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SYMPOSIUM ISSUE: PRESENTED BY LATINA/O CRITICAL LEGAL THEORY, INC.: EDUCATION & PEDAGOGY: **Cluster Introduction: Education** and Pedagogy: Counter-Disciplinarity in the Critical Education Tradition in LatCrit Theory

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... Resonating strongly with Professors Malagon, Perez Huber, and Velez's reflections on a critical race-grounded methodology, Professors Pacheco and Velez contribute meaningfully to the CRT/LatCrit in education branch of the critical education tradition in LatCrit theory, praxis, and community. ... Finally, I conclude by urging scholars interested in LatCrit theory, praxis, and community to respond rigorously to the challenges and opportunities posed by these essays, namely: (1) to incorporate socioeconomic and binary economic approaches to law teaching and legal scholarship; (2) to not surrender the field of mandatory continuing legal education, but rather to bring the insights of LatCrit theory and other schools of critical outsider jurisprudence into anti-bias and antidiscrimination CLE curricula; and (3) to develop methodologies grounded in the lived experiences and concrete situations of People of Color in order to manifest social justice commitments throughout the research process and to develop teaching tools for social change. ... USING SOCIO-ECONOMICS AND BINARY ECONOMICS TO SERVE THE INTERESTS OF POOR AND WORKING PEOPLE In his contribution to the Symposium, Professor Robert Ashford takes seriously Professor Valdes's expression of LatCrit's open invitation to join an outsider democracy in legal knowledge production. ... Having so framed the essay, Professor Ashford then earnestly and persuasively argues that LatCrit and feminist scholars and scholars of other critical schools should learn and embrace the socio-economic approach to law-related economic issues as a positive and normative alternative to the law and neoclassical economics approach to such issues.

TEXT:

[*107] I. INTRODUCTION

Five essays constitute the "Education and Pedagogy" cluster of the LatCrit XIII symposium, published as a result of the proceedings of the Thirteenth Annual Latina/o Critical Legal Theory (LatCrit) Conference, held in Seattle, Washington, in October 2008, which was thematically oriented around the notion of "Representation and Republican Governance: Critical Interrogation of Electoral Systems and Exercise of the Franchise." ⁿ²

Beyond their particular insights into contemporary issues in education and pedagogy, the essays in this symposium cluster collectively extend the critical education tradition in LatCrit theory, praxis, and community. This discourse has been integral to the LatCrit movement from the start. ⁿ³ Additionally, these essays manifest and further what law professor Francisco Valdes characterizes as the fourth of "five general substantive contributions" by the LatCrit project to the larger movement of critical outsider jurisprudence, a contribution that he terms LatCrit's "counter-disciplinarity." ⁿ⁴

For example, law professor Robert Ashford invites scholars interested in LatCrit theory to consider learning and deploying socioeconomic and binary economic approaches to law and economics in law teaching and legal scholarship. Adult education professors Lorenzo Bowman, Tonette Rocco, and the late Elizabeth Peterson call for scrutiny of bias in professional continuing legal education (CLE), arguing that critical race theory can help explain "the limited offerings on bias and discrimination in the legal profession." ⁿ⁵ From the vantage of critical race and LatCrit scholars in the [*108] field of education, professors Maria C. Malagon, Lindsay Perez Huber, and Veronica N. Velez share their collaborative development of a critical race-grounded methodology that moves past the research methodologies that can often facilitate the type of limited discourse and perspective attached to what they label imperial scholarship. ⁿ⁶ Finally, education professors Denise Pacheco and Veronica N. Velez articulate some of the pedagogical possibilities of maps, mapmaking, and geographical information systems (GIS) technology as teaching tools for social change.

In light of the other twenty-six LatCrit symposia articles, essays, and cluster introductions that also have focused on education and pedagogy, these new essays are particularly noteworthy for manifesting and furthering the inter-disciplinarity of LatCrit theory, praxis, and community. Authored by professors of law or education based variously in upstate New York, Miami, and Los Angeles, these works demonstrate how LatCrit theory, praxis, and community have affected and informed other genres of scholarship, as well as how those scholars are responding to, incorporating, adapting, and evolving LatCrit theory and related schools of critical outsider jurisprudence, such as Critical Race Theory (CRT), in order to address, research, and influence the conditions of socio-legally subordinated people.

