Constant self-criticism and self-definition is essential to a movement as dynamic as LatCrit.

To fend off external attacks effectively, LatCrit theorists must address internal tensions within the movement. We must support each other and be ready to respond to the future intellectual challenges. Striving to maintain unity, LatCrit theorists must resist the centrifugal pressures toward disintegration.

To this end, LatCrit must keep internal tensions in perspective and learn the lessons of the past. Importantly, LatCrit theorists cannot let the personal dominate the intellectual and allow interpersonal antagonisms to undermine the project. n180 Specifically, we must avoid at LatCrit conferences, the spontaneous "slash-and-burn, hold-noprisoners, hypercritical attack upon some unfortunate and often unsuspecting target." n181 In that vein, we hopefully will never see the day when so-called "attack scholarship" focuses on each other's work. n182

We must nip in the bud the development of schisms along gender, class, national origin, racial, and other lines. One way to ease [\*783] tensions is to recognize and encourage separate investigations of specific group histories, both inside and outside LatCrit. n183 All of these competing strands and thoughts must continue to be included within the umbrella LatCrit intellectual community.

At the same time, we must allow dissent within our ranks. Criticism of ideas and diversity of approaches, of course, remains essential to intellectual growth. LatCrit must continue to emphasize the critical. As scholars, we should be critical of each other's work. Nonetheless, the tone and method by which we

criticize is all-important. In voicing dissent and promoting sophisticated intellectual discourse, we must be sensitive to the feelings of others and attempt to offer constructive, not destructive, criticism. n184 An ongoing intellectual scholarly community requires sensitivity to each other, our differences, and our humanity, not a scorched earth approach to scholarship and the views of our colleagues.

In my mind, a wonderful example of constructive criticism was Professor Frank Valdes's presentation at the June 1999 LatCrit conference in Spain. n185 He presented a provocative and devastating thesis -- that Spain should seriously consider the payment of reparations for the plunder of the grand indigenous societies of the New World -to a group of Spanish legal scholars. The challenge to Spain from an American ran the risk of causing tension, discord, and hard feelings. Professor Valdes offered a balanced account of the need for an investigation of reparations by Spain for its exploitation of New World natural resources and people. We need this type of constructive and positive engagement both at the live events and in the symposium contributions.

### C. Engaging LatCrit Literature

Future LatCrit scholarship must fully grapple with the breadth and nuances of the rapidly evolving LatCrit scholarship. This formidable task, which at a minimum requires engagement with a series of symposia, colloquia, and an anthology of readings, n186 as [\*784] well as review of LatCrit pieces published in other venues, n187 is as daunting as it is exhausting. Recent actions should make the task easier. Professor Roberto Corrada compiled a primer of LatCrit readings, provided to LatCrit IV participants, which attempts to capture the essence of the movement and offer an introduction to those interested in the field. n188 The LatCrit web page created by Professor Pedro Malavet n189 allows us to keep up on the growing body of literature as well as upcoming events and related LatCrit information.

In future contributions to LatCrit symposia, I hope that participants seriously engage the existing scholarship, study the literature, and acknowledge previous contributions. Ideally, each contribution to a LatCrit symposium would explain how the author's contribution fits into LatCrit theory and the existing body of LatCrit scholarship. n190 Publication opportunities for scholarship obviously are central to the LatCrit mission. However, they cannot be the sole purpose of LatCrit theory or the movement will soon dissolve as a cohesive and distinct body of scholarship. Due to Frank Valdes's leadership and foresight, LatCrit crystallized with the formation of the annual LatCrit conferences, an event with importance that cannot be underestimated. However, the critical study of Latina/o issues did not begin in 1995. The work of the scholars [\*785] from law and many other disciplines who were doing LatCrit before it became "cool" should not be marginalized or ignored. n191

In our scholarship, LatCrit theorists also must strive to avoid the "star system" and exclusive citation to a small group of perceived stars for legitimacy. If we do not take care, the "imperial scholar" phenomenon may well infect LatCrit scholarship as it has majority scholarship. n192 We must be inclusive or risk the splintering of LatCrit into disgruntled factions.

To warrant intellectual respect, the LatCrit authors should always strive for high quality scholarship. The scholarship should fulfill the LatCrit mission, which requires critical analysis of Latina/o and related subordinations. All of us should be conscious of how our LatCrit scholarship contributes to this important mission.

### D. The Need for Infrastructure

A LatCrit infrastructure, currently under construction, is necessary to ensure the continuity and future of the project. n193 The legal incorporation of LatCrit n194 and the overlapping membership of the planning committee have helped provide necessary continuity and institutional memory. This infrastructure, missing from Critical Legal Studies and Critical Race Theory, hopefully will keep LatCrit moving forward and should help LatCrits avoid getting bogged down in the same old disputes. n195

\*\*\*\* [\*786]

Because of the success of LatCrit III and IV, I firmly believe that we are beyond the time when it is accurate to refer to "the fragile and tentative nature of the LatCrit enterprise." n196 LatCrit is now robust enough to undergo its own internal close scrutiny and ongoing selfcriticism. We must refine and improve the project to ensure its longevity and influence.

**FOOTNOTE-1:**

n1 Francisco X. Alarcon, *Tierra Prometida (Promised Land)*, in S. Beth Atkin, *Voices from the Fields: Children of Migrant Farmworkers Tell Their Stories* 95 (1993).

n2 See Symposium, *LatCrit Theory: Naming and Launching a New Discourse of Critical Legal Scholarship*, [2 \*Harv. Latino L. Rev.\* 1 \(1997\)](#) (proceedings of LatCrit I, May 1996 in La Jolla, California); Symposium, *Difference, Solidarity, and Law: Building Latina/o Communities Through LatCrit Theory*, [19 \*Chicano-Latino L. Rev.\* 1 \(1998\)](#) (proceedings to LatCrit II, May 1997 in San Antonio, Texas); Symposium, *Comparative Latinas/os: Identity, Law and Policy in LatCrit Theory*, [53 \*U. Miami L. Rev.\* 575 \(1999\)](#) (proceedings to LatCrit III, May 1998 in Miami, Florida). A 1995 colloquium at the Hispanic National Bar Association annual conference in Puerto Rico served as a precursor to the annual LatCrit conferences. See Colloquium, *Representing Latina/o Communities: Critical Race Theory and Practice*, 9 *La Raza L.J.* 1 (1996). Published symposia that grew out of LatCrit I in 1996 were Colloquium, *International Law, Human Rights, and LatCrit Theory*, [28 \*U. Miami Inter-Am. L. Rev.\* 177 \(1997\)](#); Symposium, *LatCrit Theory: Latinas/os and the Law*, [85 \*Cal. L. Rev.\* 1087 \(1997\)](#), [10 \*La Raza L.J.\* 1 \(1998\)](#). For collected critical readings on law and Latinas/os, see *The Latino/a Condition: A Critical Reader* (Richard Delgado & Jean Stefancic eds., 1998).

n3 Because of the location of the conference, a number of the symposium contributions focus on the impact of law on Chicanos/as and Latinas/os in California.

n4 Fact Sheet: LatCrit, in *LatCrit Primer*, unpublished materials distributed to participants at LatCrit IV (1999).

n5 See Gerald P. Lopez, *Learning About Latinos*, [19 \*Chicano-Latino L. Rev.\* 363, 368 \(1998\)](#).

n6 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 \(1998\)](#).

n7 See 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, 576-79 & nn.2-3 \(1999\)](#) (discussing how LatCrit III helped calm tensions, particularly those surrounding religion, which arose at LatCrit II); see also infra text accompanying notes 71-75 (analyzing complexities of Catholicism for Latinas/os).