In this cluster introduction, I first briefly analyze the essays in light of the LatCrit XIII conference theme and the four standing guideposts of the annual LatCrit conference, deploying a heuristic developed by law professor Margaret Montoya.⁷ I then outline the individual essays' main arguments, categorizing each of them in one of three major branches of LatCrit's critical education tradition, briefly critiquing them in light of the insights they collectively offer, and elaborating on what Professor Valdes calls "counter-disciplinarity"; in his view, one of the five substantive contributions by LatCrit theory to critical outsider jurisprudence.⁸

Finally, I conclude by urging scholars interested in LatCrit theory, praxis, and community to respond rigorously to the challenges and opportunities posed by these essays, namely: (1) to incorporate socioeconomic and binary [*109] economic approaches to law teaching and legal scholarship; (2) to not surrender the field of mandatory continuing legal education, but rather to bring the insights of LatCrit theory and other schools of critical outsider jurisprudence into anti-bias and antidiscrimination CLE curricula; and (3) to develop methodologies grounded in the lived experiences and concrete situations of People of Color in order to manifest social justice commitments throughout the research process and to develop teaching tools for social change.

II. LATCRIT'S CRITICAL EDUCATION TRADITION

In a cluster introduction for the LatCrit XII symposium, I argued for the utility of understanding the then twenty-six LatCrit symposium articles, essays, and cluster introductions that had treated issues of education as constituting three major branches of a "critical education tradition" in LatCrit theory, praxis, and community: (1) education law and policy scholarship; (2) critical legal pedagogy; and (3) CRT/LatCrit in education scholarship.⁹ The new essays can be usefully understood in relation to those categories. In particular, the contributions by Professors Valdes and Ashford add to LatCrit's corpus of critical legal pedagogy and the offerings by Professors Bowman et al., Malagon et al., and Pacheco et al. all contribute to CRT/LatCrit in education scholarship.

Categorizing these new essays is not an end in itself. Rather, recognizing that the LatCrit community includes a group of scholars whose focus on education and pedagogy is not merely an area of sociolegal study but instead constitutes their education and training outside of the U.S. legal academy is a necessary step toward meaningfully integrating the insights developed by such scholars into LatCrit's theory, praxis, and community. It is significant to recognize when law professors reflect on and theorize about teaching critically in law school (the second branch of the critical education tradition) and when they attempt to bridge divides between various genres of legal scholarship, as do Professors Valdes and Ashford in their [*110] contributions to this symposium. Likewise, that Professors Bowman, Malagon, Pacheco, Perez Huber, Peterson, Rocco, and Velez were professionally educated outside of the U.S. legal academy and are faculty of adult education or scholars dedicating their careers to developing critical race and LatCrit theory for education--understood variously as a discipline of scholarship, the practice of training teachers, and a social institution--should not be regarded as accidental. Rather, their contributions to this symposium represent a significant development in LatCrit theory, praxis, and community (i.e., the growth of LatCrit's critical education tradition).

Table 1, *infra*, shows how the new essays engage LatCrit XIII's particular theme of "Representation and Republican Governance" and the four standing guideposts of the Annual LatCrit Conference.¹⁰

[*111] Table 1: Education and Pedagogy Essays in Light of the LatCrit XIII Conference Theme and the Four Standing Guideposts of the Annual LatCrit ConferenceT [*112] None of the essays seem to directly address "Representation and Republican Governance: Critical Interrogation of Electoral Systems and Exercise of the Franchise," and only two essays explicitly address the multidimensionality of Latina/o identities. However, three emphasize regional or local situations, and all five engage intergroup frameworks and other genres of scholarship. Thus, they are individually responsive to the Annual LatCrit Conference call for papers, and collectively they exemplify, as Professor Valdes describes the LatCrit community, "a democratic community of critical academic activists and diverse antisubordination scholars."¹⁶

In particular, this cluster of essays on education and pedagogy answers what Professor Valdes calls the "oft-expressed query: 'Do black people belong in LatCrit?' or 'Do Asian people belong in LatCrit?' or even 'Do indigenous people belong in LatCrit?'" ⁿ¹⁷ Resoundingly, these essays affirm that we all have a place in the LatCrit community.

Not only do these essays demonstrate "that Latina/o populations embody all racial (and other identity) categories[.]" but they also demonstrate a shared understanding of what Professor Valdes calls the fifth substantive contribution of LatCrit theory, "the collective or programmatic insistence that 'class' and 'identity' are not oppositional categories of analysis and action and, instead must be understood as 'different' dimensions of the interlocking systems of oppression always under interrogation." ⁿ¹⁸

Indeed, by focusing on the interests and rights of poor and working people to obtain capital, the disproportionate incarceration of African-Americans and Hispanics, and the situations of low-income public school students, their parents, and broader Communities of Color, these scholars not only manifest the foundational LatCrit principles of anti-subordination and multidimensional analysis, but they also suggest how their particular foci respond *critically* to the LatCrit XIII theme of "Representation and Republican Governance: Critical Interrogation of Electoral Systems and Exercise of the Franchise."