n8 Valdes, supra note 6.

n9 See generally Thomas Kuhn, *The Structure of Scientific Revolutions* (2d ed. 1970) (articulating theory of paradigm shifts in intellectual disciplines).

n10 See infra notes 117-19 and accompanying text.

n11 See infra notes 120-21, 141-48, 169-75 and accompanying text.

n12 See, e.g., Sumi K. Cho, Essential Politics, [2 Harv. Latino L. Rev. 433, 434-36 \(1997\)](#); Laura M. Padilla, LatCrit Praxis to Heal Fractured Communities, [2 Harv. Latino L. Rev. 375, 386-92 \(1997\)](#).

n13 See infra text accompanying notes 131-48.

n14 Rex R. Perschbacher, Welcoming Remarks for LatCrit IV, [33 U.C. Davis L. Rev. 751 \(2000\)](#).

n15 See, e.g., Richard Delgado, Storytelling for Oppositionists and Others: A Plea for Narrative, [87 Mich. L. Rev. 2411 \(1989\)](#); George A. Martinez, Philosophical Considerations and the Use of Narrative in Law, [30 Rutgers L.J. 683 \(1999\)](#). Feminist theorists also have advocated storytelling. See, e.g., Kathryn Abrams, Hearing the Call of Stories, [79 Cal. L. Rev. 971 \(1991\)](#); Lisa R. Pruitt, Law Review Story, [50 Ark. L. Rev. 77 \(1997\)](#).

n16 Valdes, supra note 6, at 1102; see also Marilyn P. Davis, Mexican Voices/American Dreams (1990) (collecting interviews of Mexican immigrant experience); Elvia R. Arriola, LatCrit Theory, International Human Rights, Popular Culture, and The Faces of Despair in INS Raids, [28 U. Miami Inter-Am. L. Rev. 245, 256-62 \(1996-97\)](#) (offering stories of personal impact of immigration enforcement); Roberto L. Corrada, Familiar Connections: A Personal Re/View of Latino/a Identity, Gender, and Class Issues in the Context of the Labor Dispute Between Sprint and La Conexion Familiar, [53 U. Miami L. Rev. 1065 \(1999\)](#) (presenting narrative highlighting class, racial, and gender identity issues).

n17 See 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 \(2000\)](#).

n18 See Pedro A. Malavet, Literature and Arts as Antisubordination Praxis LatCrit Theory and Cultural Production: The Confessions of an Accidental Crit, [33 U.C. Davis L. Rev. 1293 \(2000\)](#); Pamela J. Smith, The Tyrannies of Silence of the Untenured Professors of Color, [33 U.C. Davis L. Rev. 1105 \(2000\)](#).

n19 See Iglesias, supra note 7, at 595, 622-29; Kevin R. Johnson, Racial Hierarchy, Asian Americans, and Latinos as "Foreigners," and Social Change: Is Law the Way to Go?, [76 Or. L. Rev. 347, 358-62 \(1997\)](#); George A. Martinez, African-Americans, Latinos, and the Construction of Race: Toward an Epistemic Coalition, [19 Chicano-Latino L. Rev. 213, 221-22 \(1998\)](#); Athena D. Mutua, Shifting Bottoms and Rotating Centers: Reflections on LatCrit III and the Black/White Paradigm, [53 U. Miami L. Rev. 1177, 1202-15 \(1999\)](#). Professor Frank Valdes has referred to this phenomenon as "webs of power." Francisco Valdes, Piercing Webs of Power: Identity, Resistance, and Hope in LatCrit Theory and Praxis, [33 U.C. Davis L. Rev. 897 \(2000\)](#).

n20 Compare 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 \(1998\)](#) (criticizing Black/White view of civil rights), with Anthony Paul Farley, All Flesh See It Together, [19 ChicanoLatino L. Rev. 163 \(1998\)](#) (challenging criticism of Black/White paradigm).

n21 See Iglesias, supra note 7, at 622-29 (responding to critiques of focus on African Americans in LatCrit, including claim that this approach leaves "Lat" out of LatCrit).

n22 See Farley, supra note 20, at 172-74; 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, 1157-59 \(1999\)](#); see also Challenging Fronteras: Restructuring Latina and

Latino Lives in the U.S. (Mary Romero et al. eds., 1997) (providing analysis of Latina/o civil rights issues); Ronald Takaki, *A Different Mirror: A History of Multicultural America* (1993) (offering multicultural approach to history of racial subordination).

n23 See Farley, *supra* note 20, at 174.

n24 See, e.g., Juan F. Perea, Five Axioms in Search of Equality, [2 Harv. Latino L. Rev. 231, 238 \(1997\)](#) (suggesting that certain African Americans have a "possessory attitude toward civil rights"). Some have stated that the challenge to the Black/White paradigm "could be read as a criticism of African-American scholars . . . . We must remember that African Americans did not create the binary color line." Leslie Espinoza & Angela P. Harris, Afterword: Embracing the Tar-Baby -- LatCrit Theory and the Sticky Mess of Race, [85 Cal. L. Rev. 1585, 1615 \(1997\)](#), [10 La Raza L.J. 499, 529 \(1998\)](#); see also Mutua, *supra* note 19, at 1189 (objecting to "tone" of criticism of Black/White binary and emphasizing that "blacks did not invent white racism, nor do we control the primary institutions supporting racial hierarchy") (footnotes omitted).

n25 See, e.g., Luz Guerra, LatCrit y La Des-Colonizacion Nuestra: Taking Colon Out, [19 Chicano-Latino L. Rev. 351 \(1998\)](#) (analyzing relationship of term "Latino" to Native American history); Siegfried Weissner, 3Esa India! LatCrit Theory and the Place of Indigenous Peoples Within Latina/o Communities, [53 U. Miami L. Rev. 831 \(1999\)](#) (analyzing history of subordination in Latin America). LatCrit inquiry into the status of indigenous peoples in the United States and Latin America is necessary given the well-documented human rights abuses of these peoples. See, e.g., Amnesty International, *Human Rights Violations Against the Indigenous Peoples of the Americas* (1992).

n26 See generally Julian Samora, *Mestizaje: The Formation of Chicanos* (1996).

n27 See, e.g., Kevin R. Johnson, "Melting Pot" or "Ring of Fire"?: Assimilation and the MexicanAmerican Experience, [85 Cal. L. Rev. 1259, 1272-74 \(1997\)](#), [10 La Raza L.J. 173, 186-88 \(1998\)](#); George A. Martinez, Latinos, Assimilation, and the Law: A Philosophical Perspective, [20 ChicanoLatino L. Rev. 1 \(1999\)](#).

n28 See Rodolfo F. Acuna, *Anything But Mexican: Chicanos in Contemporary Los Angeles* (1996).

n29 See Hernandez-Truyol, *supra* note 17.

n30 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, 1238 \(1995\)](#) (footnote omitted).

n31 See Manuel G. Gonzales, *Mexicanos: A History of Mexicans in the United State* 4 (1999); see also Ramon A. Guitierrez, Community, Patriarchy and Individualism: The Politics of Chicano History and the Dream of Equality, 45 Am. Q. 44, 46 (1993) ("Chicanismo meant identifying with la raza (the race or people), and collectively promoting the interests of carnales (or brothers) with whom they shared a common language, culture, religion, and Aztec heritage.").

n32 See, e.g., Berta Esperanza Hernandez-Truyol, Borders (En)Gendered: Normativities, Latinas, and a LatCrit Paradigm, [72 N.Y.U. L. Rev. 882 \(1997\)](#); Berta Esperanza Hernandez-Truyol, Building Bridges -- Latinas and Latinos at the Crossroads: Realities, Rhetoric, and Replacement, 25 Colum. Hum. Rts. L. Rev. 369 (1994).

n33 See, e.g., Rebecca Tsoie, *Negotiating Economic Survival: The Consent Principle and Tribal-State Compacts Under the Indian Gaming Regulatory Act*, [29 Ariz. St. L.J. 25 \(1997\)](#); Rebecca Tsoie, *Separate Sovereigns, Civil Rights, and the Sacred Text: The Legacy of Thurgood Marshall's Indian Law Jurisprudence*, [26 Ariz. St. L.J. 495 \(1994\)](#). Other LatCrit theorists also have federal Indian law expertise. See, e.g., *Readings in American Indian Law: Recalling the Rhythm of Survival* (Jo Carrillo ed., 1998); Nell Jessup Newton, *Indian Claims in the Courts of the Conqueror*, [41 Am. U. L. Rev. 753 \(1992\)](#).

n34 See Rebecca Tsoie, *Native Cultures, Comparative Values and Critical Intersections Panel Presentation at LatCrit IV* (Apr. 30, 2000). Other panelists included Jo Carillo, Donna Coker, Berta Esperanza Hernandez-Truyol, and Eric Yamamoto.

n35 See generally Felix S. Cohen, *Felix S. Cohen's Handbook of Federal Indian Law* (1986) (recounting history of U.S. government's policies toward Indian tribes).

n36 See Gloria Anzaldúa, *Borderlands/La Frontera: The New Mestiza* 1-13 (1987) (placing Aztlan in historical and political context); Ian F. Haney Lopez, *Race, Ethnicity, Erasure: The Salience of Race to LatCrit Theory*, [85 Cal. L. Rev. 1143, 1176 \(1997\)](#), [10 La Raza L.J. 57, 90 \(1998\)](#) (referring to "Aztlan, the mythical homeland for those of Aztec descent and a powerful symbol of Chicano identity and resistance") (footnote omitted). See generally *Aztlan: Essays on the Chicano Homeland* (Rodolfo A. Anaya & Francisco Lomeli eds., 1989) (collection of essays analyzing concept of Aztlan).

n37 See generally Ignacio M. Garcia, *Chicanismo: The Forging of a Militant Ethos Among Mexican Americans* (1997) (analyzing evolution of Chicano/a movement).

n38 Toro, *supra* note 30, at 1250 n.184 (citation omitted).

n39 See Rodolfo F. Acuna, *Occupied America: A History of Chicanos* 340-41 (3d ed. 1988); see also *infra* note 76 (citing authorities analyzing legacy of Treaty of Guadalupe Hidalgo). See generally Richard Gardner, *Grito! Reies Tijerina and the New Mexico Land Grant War of 1967* (1970); Reies Tijerina, *Mi Lucha Por La Tierra* (1978).

n40 See, e.g., Eric K. Yamamoto, *Interracial Justice: Conflict and Conciliation in Post-Civil Rights America* (1999); Eric K. Yamamoto, *Conflict and Complicity: Justice Among Communities of Color*, [2 Harv. Latino L. Rev. 495 \(1997\)](#); Eric K. Yamamoto, *Critical Race Praxis: Race Theory and Political Lawyering Practice in Post-Civil Rights America*, [95 Mich. L. Rev. 821 \(1997\)](#).

n41 See Eric K. Yamamoto, *Practically Reframing Rights: Culture, Translation, and Judging*, [33 U.C. Davis L. Rev. 875 \(2000\)](#).

n42 [146 F.3d 1075 \(9th Cir. 1998\)](#), *rev'd*, [120 S.Ct. 1044 \(2000\)](#). In this case, the Court decided the constitutionality of "special elections for trustees of the Office of Hawaiian Affairs . . . , who must be Hawaiian and who administer public trust funds set aside for the betterment of 'native Hawaiians' and 'Hawaiians,' in which only people who meet the blood quantum requirement for 'native Hawaiian' or 'Hawaiian' may vote." [Rice](#), [146 F.3d at 1076](#) (footnote omitted). The Court invalidated the election scheme under the Fifteenth Amendment. See [Rice](#), [120 S.Ct. at 1060](#).

n43 Yamamoto, *supra* note 41, at 875.

n44 See *infra* text accompanying notes 135-40. Law and culture have been explored in other contexts. See, e.g., Renato Rosaldo, *Culture & Truth: The Remaking of Social Analysis* (1993); Janet E. Halley, *Sexuality, Cultural Tradition, and the Law*, [8 Yale J.L. & Human. 93 \(1996\)](#);

Madhavi Sunder, In Fragile Space: Sexual Harassment and the Construction of Indian Feminism, 18 Law & Pol'y 419 (1996).

n45 See Toro, *supra* note 30, at 1262-63 (raising question whether Filipinos are Latina/o).

n46 See generally Stanley Karnow, In Our Image: America's Empire in the Philippines (1989) (exploring history of Philippines as part of U.S. colonial empire).

n47 See, e.g., [In re Lampitoe, 232 F. 382 \(S.D.N.Y. 1916\)](#) (holding that Filipino could not naturalize because he was not "White"); Ronald Takaki, Strangers from a Different Shore 315-54 (rev. ed. 1998) (analyzing history of Filipinos in United States); Simeon E. Baldwin, The Constitutional Questions Incident to the Acquisition and Government by the United States of Island Territory, 12 Harv. L. Rev. 393, 415 (1899) (stating that "the half-civilized Moros of the Philippines . . . or even the ordinary Filipino of Manila" in recently-acquired U.S. Territories did not deserve constitutional protections afforded to U.S. citizens).

n48 See Victor C. Romero, Broadening Our World: Citizens and Immigrants of Color in America, [27 Cap. U. L. Rev. 13 \(1998\)](#).

n49 See Victor C. Romero, "Aren't You Latino?" Building Bridges upon Common Misperceptions, [33 U.C. Davis L. Rev. 837 \(2000\)](#).

n50 See, e.g., Yamamoto, *supra* note 41; Deborah A. Ramirez, Multicultural Empowerment: It's Not Just Black and White Anymore, [47 Stan. L. Rev. 957 \(1995\)](#).

n51 See Romero, *supra* note 49, at 846-47.

n52 See Johnson, *supra* note 27, at 1295-97, 209-10.

n53 See Leti Volpp, Talking "Culture": Gender, Race, Nation, and the Politics of Multiculturalism, [96 Colum. L. Rev. 1573 \(1996\)](#); Leti Volpp, (Mis)Identifying Culture: Asian Women and the "Cultural Defense", [17 Harv. Women's L.J. 57 \(1993\)](#).

n54 See Leti Volpp, American Mestizo: Filipinos and Antimiscegenation Laws in California, [33 U.C. Davis L. Rev. 795 \(2000\)](#).

n55 See generally Michael Omi & Howard Winant, Racial Formation in the United States (2d ed. 1994) (analyzing dynamics of racial transformation); Ian F. Haney-Lopez, White by Law: The Legal Construction of Race (1996) (studying similar issues in context of naturalization laws).

n56 Volpp, *supra* note 54, at 809-10.

n57 *Id.* at 810 n.59.

n58 See George A. Martinez, The Legal Construction of Race: Mexican-Americans and Whiteness, [2 Harv. Latino L. Rev. 321 \(1997\)](#) (showing how, although Mexicans were classified as "white" for naturalization purposes, there were subject to discrimination and segregation).