[*113] By treating and critiquing dominant U.S. jurisprudence in general, the rights of poor and working people to acquire the benefits of capital with the earnings of capital, the avoidance or rejection of CRT in the five states that mandate anti-bias or antidiscrimination curricula in their continuing legal education, and the aspiration to manifest social justice commitments in research that accurately represents low-income students of color, their parents, and their communities, the essays in this cluster remind us that the formal right to, and exercise of, the franchise is merely a thin version of democracy.

Eight years after what Jack Balkin called the "coup, judicial or otherwise" of *Bush v. Gore*, ⁿ¹⁹ these essays demonstrate the belief that formal electoral systems are insufficient for guaranteeing social justice in law school, the legal profession, institutions of criminal justice, the market, and public education. Rather, as these essays vigorously insist, a critical interrogation of electoral systems and exercise of the franchise must not be limited to studying the law and society of voting. A *critical* interrogation of democratic representation and republican governance leads scholars with diverse disciplinary training to the study of other social institutions, such as criminal justice, markets, public education, and professional education, in relation to the institutions of formal democracy.

III. REBELLIOUS KNOWLEDGE PRODUCTION, ACADEMIC ACTIVISM, AND OUTSIDER DEMOCRACY

In his contribution, derived from a lecture on LatCrit principles and practices given at the start of the joint LatCrit-SALT (Society of American Law Teachers) faculty development workshop at LatCrit XIII, Professor Valdes asks us to "regard academic activism as a form of rebellious knowledge production." ⁿ²⁰ Developing the critical legal pedagogy branch of LatCrit's critical education tradition, Professor Valdes refers to Gerald Lopez's famous articulation of "the rebellious idea of lawyering against subordination" and suggests that academic activism is chiefly constituted by [*114] a kind of law teaching and legal scholarship that strives to "reflect and occasionally even usher in the world we hope to create." ⁿ²¹

Building on that notion, Professor Valdes articulates ten "principles that bind [LatCrit] together as a diverse community of activist scholars." ⁿ²² Distilled from a discussion sparked by Chilean law professor and LatCrit Inc. board member Hugo Rojas at LatCrit's first annual planning retreat in 2001, Professor Valdes uses those principles, as well as his notion of rebellious lawyering-inspired academic activism, to sketch a legal history from nineteenth century Langdellian legal formalism to twenty-first century critical outsider jurisprudence.

By situating contemporary efforts to build and sustain a LatCrit community committed to critical outsider jurisprudence, Professor Valdes's historical sketch does not merely gloss the intellectual history of legal scholarship. Rather, he argues persuasively that today's critical outsider jurisprudence skillfully builds upon past insights into the basic indeterminacy of legal rules and actions, demonstrates how identity often plays a hidden role in resolving such indeterminacy, and concludes that *counter-disciplinary innovations are necessary to expose and ameliorate the manipulation of law to systematically privilege some identities and subordinate other identities.* ⁿ²³

Professor Valdes goes on to name some of the many sociolegal scholars whose "counter-disciplinary innovations" have shaped critical outsider jurisprudence. ⁿ²⁴ Explicitly rejecting a canon-building project, Professor Valdes should not be understood as listing a "who's who," but rather seen as doing the important work of identifying numerous exemplars of academic activism to benefit those who are interested in learning about those who have been developing a criti-

cal outsider jurisprudence in the U.S. legal academy. He then distills the contributions of these exemplars to name "five general substantive contributions" by the LatCrit community: "Latina/o Identities and Diversities; Intra- and Inter-Group Frameworks; Internationalism and Critical Comparativism; Counter-Disciplinarity; and [*115] Class and Identity (as opposed to Class or Identity)." ⁿ²⁵ In so doing, Professor Valdes strives to show how the academic activism of LatCrit scholars has tried to transcend merely applying previous intellectual breakthroughs to new conceptual or social terrains. Rather, as he explains, LatCrit's "programmatically, collective knowledge production projects" over the dozen-plus years of its existence collectively constitutes "a kind of 'outsider democracy' in legal knowledge production" around a "developing sense of democratic ethics and approaches[.]" ⁿ²⁶