n59 Volpp, *supra* note 55, at 833.

n60 See Devon W. Carbado, The Ties that Bind, [19 Chicano-Latino L. Rev. 283, 283 \(1998\)](#) ("My father is an African Cubano. My mother is Jamaican. . . . Am I Latino?").

n61 John O. Calmore, Private Obsession, Our Public Sin: Exploring Michael Omi's "Messy" Real World of Race: An Essay for "Naked People Longing to Swim Free", [15 Law & Ineq. J. 25, 81 \(1997\)](#).

n62 Some of the comments in the following pages are based on my presentation at LatCrit IV on the panel on "Mestizaje, Identity and the Power of Law in Historical Context: LatCrit Perspectives."

n63 See Acuna, *supra* note 28, at 133 (summarizing coalitions between Asian and Chicano/a workers).

n64 See F. Arturo Rosales, *Chicano! The History of Mexican American Civil Rights Movement* 135-37 (1997).

n65 See generally Richard Thompson Ford, *The Boundaries of Race: Political Geography in Legal Analysis*, [107 Harv. L. Rev. 1843 \(1994\)](#) (analyzing relationship between geography and race relations).

n66 See Oscar Martinez, *Border People: Life and Society in the U.S.-Mexico Borderlands* 325 n.5 (1994).

n67 See [Loving v. Virginia, 388 U.S. 1, 11 \(1967\)](#) ("The fact that Virginia prohibits only interracial marriages involving white persons demonstrates that [they are] measures designed to maintain White Supremacy.") (footnote omitted); Akhil Reed Amar, *Attainder and Amendment 2: Romer's Rightness*, [95 Mich. L. Rev. 203, 205 n.7 \(1996\)](#) ("The social meaning of miscegenation laws was the legal enactment of racial hierarchy . . ."). Some today hope that racial mixture will have precisely this impact. See Jim Chen, *Unloving*, [80 Iowa L. Rev. 145, 167-72 \(1994\)](#); Alex M. Johnson, *Destabilizing Racial Classifications Based on Insights Gleaned from Trademark Law*, [84 Cal. L. Rev. 887, 925-31 \(1996\)](#).

n68 See, e.g., Jose Vasconcelos, *Raza Cosmica* (1925) (viewing racial mixture in Mexico as creating a "cosmic race" (*raza cosmica*)).

n69 Juan Gomez Quinones, *Roots of Chicano Politics, 1600-1940*, at 11 (1994).

n70 See Roxanne Dunbar Ortiz, *Roots of Resistance: Land Tenure in New Mexico, 1600-1980*, at 50 (1980) (A "caste system, pervaded Spanish colonial societies, little different from the racism which modern colonialism has bred wherever it has become rooted.").

n71 Keith Aoki, (Re)Presenting Representation, [2 Harv. Latino L. Rev. 247, 247 \(1997\)](#).

n72 Compare Elizabeth M. 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, 511-46 \(1998\)](#) (calling for critical scrutiny by LatCrits of how Catholicism has contributed to subordination), Margaret E. Montoya, *Religious Rituals and LatCrit Theorizing*, [19 Chicano-Latino L. Rev. 417, 427-29 \(1998\)](#) (same), and Nancy Ota, *Falling From Grace: A Meditation on LatCrit II*, [19 Chicano-Latino L. Rev. 437 \(1998\)](#) (describing her experiences and feelings with religious symbols at LatCrit IV and about Catholicism generally), with Emily Fowler Hartigan, *Disturbing the Peace*, [19 Chicano-Latino L. Rev. 479 \(1998\)](#) (offering wholly different perspective on religion and events at LatCrit IV), and Reynaldo Anaya Valencia, *On Being an "Out" Catholic: Contextualizing the Role of Religion at LatCrit II*, [19 Chicano-Latino L. Rev. 449, 458-66 \(1998\)](#) (articulating his views on Catholicism from working class Chicano perspective).

n73 See Elvia Arriola, *Foreword -- March!*, [19 Chicano-Latino L. Rev. 1, 43-53 \(1998\)](#).

n74 See Acuna, *supra* note 39, at 431-37; Rosales, *supra* note 64, at 138-42; see also Garcia, *supra* note 37, at 61-63 (discussing ambivalence about Catholic Church among Chicano/a activists in 1960s and 1970s).

n75 See Iglesias & Valdes, *supra* note 72, at 511-46.

n76 See, e.g., Guadalupe T. Luna, On the Complexities of Race: The Treaty of Guadalupe Hidalgo and Dred Scott v. Sandford, [53 U. Miami L. Rev. 691 \(1999\)](#); Guadalupe T. Luna, Chicana/Chicano Land Tenure in the Agrarian Domain: On The Edge of a "Naked Knife", [4 Mich. J. Race & L. 3 \(1998\)](#); Guadalupe T. Luna, En el Nombre de Dios-Poderoso: The Treaty of Guadalupe Hidalgo and Narrativos Legales, 5 Sw. J.L. & Trade Am. 45 (1998); Guadalupe T. Luna, "Agricultural Underdogs" and International Agreements: The Legal Context of Agricultural Workers Within the Rural Economy, [26 N.M. L. Rev. 9 \(1996\)](#) [hereinafter Luna, Agricultural Underdogs]. See generally The Legacy of the Mexican and Spanish-American Wars: Legal, Literary, and Historical Perspectives (Gary D. Keller & Cordelia Candelaria eds., 2000) (compiling readings on legal history of Treaty of Guadalupe Hidalgo); Symposium, Understanding the Treaty of Guadalupe Hidalgo on Its 150th Anniversary, 5 Sw. J.L. & Trade Am. 5 (1998) (collecting essays analyzing legal and other implications of lack of enforcement of Treaty of Guadalupe Hidalgo) [hereinafter Symposium, Understanding the Treaty of Guadalupe Hidalgo].

n77 See Guadalupe T. Luna, Gold, Souls, and Wandering Clerics: California Missions, Native Californians, and LatCrit Theory, [33 U.C. Davis L. Rev. 921 \(2000\)](#).

n78 [Id. at 925](#).

n79 [Id. at 935-36](#).

n80 See Iglesias & Valdes, *supra* note 72, at 511-40.

n81 See Terry Rey, "The Virgin's Slip is Full of Fireflies": The Multiform Struggle over the Virgin Mary's Legitimierende Macht in Latin America and Its Diasporic Communities, [33 U.C. Davis L. Rev. 955 \(2000\)](#).

n82 [Id. at 956](#); see also Linda L. Ammons, What's God Got to Do with It? Church and State Collaboration in the Subordination of Women and Domestic Violence, [51 Rutgers L. Rev. 1207 \(1999\)](#) (analyzing role of Christianity in subordination of women and condoning domestic violence).

n83 Rey, *supra* note 81, at 957-58.

n84 See, e.g., Laura M. Padilla, Social and Legal Repercussions of Latinos' Colonized Mentality, [53 U. Miami L. Rev. 769 \(1999\)](#); Laura M. Padilla, Single-Parent Latinas on the Margin: Seeking a Room with a View, Meals, and Built-In Community, [13 Wis. Women's L.J. 179 \(1998\)](#); Laura M. Padilla, Intersectionality and Positionality: Situating Women of Color in the Affirmative Action Dialogue, [66 Fordham L. Rev. 843 \(1997\)](#).

n85 See Laura M. Padilla, Latinas, and Religion: Subordination or State of Grace?, [33 U.C. Davis L. Rev. 973 \(2000\)](#).

n86 [Id. at 974](#); see also Jeanette Rodriguez, Our Lady of Guadalupe: Faith and Empowerment Among Mexican-American Women (1994) (analyzing religious symbols as source of hope and power for Mexican American women).

n87 See Padilla, *supra* note 85, at 976-79.

n88 See *id.* at 987 n.72.

n89 See Valencia, *supra* note 72, at 451-53.

n90 Richard Rodriguez, Hunger of Memory (1981).

n91 See supra text accompanying note 74.

n92 See Iglesias & Valdes, supra note 72, at 535-45 (investigating liberation theology's relevance to LatCrit theory).

n93 See, e.g., Anthony E. Cook, Beyond Critical Legal Studies: The Reconstructive Theology of Dr. Martin Luther King, Jr., [103 Harv. L. Rev. 985 \(1990\)](#).

n94 See Michael Scaperlanda, Who Is My Neighbor? An Essay on Immigration, Welfare Reform, and the Constitution, [29 Conn. L. Rev. 1587 \(1997\)](#).

n95 See, e.g., Berta Esperanza Hernandez-Truyol, Las Olvidadas -- Gendered in Justice/Gendered Injustice: Latinas, Fronteras and the Law, 1 Iowa J. Gender, Race & Justice 353 (1998); Margaret E. Montoya, Mascaras, Trenzas, y Grenas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse, [17 Harv. Women's L.J. 185, 15 Chicano-Latino L. Rev. 1 \(1994\)](#).

n96 See Kimberle Crenshaw, Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color, [43 Stan. L. Rev. 1241 \(1991\)](#); Angela P. Harris, Race and Essentialism in Feminist Legal Theory, [42 Stan. L. Rev. 581 \(1990\)](#). Intersectionality analysis has been expanded to apply to other groups and to emphasize the multi-dimensionality of identity. See, e.g., Darren Lenard Hutchinson, Ignoring the Sexualization of Race: Heteronormativity, Critical Race Theory and Anti-Racist Politics, [47 Buffalo L. Rev. 1 \(1999\)](#); Francisco Valdes, Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of "Sex", "Gender," and "Sexual Orientation" in Euro-American Law and Society, [83 Cal. L. Rev. 1 \(1995\)](#).

n97 See Donna Coker, Shifting Power for Battered Women: Law, Material Resources, and Poor Women of Color, [33 U.C. Davis L. Rev. 1009 \(2000\)](#); see also Donna Coker, Enhanced Autonomy for Battered Women: Lessons from Navajo Peacemaking, [47 UCLA L. Rev. 1 \(1999\)](#); Jenny Rivera, Domestic Violence Against Latinas by Latino Males: An Analysis of Race, National Origin, and Gender Differentials, 14 B.C. Third World L.J. 231 (1994).

n98 See generally Critical Race Feminism: A Reader (Adrien Katherine Wing ed., 1997) (collecting essays on Critical Race Feminism).

n99 See, e.g., Mary Romero, Maid in the U.S.A. (1992); Maria L. Ontiveros, To Help Those Most in Need: Undocumented Workers' Rights and Remedies Under Title VII, 20 N.Y.U. Rev. L. & Soc. Change 607 (1993-94).

n100 See Janet Calvo, Spouse Based Immigration Laws: The Legacy of Coverture, 28 San Diego L. Rev. 593 (1991); Cecelia Espenosa, No Relief for the Weary: VAWA Relief Denied for Battered Immigrants Lost in the Intersections, [83 Marquette L. Rev. 163 \(1999\)](#); Lee J. Teran, Barriers to Protection at Home and Abroad: Mexican Victims of Domestic Violence and the Violence Against Women Act, [17 B.U. Int'l L.J. 1 \(1999\)](#); see also Virginia P. Coto, LUCHA, The Struggle for Life: Legal Services for Battered Immigrant Women, [53 U. Miami L. Rev. 749 \(1999\)](#) (summarizing difficulties facing organizations providing legal services to poor, battered immigrant women).

n101 See Rachel F. Moran, Foreword -- Demography and Distrust: The Latino Challenge to Civil Rights and Immigration Policy in the 1990s and Beyond, 8 La Raza L.J. 1, 10 (1995) (noting that Latinas/os "often have been attuned to questions of class, rather than race or ethnicity, in formulating a reform agenda"); see also Mary Romero, Immigration, the Servant Problem, and the Legacy of the Domestic Labor Debate: "Where Can You Find Good Help

These Days!", [53 U. Miami L. Rev. 1045 \(1999\)](#) (analyzing issues of race and class implicated for Latinas in domestic service industry).

n102 See Kevin R. Johnson, Some Thoughts on the Future of Latino Legal Scholarship, [2 Harv. Latino L. Rev. 101, 129-38 \(1997\)](#). This focus on Latina/o diversity at LatCrit I provoked critical response. See Michael Luis Principe, A Reason for LatCrit Unification: Reflections on Comparative Efforts to Curtail Political Opposition and Terrorism, [2 Harv. Latino L. Rev. 297, 298 \(1997\)](#); Ediberto Roman, Common Ground: Perspectives on Latino-Latina Diversity, [2 Harv. Latino L. Rev. 483, 483-84 \(1997\)](#).

n103 Iglesias, *supra* note 7, at 664-72.

n104 See Tanya K. Hernandez, "Multiracial Discourse": Racial Classifications in an Era of Color-Blind Jurisprudence, [57 Md. L. Rev. 97 \(1998\)](#); Tanya K. Hernandez, The Construction of Race and Class Buffers in the Structure of Immigration Controls and Laws, [76 Or. L. Rev. 731 \(1997\)](#).

n105 See Tanya K. Hernandez, An Exploration of the Efficacy of Class-Based Approaches to Racial Justice: The Cuban Context, [33 U.C. Davis L. Rev. 1135 \(2000\)](#). For analysis of the place of Cubans in a Latina/o coalition, see Max J. Castro, Making Pan Latino: Latino Pan-Ethnicity and the Controversial Case of the Cubans, [2 Harv. Latino L. Rev. 179, 191-96 \(1997\)](#).

n106 See Gloria Sandrino-Glasser, Los Confundidos: De-Conflating Latino/as' Race and Ethnicity, [19 Chicano-Latino L. Rev. 69, 89-90 & n.81 \(1998\)](#).

n107 Hernandez, *supra* note 105, at 1167.

n108 See Leonard M. Baynes, Who Is Black Enough for You? The Stories of One Black Man and His Family's Pursuit of the American Dream, 11 *Geo. Immigr. L.J.* 97 (1996); Hope Lewis, Lionheart Gals Facing the Dragon: The Human Rights of Inter/National Black Women in the United States, [76 Or. L. Rev. 567 \(1997\)](#).

n109 See Lolita K. Buckner Inniss, Tricky Magic: Blacks as Immigrants and the Paradox of Foreignness, [49 DePaul L. Rev. 85 \(1999\)](#); see also Berta Esperanza Hernandez-Truyol, Building Bridges III -- Personal Narratives, Incoherent Paradigms, and Plural Citizens, [19 Chicano-Latino L. Rev. 303, 322 \(1998\)](#) (observing that Black immigration includes "not only that from many different African countries . . . , but also from the Caribbean countries. Such increased diversity increases the commonality and intersection of issues of Blacks with those facing Latina/o and Asian/Pacific groups . . .").

n110 For example, at the LatCrit IV conference, on the plenary panel entitled "The Meanings and Particularities of Blackness: Latina/o Identities and LatCrit Theory," Professor Taunya Lovell Banks and Charles Venator Santiago, as well as Professor Hernandez, presented papers on the Afro-Latina/o experience. These panelists also presented these papers on a panel on "Afro Latina/os and Racial Formation" at the 1999 Annual Meeting of the American Society of Legal History in Toronto in October 1999. See American Society for Legal History, Twenty-Ninth Annual Meeting, Oct. 21-23, 1999, at 19 (1999).