IV. USING SOCIO-ECONOMICS AND BINARY ECONOMICS TO SERVE THE INTERESTS OF POOR AND WORKING PEOPLE

In his contribution to the Symposium, Professor Robert Ashford takes seriously Professor Valdes's expression of LatCrit's open invitation to join an outsider democracy in legal knowledge production. Musing on his experience of attending LatCrit XIII, Professor Ashford notes an apparently broad agreement by critical scholars that "law and economics" (which he renames the school of "law and neoclassical economics") "does not well serve the interests of poor and working people," and is even "viewed as an instrument of suppression." ⁿ²⁷ However, beyond this broad agreement, Professor Ashford perceives a lack of "widespread agreement or even clear understanding as to the causes of economic injustice, the institutions that perpetuate it, or what critical scholars can do to beneficially address the problem." ⁿ²⁸

Having so framed the essay, Professor Ashford then earnestly and persuasively argues that LatCrit and feminist scholars and scholars of other critical schools should learn and embrace the socio-economic approach to law-related economic issues as a positive and normative alternative to the law and neoclassical economics approach to such issues. He further argues for critical scholars to learn and embrace the "binary economics" approach to "wealth distribution, wealth maximization," which he describes as, "the competitive right to acquire capital with the earnings of capital...a very [*116] important, but little understood, economic right that is obscured by the law and neoclassical economics approach[.]" ⁿ²⁹

Professor Ashford builds his argument first by describing and critiquing the dominant law and neoclassical economics approach. Contextualizing his essay in the memory of conversations at LatCrit XIII, he notes common critiques of law and neoclassical economics as including its unrealistic foundational assumptions, lack of empirical rigor, and lack of attention to distributional issues (except when presumed always already as interfering with the putatively supreme goal of maximizing efficiency). Asserting the strategic intentionality of excluding other economic theory and practice from U.S. law schools and legal discourse, Professor Ashford then critiques thirteen elements of the dominant "law and neoclassical economics approach," and the "neoclassical economic paradigm" (e.g., the assumed existence of "efficient markets" and the false equation of efficiency maximization with the maximization of wealth). ⁿ³⁰

Cogently detailing his critique, Professor Ashford offers a valuable lesson in how the socioeconomic approach suspends the assumptions that the neoclassical economic paradigm presumes in order to consider analyses based on other assumptions and paradigms of thought. Critiquing four of "the most erroneous propositions" of law and neoclassical economics, Professor Ashford shares valuable knowledge for critical scholars, activists, lawyers, and others concerned with the preferences, interests, and situations of poor and working people whose distributive economic rights are deemed irrelevant by the dominant approaches that he critiques. In contrast, socio-economics recognizes that distribution counts "not only as an important normative issue, but also an important positive issue affecting the size of the pie in addition to size and distribution of the slices." ⁿ³¹

Professor Ashford then makes his case directly for critical scholars to adopt the socioeconomic approach in their law teaching and sociolegal scholarship, articulating his belief that it is a more rigorous, lawyerly approach that better serves the interests of poor and working people. He [*117] shares his hope that critical scholars can be instrumental in transforming legal education and lawyering so that "the neoclassical approach would thereby no longer be the dominant foundational starting point for the analysis of law-related economic issues." ⁿ³²

Historicizing the 1996 establishment of the Section on Socio-Economics of the Association of American Law Schools, Ashford defines and describes the growing discourse of socioeconomic, urging its "commitment to logical coherence, inductive and deductive reasoning, empirical evidence, and the scientific method,... as well as paradigm- and value-consciousness" as a solid and comprehensive foundation on which to base and integrate "trenchant criticism for the harms and shortcomings of the law and economic approach from critical scholars, feminists, and others[.]" ⁿ³³

Professor Ashford concludes his essay provocatively by describing the new attention to the theory of "binary economics," originated by Louis Kelso.ⁿ³⁴ In his description, binary economics has an almost unique focus on "the distribution of capital acquisition and ownership and its crucial relation to wealth maximization, economic prosperity, and justice for all people."ⁿ³⁵ Detailing his description is beyond the scope of this cluster introduction, so it must suffice to evoke Professor Ashford's discussion of binary productivity and the distributive economic justice implications of the theory of binary growth. Readers interested in how labor and capital can be understood as "independently" constitutive of production, or how "*growth is primarily the result of increasing capital productiveness and the distribution of its ownership rather than increasing labor productivity*,"ⁿ³⁶ would do well to read Ashford's essay.