n111 See Christopher David Ruiz Cameron, The Rakes of Wrath: Urban Agricultural Workers and the Struggle Against Los Angeles's Ban on Gas-Powered Leaf Blowers, [33 U.C. Davis L. Rev. 1087 \(2000\)](#); see also Christopher David Ruiz Cameron, The Labyrinth of Solidarity: Why the Future of the American Labor Movement Depends on Latino Workers, [53 U. Miami L. Rev. 1089 \(1999\)](#) (contending that future of organized labor in United States rests on Latina/o workers).

n112 See Mary S. Pardo, Mexican American Women Activists: Identity and Resistance in Two Los Angeles Communities (1998); Luke W. Cole, Empowerment as the Key to Environmental Protection: The Need for Environmental Poverty Law, 19 Ecology L.Q. 619 (1992); Eileen Gauna, The Environmental Justice Misfit: Public Participation and the Paradigm Paradox, [17 Stan. Envtl. L.J. 3 \(1998\)](#); Olga L. Moya, Adopting an Environmental Justice Ethic, [5 Dick. J. Envtl. L. & Pol'y 215 \(1996\)](#).

n113 See Richard J. Lazarus, Pursuing "Environmental Justice": The Distributional Effects of Environmental Protection, [87 Nw. U.L. Rev. 787, 850-52 \(1992\)](#).

n114 See Kevin R. Johnson & George A. Martinez, Discrimination by Proxy: The Case of Proposition 227 and the Ban on Bilingual Education, [33 U.C. Davis L. Rev. 1227 \(2000\)](#).

n115 See, e.g., Robert S. Chang & Keith Aoki, Centering the Immigrant in the Inter/National Imagination, [85 Cal. L. Rev. 1395 \(1997\)](#), [10 La Raza L.J. 309 \(1998\)](#); Kevin R. Johnson, "Aliens" and the U.S. Immigration Laws: The Social and Legal Construction of Nonpersons, [28 U. Miami Inter-Am. L. Rev. 263 \(1997\)](#).

n116 See, e.g., Steven W. Bender, Direct Democracy and Distrust: The Relationship Between Language Law Rhetoric and the Language Vigilantism Experience, [2 Harv. Latino L. Rev. 145 \(1997\)](#); Christopher David Ruiz Cameron, How the Garcia Cousins Lost Their Accents: Understanding the Language of Title VII Decisions Approving English-Only Rules as the Product of Racial Dualism, Latino Invisibility, and Legal Indeterminacy, [85 Cal. L. Rev. 1347 \(1997\)](#), [10 La Raza L.J. 261 \(1998\)](#); Iglesias, supra note 7, at 646-59; Madeleine Plasencia, "Suppressing the Mother Tongue" -Anti-Subordination and the Legal Struggle over Control of the Means of Communication, [53 U. Miami L. Rev. 989 \(1999\)](#); Yvonne A. Tamayo, "Official Language" Legislation: Literal Silencing/Silenciando La Lengua, [13 Harv. BlackLetter J. 107 \(1997\)](#); John Hayakawa Torok, Finding Me in LatCrit Theory: Thoughts on Language Acquisition and Loss, [53 U. Miami L. Rev. 1019 \(1999\)](#); see also Drucilla Cornell & William W. Bratton, Deadweight Costs and Intrinsic Wrongs of Nativism: Economic, Freedom and Legal Suppression of Spanish, [84 Cornell L. Rev. 595 \(1999\)](#) (raising philosophical and economic arguments against English-only regulations).

n117 We both built on past work related to the topic. See Kevin R. Johnson, An Essay on Immigration Politics, Popular Democracy, and California's Proposition 187: The Political Relevance and Legal Irrelevance of Race, [70 Wash. L. Rev. 629, 650-61 \(1995\)](#) (studying anti-Mexican undercurrent to initiative campaign); George A. Martinez, Legal Indeterminacy, Judicial Discretion and the Mexican-American Litigation Experience: 1930-1980, [27 U.C. Davis L. Rev. 555 \(1994\)](#) (considering limited litigation successes of Mexican-Americans).

n118 Laura E. Gomez, Constructing Latina/o Identities, [19 Chicano-Latino L. Rev. 187, 187 \(1998\)](#).

n119 See Johnson & Martinez, supra note 114, at 1231-47.

n120 See Smith, supra note 18.

n121 See id. at 1130-31.

n122 See, e.g., Larry Cata Backer, The Many Faces of Hegemony: Patriarchy and Welfare as a Woman's Issue, [92 Nw. U.L. Rev. 327 \(1997\)](#); Larry Cata Backer, Welfare Reform at the Limit: The Futility of "Ending Welfare as We Know It", [30 Harv. C.R.-C.L. L. Rev. 339 \(1995\)](#).

n123 See Larry Cata Backer, Measuring the Penetration of Outsider Scholarship in the Courts: Indifference, Hostility, Engagement, [33 U.C. Davis L. Rev. 1173 \(2000\)](#).

n124 See Paul Butler, Racially Based Nullification: Black Power in the Criminal Justice System, [105 Yale L.J. 677 \(1995\)](#).

n125 See Martinez, *supra* note 117 (analyzing pattern of state, as well as and federal, court decisions denying civil rights to Mexican Americans).

n126 Cf. Michael A. Olivas, Preempting Preemption: Foreign Affairs, State Rights, and Alienage Classifications, [35 Va. J. Int'l L. 217 \(1994\)](#) (defending federal preemption of any state regulation of immigration in part because of possibility that states might attack immigrants).

n127 See, e.g., William R. Tamayo, When the "Coloreds" Are Neither Black Nor Citizens: The United States Civil Rights Movement and Global Migration, [2 Asian L.J. 1 \(1995\)](#).

n128 See William R. Tamayo, The Role of the EEOC in Protecting the Civil Rights of Farmworkers, [33 U.C. Davis L. Rev. 1075 \(2000\)](#).

n129 See [id. at 1080-82](#).

n130 See, e.g., Cletus E. Daniel, Bitter Harvest: A History of California Farmworkers, 1870-1941 (1981); Harvest of Shame (CBS television broadcast, Nov. 11, 1960).

n131 See Francisco Valdes, Foreword -- Poised at the Cusp: LatCrit Theory, Outsider Jurisprudence and Latina/o Self-Empowerment, [2 Harv. Latino L. Rev. 1, 53 \(1997\)](#).

n132 See Sumi Cho & Robert Westley, Historicizing Critical Race Theory's Cutting Edge: Key Movements that Performed the Theory, [33 U.C. Davis L. Rev. 1377 \(2000\)](#).

n133 See Kimberle Crenshaw et al., Critical Race Theory: The Key Writings That Formed the Movement xx-xxii (1995).

n134 See Cho & Westley, *supra* note 132, at 1408 n.67.

n135 See Anne Salzman Kurzweg, Live Art and Audience: Toward a Speaker-Focused Freedom of Expression, [34 Harv. C.R.-C.L. L. Rev. 437, 446-47 \(1999\)](#); see also Anthony Chase, Toward a Legal Theory of Popular Culture, [1986 Wis. L. Rev. 527](#) (considering political nature of popular culture).

n136 See Malavet, *supra* note 18, at 1324-31.

n137 See *id.* at 1297-1306.

n138 See Nicholas A. Gunia, Half the Story Has Never Been Told: Popular Jamaican Music as Antisubordination Praxis, [33 U.C. Davis L. Rev. 1333 \(2000\)](#).