V. THE EXCLUSION OF RACE FROM MANDATED CONTINUING LEGAL EDUCATION REQUIREMENTS

Shifting from essays of critical legal pedagogy, Professors Lorenzo Bowman, Tonette Rocco, and the late Elizabeth Peterson contribute to a burgeoning branch of the critical education tradition in LatCrit theory, [*118] praxis, and community--CRT/LatCrit in Education.ⁿ³⁷ Importantly, Professors Bowman, Rocco, and Peterson are professors of adult education, and their collaboratively-produced essay contributes a distinctive focus to LatCrit theory, praxis, and community, a critique of the system of continuing legal education (CLE) "using Critical Race Theory (CRT) as an analytical lens in an effort to reveal possible reasons for limited offerings on bias and discrimination in the legal profession."ⁿ³⁸

After glossing the socioeconomic significance of lawyers and legal services to the professional workforce and the American economy, Professors Bowman, Rocco, and Peterson partially explain the growth of legal services in the U.S. economy "by the astronomical increase in the number of criminal defendants ... due to the 'get tough' political policies, such as the 'war on drugs' or the 'three strikes' laws that many states have adopted."ⁿ³⁹ They then shift from the historical evolution of prison and jail demographics to cite the "twenty-two state task forces [that] have found bias in the legal profession to be a serious problem."ⁿ⁴⁰ Despite these findings, however, among "the forty states mandating CLE, *only five require coursework addressing bias and discrimination in the profession.*"ⁿ⁴¹

Professors Bowman, Rocco, and Peterson move on to briefly define CRT by relying on one of its foundational antologies, reciting standard definitions of the theory of interest convergence and the social construction of race, and critiquing liberalism's fundamentally-limited, non-systemic remedies for racial discrimination. They then present a survey of the five states that mandate CLE coursework in the elimination of bias in the profession--California, Minnesota, Oregon, Washington, and West Virginia--in light of recent American Bar Association taskforce and standing committee reports. Restating the particulars of these states is unnecessary, but what is important is Professors Bowman, Rocco, and Peterson's conclusion that:

In those states where bias awareness is mandated in CLE, bias is so broadly defined so as to make it possible to fulfill the [*119] requirement without taking courses that address the issue of race in the profession and in the criminal justice system....Further, none of the five states which mandate bias awareness require any assessment of learning outcomes. In other words, there is no attempt to determine whether any learning has occurred.ⁿ⁴²

This last point may not shock many U.S. law professors, since law schools in the U.S. tend to assess learning outcomes with a standard course final. However, to these professors of adult education, and likely for any professor of education, and indeed perhaps most educators, the lack of learning assessments is deeply troubling, as is the overbroad definition of bias.

However, Professors Bowman, Rocco, and Peterson do not perceive this situation as intentionally created. Rather, deploying principles of CRT, they analyze this situation in light of systemic, racially-white norms and privileges, as well as the ordinariness of race and racism "to everyday life in America."ⁿ⁴³ As they note:

White people as members of the legal profession and black people as clients, inmates, and offenders is a normal and expected circumstance. This tacit acceptance of the status quo in the justice system may further explain the absence of a sense of urgency to address racial bias in CLE and why the issue is so broadly defined.ⁿ⁴⁴

They continue with a trenchant and likely controversial critique of state bar associations that have acted in this way:

It is not in the interest of bar associations to so narrowly define "bias" so as to solely target race. These bar associations have done the politically correct thing by broadly defining "bias" to include other forms

of discrimination that people in their jurisdictions are equally concerned about (if not more concerned about), even though these other forms have not manifested themselves in the legal profession or in the criminal justice system as pervasively as racial bias. ⁿ⁴⁵

They continue:

[*120] The five states that have mandated anti-bias CLE ... are now able to argue that they have acted to protect the dignity of the profession. It is in the interest of white bar members to act by responding with some type of anti-bias CLE. In all likelihood, the primary reason for action is interest convergence. ⁿ⁴⁶

Elaborating their application of Derrick Bell's famous theory, Professors Bowman, Rocco, and Peterson conclude by offering several suggestions to improve CLE, drawing on their expertise in adult education and continuing professional education. Specifically, they argue for state bar associations to conduct a needs assessment particular to the demography of each jurisdiction in order to tailor anti-bias CLE coursework to regional and state needs. Next, they argue that "CLE requirements must clearly mandate race as a separate topic category" with increased required hours and racial sensitivity training that addresses unconscious bias. ⁿ⁴⁷ Finally, they call for "accountability and a measurement of success[.]" suggesting the establishment of state commissions of racial equality that would track and quantify the impact of mandated CLE anti-bias training on the legal profession and the criminal justice system in each state. ⁿ⁴⁸

The argument of this essay seems limited in obvious ways, such as the glossing of the situation of Latinas and Latinos in the criminal justice system and by suggesting that discrimination in the legal profession and society in general on bases other than race, such as citizenship, immigration status, dis/ability, gender, and sexuality, may not exist as "pervasive problems." However, reading Professors Bowman, Rocco, and Peterson's essay in light of its contribution to the critical education tradition of LatCrit theory, praxis, and community enables one to see their momentary centering of African Americans within the criminal justice system in order to ask a set of hard questions in the best tradition of a LatCritical multidimensional analysis of power, privilege, subordination, and possibilities for human liberation, collective self determination, and outsider democracy. ⁿ⁴⁹

[*121] Additionally, these questions should not be understood only as directed to the five state bars that mandate anti-bias CLE. Rather, the subject that these professors investigate and analyze should also be viewed as implying a question to LatCrit theory, praxis, and community: Where are LatCrit scholars in the design, offering, and assessment of anti-bias CLE courses? Typically based in U.S. law schools, LatCrit scholars are often very well positioned to collaborate with CLE providers, and thereby extend critical outsider jurisprudence to the practice of law. Building alliances with local progressive CLE providers, such as the National Lawyers Guild or "diversity bar associations[.]" can be well worth the effort. One way to read Professors Bowman, Rocco, and Peterson's essay is as presenting a friendly challenge to the LatCrit community to engage such work. ⁿ⁵⁰

VI. USING GROUNDED THEORY TO INFORM A CRT METHODOLOGY

In their collaboratively-produced essay, Professors Maria Malagon, Lindsay Perez Huber, and Veronica Velez introduce their proposal of a critical race grounded methodology as an attempt to move past the research methodologies that often facilitate a limited discourse and perspective attached to what they call imperial scholarship. Their aspiration is to materialize a social justice commitment throughout the research process, and they believe that "when used in partnership with a critical race framework, the researcher can utilize grounded methodology to interpret the perspectives and voices of the narratives that remain unacknowledged, invalidated, and distorted in social science research." ⁿ⁵¹

In this effort, Professors Malagon, Perez Huber, and Velez extend the cutting edge of the CRT/LatCrit in education branch of the critical education tradition in LatCrit theory, praxis, and community. ⁿ⁵² Grounding their exploration of this subject in their "collective frustration with traditional, qualitative research methods to *accurately* understand and document the complex experiences of Students of Color, their families, and their communities[.]" they offer generative ideas about what Professor **[*122]** Francisco Valdes has called LatCrit's "counter-disciplinarity." ⁿ⁵³ Beyond the significant contributions of the essay itself, the text of these scholars challenges the LatCrit community to make other disciplines integral to the elaboration of LatCrit theory in an effort to expand not only intellectual horizons but also critical networks of academic activists. ⁿ⁵⁴

By discussing CRT and LatCrit as they have learned it at the UCLA Graduate School of Education and Information Studies under Professor Daniel Solorzano and others, Professors Malagon, Perez Huber, and Velez offer a valuable perspective on the five tenets of CRT that "frame its methodological use within research." ⁿ⁵⁵ They gloss the theoretical debates about a "grounded theory" approach, as a methodological strategy developed by Glaser and Strauss (1967) to

generate theory from real life experience. Historicizing those debates within that era's struggles over "the use of qualitative research as rigorous methodology in the social sciences[.]" they describe the benefits of a grounded theory methodology, namely its "constant comparative method" throughout data collection and analysis, and "sampling aimed at theory construction, instead of population representativeness." ⁿ⁵⁶

Building on an abductive approach in applying grounded theory, Professors Malagon, Perez Huber, and Velez engage "conversations [that] allow for a more reflexive and emancipatory research strategy[.]" ⁿ⁵⁷ For them, "a prior theoretical framework like CRT is necessary to emancipatory theory building ...[where the] emerging theory is driven by the data, not by a theoretical framework." ⁿ⁵⁸ Synthesizing their theoretical engagements with various articulations of a grounded theory methodology, they argue that a critical race-grounded methodology "*draws from multiple disciplines to challenge white supremacy*, which shapes the way research specifically, and society generally, understands the experiences, conditions, and outcomes of People of Color." ⁿ⁵⁹ As they understand it, a critical race grounded methodology "allows CRT scholars to move toward a form of data [*123] collection and analysis that builds from the knowledge of Communities of Color[.]" ⁿ⁶⁰