n139 See, e.g., Eugene D. Genovese, Roll, Jordan, Roll: The World the Slaves Made (1976).

n140 See Regina Austin, "The Black Community," Its Lawbreakers, and a Politics of Identification, [65 S. Cal. L. Rev. 1769, 1812-14 \(1992\)](#); Theresa A. Martinez, Embracing the Outlaws: Deviance at the Intersection of Race, Class, and Gender, [1994 Utah L. Rev. 193, 198-203](#). For chilling accounts of Chicano/a gang culture, see Yxta Maya Murray, *Locas* (1997), which offers a fictional account of Chicana gang members in Los Angeles, Luis J. Rodriguez, *Always Running: La Vida Loca: Gang Days in L.A.* (1993), and Mona Ruiz, *Two Badges: The Lives of Mona Ruiz* (1991).

n141 See Kevin R. Johnson & Amagda Perez, Clinical Legal Education and the U.C. Davis Immigration Law Clinic: Putting Theory into Practice and Practice into Theory, [51 SMU L. Rev. 1423 \(1998\)](#).

n142 See, e.g., Alfredo Mirande, *Hombres y Machos: Masculinity and Latino Culture* (1997); Alfredo Mirande, *Gringo Justice* (1987); Alfredo Mirande & Evangelina Enriquez, *La Chicana: The Mexican American Woman* (1981).

n143 See Alfredo Mirande Gonzalez, Alfredo's Jungle Cruise: Chronicles on Law, Lawyering, and Love, [33 U.C. Davis L. Rev. 1347 \(2000\)](#).

n144 See, e.g., Derrick Bell, *Faces at the Bottom of the Well: The Permanence of Racism* (1992).

n145 See, e.g., Richard Delgado, *The Rodrigo Chronicles* (1995).

n146 See, e.g., Anthony V. Alfieri, Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative, [100 Yale L.J. 2107 \(1991\)](#); Ruth Buchanan & Louise Trubek, Resistances and Possibilities: A Critical and Practical Look at Public Interest Lawyering, 19 NYU Rev. L. & Soc. Change 687 (1992).

n147 See, e.g., Mirande, *supra* note 143, at 1355 n.10 (stating that Fermina "looks great in her Black Charra outfit").

n148 See *infra* note 178 (citing authorities).

n149 See, e.g., Chang & Aoki, *supra* note 115 (analyzing how international developments shaped the evolution of Asian American community in Monterey Park, California).

n150 See Colloquium, International Law, Human Rights and LatCrit Theory, [28 U. Miami InterAm. L. Rev. 177 \(1997\)](#).

n151 See Elizabeth M. Iglesias, Human Rights in International Economic Law: Locating Latina/os in the Linkages Debates, [28 U. Miami Inter-Am. L. Rev. 361 \(1997\)](#); see also Jose E. Alvarez, Critical Theory and the North American Free Trade Agreement's Chapter 11, [28 U. Miami Inter-Am. L. Rev. 303 \(1996-97\)](#) (suggesting that investment chapter of NAFTA might well injure Mexican citizens and spur migration to United States); George A. Martinez, Dispute Resolution and the Treaty of Guadalupe Hidalgo: Parallels and Possible Lessons for Dispute Resolution, 5 Sw. J.L. & Trade Am. 147, 157-75 (1998) (analyzing how dispute resolution mechanisms under NAFTA are antiMexican).

n152 Iglesias, *supra* note 7, at 631-46.

n153 See, e.g., Celina Romany, Women as Aliens: A Feminist Critique of the Public/Private Distinction in International Human Rights Law, [6 Harv. Hum. Rts. J. 87 \(1993\)](#).

n154 See, e.g., Ediberto Roman, The Alien-Citizen Paradox and Other Consequences of U.S. Colonialism, 26 Fla. State U. L. Rev. 1 (1998); Ediberto Roman, Empire Forgotten: The United States' Colonization of Puerto Rico, [42 Vill. L. Rev. 1119 \(1997\)](#) [hereinafter Roman, *Empire Forgotten*].

n155 Vday Singh Mehta, *Liberalism and Empire: A Study of Nineteenth-Century British Liberal Thought* (1999).

n156 See Tayyab Mahmud, Race, Reason, and Representation, [33 U.C. Davis L. Rev. 1581 \(2000\)](#).

n157 See Timothy A. Canova, Global Finance and the International Monetary Fund's Neoliberal Agenda: The Threat to the Empowerment, Ethnic Identity, and Cultural Pluralism of Latina/o Communities, [33 U.C. Davis L. Rev. 1547 \(2000\)](#) [hereinafter Canova, Global Finance]. This article builds on Professor Canova's previous international finance scholarship, including Timothy A. Canova, Banking and Financial Reform at the Crossroads of the Neoliberal Contagion, [7 U.S.-Mexico L.J. 85 \(1999\)](#), and Timothy A. Canova, Banking and Financial Reform at the Crossroads of the Neoliberal Contagion, [14 Am. U. Int'l L. Rev. 1571 \(1999\)](#).

n158 See, e.g., *The Politics of Law: A Progressive Critique* (David Kairys ed., 3d ed. 1998); Richard Delgado & Jean Stefancic, *Failed Revolutions: Social Reforms and the Limits of the Legal Imagination* (1994); Michael A. Olivas, *The Chronicles, My Grandfather's Stories, and Immigration Law: The Slave Traders Chronicle as Racial History*, 34 *St. Louis L.J.* 425 (1990).

n159 Canova, *Global Finance*, supra note 157, at 1549 (footnote omitted).

n160 See Enrique R. Carrasco, Opposition, Justice, Structuralism, and Particularity: Intersections Between LatCrit Theory and Law and Development Studies, 28 *Miami Inter-Am. L. Rev.* 313 (1996/97); see also Enrique R. Carrasco & Randall Thomas, Encouraging Relational Investment and Controlling Portfolio Investment in Developing Countries in the Aftermath of the Mexican Financial Crisis, [34 Colum. J. Transnat'l L. 539 \(1996\)](#) (analyzing how certain foreign investment might benefit developing nations); Enrique R. Carrasco, Law, Hierarchy, and Vulnerable Groups in Latin America: Towards a Communal Need of Development in a Neoliberal World, [30 Stan. J. Int'l L. 221 \(1994\)](#) (articulating communal model of development designed to improve vulnerable groups in Latin America).

n161 See Canova, *Global Finance*, supra note 157, at 1568-71.

n162 See Chantal Thomas, Globalization and the Reproduction of Hierarchy, [33 U.C. Davis L. Rev. 1451 \(2000\)](#) [hereinafter Thomas, Globalization]. Professor Thomas's previous scholarship has considered the effects of the changing international economy on developing nations. See Chantal Thomas, Causes of Inequality in the International Economic Order: Critical Race Theory and Postcolonial Development, [9 Transnat'l L. & Contemp. Probs. 1 \(1999\)](#); Chantal Thomas, Transfer of Technology in the Contemporary International Order, [22 Fordham Int'l L.J. 2096 \(1999\)](#); Chantal Thomas, Does the "Good Governance Policy" of the International Financial Institutions Privilege Markets at the Expense of Democracy, [14 Conn. J. Int'l L. 551 \(1999\)](#).

n163 Thomas, *Globalization*, supra note 162, at 1451 (footnote omitted).

n164 *Id.* at 1499.

n165 See supra text accompanying notes 19, 101-30, 149-53.