In specifying their claim, Malagon, Perez Huber, and Velez draw upon Professor Dolores Delgado Bernal's conceptualization of "cultural intuition" and discuss how the four sources of cultural intuition have helped them develop "a critical race-grounded methodology [that] includes a social justice research design that calls for a thoughtful and respectful process of how to engage with our participants." ⁿ⁶¹ These strategies inform not only the outcomes of the research project, but interrogate the very research process itself "in order to reveal multiple perspectives that have long been silenced." ⁿ⁶² In this work, they point a way for LatCrit theory, praxis, and community to include "research participants in data analysis for co-construction of knowledge,...[to] deconstruct traditional 'researcher-subject' roles in academic research...[and respect their] role in communicating how their experiences and stories are portrayed[.]" ⁿ⁶³

While these are perhaps unfamiliar or even counter-intuitive notions to many U.S. law professors, Professors Malagon, Perez Huber, and Velez--both in their collaboration to produce the essay and in their thoughtful description of a critical race-grounded methodology--offer a significant, indeed emancipatory, way for LatCrit scholars to understand their potential for rebellious knowledge production and academic activism. Indeed, the way in which sociolegal scholars can eschew the limitations of imperial scholarship and instead create, engage, and sustain critical collaborations for social justice change is, or should be, at the heart of the LatCrit project. Professors Malagon, Perez Huber, and Velez argue persuasively for how to manifest this aspiration in each research project.

VII. MAPS, MAPMAKING, AND CRITICAL PEDAGOGY

Finally, professors Denise Pacheco and Veronica N. Velez conclude this cluster of essays by discussing their "experience with the role of maps in [their] work as education researchers, activists, and teachers." ⁿ⁶⁴ Resonating [*124] strongly with Professors Malagon, Perez Huber, and Velez's reflections on a critical race-grounded methodology, Professors Pacheco and Velez contribute meaningfully to the CRT/LatCrit in education branch of the critical education tradition in LatCrit theory, praxis, and community.

Indeed, their efforts to contextualize graphically-displayed statistical data in a broader socio-historical and political context, and to imagine and implement how geographic information systems (GIS) could display qualitative data, should be of great interest to LatCrit scholars. Pacheco and Velez's efforts aspire to transcend the traditional role of education researchers to "help policy makers ameliorate the conditions in U.S. public schools," and instead "to consider the role of people's lived experiences within those schools." ⁿ⁶⁵

The first half of the essay discusses the scholars' grounding in the field of critical pedagogy, in particular Paulo Freire's famous "problem-posing method of teaching" and the unmasking function of the Frankfurt School practices of critical thinking and dialectical reasoning. ⁿ⁶⁶ In the spirit of "education as a practice of freedom," Professors Pacheco and Velez argue persuasively "that maps are not the static, one-dimensional objects we have been trained to see them as, but rather are active artifacts, representing and constructing knowledge as individuals engage with them." ⁿ⁶⁷

Drawing on the emerging field of critical GIS, and feminist and grounded-visualization approaches, Pacheco and Velez contribute provocative ideas about "the politics of representation inherent in maps," and situated knowledges "[that acknowledge] the positionality of the GIS mapmaker in constructing knowledge;" ultimately, they are interested in the possibilities of using GIS in classrooms "as a discursive tactic to create 'counter-maps,' or...'subversive cartographies' [that] challenge dominant representations of the world." ⁿ⁶⁸ Synthesizing these concepts and practices into a "*critical race spatial analysis* in education," presented by Professors Pacheco and Velez with Professor Daniel Solorzano at the 2007 American Education Research Association conference in Chicago, Professors Pacheco [*125] and

Velez answer directly Professor Francisco Valdes's adaptation of Professor Gerald Lopez's famous articulation of the rebellious idea of lawyering against subordination. ⁿ⁶⁹ They assert,

In order to adequately respond to social inequity, we must first understand how society functions and begin to envision the society we desire....[We] must couple our analysis with active participation in the creation of communities that can wrestle with what it means to actually enact democracy and fairness. ⁿ⁷⁰

As they discuss it, "the classroom is one place where it is possible to engage in theorizing, practicing, and imaging a better society as one crucial step toward actualizing that society." ⁿ⁷¹ Posing problems through the use of maps in classrooms can help students learn about their neighborhoods and surrounding communities, stimulate critical thinking about what the maps include and omit, and encourage them to make and analyze their own maps in order to develop maps that reflect the community that they would like to see.