n166 See Thomas, *Globalization*, supra note 162, at 1456-76. For analysis of the conflicts between immigrants and established U.S. residents of Mexican ancestry, see Kevin R. Johnson, *Immigration and Latino Identity*, [19 Chicano-Latino L. Rev. 197 \(1998\)](#).

n167 See Vernon M. Briggs, Jr., *Mass Immigration and the National Interest* (1992).

n168 See, e.g., Philip L. Martin & David A. Martin, *The Endless Quest: Helping America's Farm Workers* 174-77 (1994).

n169 See, e.g., Gil Gott, *A Tale of New Precedents: Japanese American Internment as Foreign Affairs Law*, [40 B.C. L. Rev. 179](#), [19 B.C. Third World L.J. 179 \(1998\)](#).

n170 See Gil Gott, Critical Race Globalism?: Global Political Economy and the Intersections of Race, Nation, and Class, [33 U.C. Davis L. Rev. 1503 \(2000\)](#).

n171 See Ediberto Roman, A Race Approach to International Law (RAIL): Is There a Need for Yet Another Critique of International Law?, [33 U.C. Davis L. Rev. 1519 \(2000\)](#) [hereinafter Roman, RAIL]; see also Ediberto Roman, Reconstructing Self-Determination: The Role of Critical Theory in the Positivist International Law Paradigm, [53 U. Miami L. Rev. 943 \(1999\)](#) (criticizing role of positivist theory in international law).

n172 See Steven R. Ratner & Anne-Marie Slaughter, Appraising the Methods of International Law: A Prospectus for Readers, [93 Am. J. Int'l L. 291 \(1999\)](#); Elizabeth M. Iglesias, Out of the Shadow: Marking Intersections In and Between Asian Pacific American Critical Legal Scholarship, and Latina/o Critical Legal Theory, [40 B.C. L. Rev. 349, 372 n.65 \(1998\)](#), [19 B.C. Third World L.J. 349, 372 n.65 \(1998\)](#); David Kennedy & Chris Tennant, New Approaches to International Law -A Bibliography, 35 Harv. J. Int'l L. 417 (1994).

n173 See Roman, RAIL, supra note 171.

n174 See, e.g., Christopher David Ruiz Cameron, One Hundred and Fifty Years of Solitude: Reflections on the End of the History Academy's Dominance of Scholarship on the Treaty of Guadalupe Hidalgo, 5 Sw. J.L. & Trade Am. 83 (1998).

n175 See supra notes 46-47 (citing authorities).

n176 See supra text accompanying note 19.

n177 See supra note 19 (citing authorities).

n178 See, e.g., Daniel Farber & Suzanna Sherry, Beyond All Reason (1997); Matthew W. Finkin, Quatsch!, [83 Minn. L. Rev. 1681 \(1999\)](#); Chen, supra note 67; Anne M. Coughlin, Regulating the Self: Autobiographical Performances in Outsider Scholarship, [81 Va. L. Rev. 1229 \(1995\)](#).

n179 See Angela P. Harris, Foreword: The Jurisprudence of Reconstruction, [82 Cal. L. Rev. 741, 744-45 \(1994\)](#).

n180 See Arriola, supra note 73, at 14 (observing that "conflicts [at LatCrit II] centered on everything from the personal to the political, and from the personal which became political") (footnote omitted).

n181 Iglesias, supra note 7, at 578.

n182 See Keith Aoki, The Scholarship of Reconstruction and the Politics of Backlash, [81 Iowa L. Rev. 1467, 1471 \(1996\)](#).

n183 See Johnson & Martinez, supra note 22, at 1155-57 (calling for specific exploration of Chicano/a experience).

n184 See, e.g., supra text accompanying notes 157-61.

n185 See Francisco Valdes, "Criminality, Accountability and Reparations: Post-Pinochet Extrapolations," at The Spanish Legal System and LatCrit Theory: A Dialogue, Presentation at the University of Malaga, Malaga, Spain (June 30, 1999).

n186 See Latino/a Condition, supra note 2; supra note 2 (citing various symposia and colloquium).

n187 See, e.g., Iglesias, *supra* note 172; Luna, *Agricultural Underdogs*, *supra* note 76; HernandezTruyol, *supra* note 95; Montoya, *supra* note 95; Yxta Maya Murray, *The Latino-American Crisis of Citizenship*, [31 U.C. Davis L. Rev. 503 \(1998\)](#); Olivas, *supra* note 158; Roman, *Empire Forgotten*, *supra* note 154; Symposium, *Understanding the Treaty of Guadalupe Hidalgo*, *supra* note 76; Sylvia R. Lazos Vargas, *Deconstructing Homogenous Americanus: The White Ethnic Immigrant and Its Exclusionary Effect*, [72 Tul. L. Rev. 1493 \(1998\)](#); see also Johnson & Martinez, *supra* note 22, at 1159-61 (contending that much Chicano/a Studies scholarship is relevant to LatCrit theory). LatCrit scholarship need not necessarily be published in LatCrit annual symposia or other LatCrit conferences. Rather, as the literature expands, we would hope to see LatCrit scholarship in law reviews outside the annual symposia. Similarly, although the movement was officially denominated "LatCrit" in 1995 or thereabouts, see Iglesias, *supra* note 7, at 673, 680-81, critical literature about Latinas/os and the law existed before that date. Careful research requires looking at literature both inside and outside the official symposia and both before and after LatCrit I in 1996.

n188 The primer includes a "Fact Sheet: LatCrit" describing the movement and its participants, as well as "LatCrit: A Conceptual Overview," which is excerpted from Francisco Valdes, *Theorizing "OutCrit" Theories: Comparative Antisubordination Experience and Subordination Vision as Jurisprudential Method*, in *Critical Race Theory: Histories, Crossroads, Directions* (Jerome M. Culp, Jr. et al. eds., forthcoming 2001).

n189 See Pedro Malavet <<http://nersp.nerdc.ufl.edu/malavet/latcrit/latcrit.htm#anchorlc>> (on file with author).

n190 See, e.g., Canova, *Global Finance*, *supra* note 157.

n191 See, e.g., Richard Delgado & Vicki Palacios, *Mexican Americans as a Legally Cognizable Class Under Rule 23 and the Equal Protection Clause*, 50 *Notre Dame Law. Rev.* 393 (1975); Johnson, *supra* note 118; Martinez, *supra* note 117; Montoya, *supra* note 95; Moran, *supra* note 101.

n192 See Iglesias, *supra* note 7, at 679-82. See generally Richard Delgado, *The Imperial Scholar: Reflections on a Review of the Civil Rights Literature*, [132 U. Pa. L. Rev. 561 \(1984\)](#).

n193 See Francisco Valdes, *Afterword -- Theorizing "OutCrit" Theories: Coalitional Method and Comparative Jurisprudential Experience -- RaceCrits, QueerCrits and LatCrits*, [53 U. Miami L. Rev. 1265, 1299-1306 \(1999\)](#).

n194 LatCrit, Inc. is a fictitious name duly registered with the Florida Secretary of State on behalf of: Latina and Latino Critical Legal Theory, Inc., a non-profit corporation, incorporated under the laws of the State of Florida.

n195 This criticism has been leveled at Critical Race Theory. See Richard Delgado & Jean Stefancic, *Critical Race Theory: Past, Present, and Future*, 51 *Current Leg. Probs.* 468, 490 (1998) ("CRT . . . has not changed with the times. It continues focusing on feelings, language, social construction, and the unique multiple consciousness of people of color, while programs vital to the well being and, indeed, survival, of minority communities are being terminated right and left.").

n196 Iglesias & Valdes, *supra* note 72, at 533.