While possibly overly concrete for some, Professors Pacheco and Velez depict a startling response to Professor Valdes's call for law teaching and legal scholarship that strives to "reflect and occasionally even usher in the world we hope to create." ⁿ⁷² Like the essay by Professors Malagon, Perez Huber, and Velez, these scholars, who also work in the CRT/LatCrit in education branch of LatCrit's critical education tradition, are weaving and braiding the threads of possibility for LatCrit's sometimes discussed but incompletely realized "counter-disciplinarity." Like Professors Bowman, Rocco, and Peterson, Professors Pacheco and Velez demonstrate the emancipatory potential of collaborative scholarship that focuses on practices and settings not commonly engaged by U.S. law professors. However, surrendering the design and implementation of critical CLE curriculum and ignoring the possibility of classroom education as a practice of freedom does not serve the anti-subordination aims of LatCrit theory, praxis, and community, and indeed all critical outsider jurisprudence.

[*126] VIII. CONCLUSION

Professor Valdes concludes his essay with a self-critique of the LatCrit attempt to construct "an enduring, alternative counter-tradition to the ways and means of mainstream imperialism [in the US legal academy]." ⁿ⁷³ In his words, despite the dozen-plus years of the LatCrit experiment in academic activism, "[w]e have, in short, failed to meaningfully reshape the relationship of the scholar to her society." ⁿ⁷⁴ In part because of "inherent structural fragility" and also due to "the grinding pressures of imperial alternatives," LatCrit nevertheless constitutes one of the few viable "democratic jurisprudential experiments," and is a vehicle for "the individual work of academic activists, who agree to conduct programmatic projects collaboratively ... based on shared principles and aspirations." ⁿ⁷⁵

As the essays in this education and pedagogy cluster demonstrate, many scholars of diverse disciplinary training and institutional positions continue responding to the opportunity offered by LatCrit to collaborate in research and teaching projects that challenge subordinating sociolegal conditions. Indeed, these essays collectively challenge the LatCrit community in at least three significant ways, namely: (1) to incorporate socioeconomic and binary economic approaches into law teaching and legal scholarship, (2) to not surrender the field of continuing legal education, but rather to bring the insights of critical outsider jurisprudence into anti-bias and anti-discrimination CLE curricula, and (3) to develop methodologies grounded in the lived experiences and concrete situations of people of color in order to manifest social justice commitments throughout the research process, and to develop teaching tools for emancipatory social change.

As such, these essays contribute significantly to the corpus of LatCrit scholarship and critical outsider jurisprudence. Moreover, these essays, especially those co-authored in principled collaborations of scholars outside of the U.S. legal academy, demonstrate the vibrant counter-disciplinarity of the critical education tradition in LatCrit theory. This (counter)-tradition within LatCrit theory, praxis, and community points the way to [*127] meaningfully reshaping the relationship of scholars to society in order to serve the ongoing social struggles against subordination.

!Adelante pa' justicia!

Legal Topics:

For related research and practice materials, see the following legal topics:

Civil Rights Law Prisoner Rights Discrimination Evidence Scientific Evidence General Overview Labor & Employment Law Discrimination Racial Discrimination Employment Practices Pattern or Practice

FOOTNOTES:

n1 Lecturer, Univ. of California, Berkeley Chicano/Latino Studies Program; Staff Attorney, Alameda County Homeless Action Center; JD 2005, Univ. of California, Berkeley; MA 2002, Social Science (Interdisciplinary Studies), San Francisco State Univ.; BA 1996, Psychology, Univ. of California, Davis.

n2 See Annual LatCrit Conference XIII, Latina & Latino Critical Legal Theory, Inc., <http://www.law.du.edu/latCrit/ACXIII.htm>; Christian Halliburton, *Foreword to Representation and Republican Governance: Critical Interrogation of Election Systems and the Exercise of the Franchise*, 8 SEATTLE J. SOC. JUST. 1 (2009).

n3 Marc-Tizoc Gonzalez, *Tracing the Critical Education Tradition in LatCrit Theory, Praxis & Community*, 4 FLORIDA INT'L UNIV. L. REV. 85 (2008); Enrique Carrasco, *Introduction to Panel Three: Intellectuals, Awkwardness, and Activism: Towards Social Justice via Progressive Instability*, 2 HARV. LATINO L. REV. 317 (1997) (introducing a cluster of essays thematized as "Teaching, Scholarship and Service: Practicing LatCrit Theory" from the First Annual LatCrit Conference).

n4 Francisco Valdes, *Rebellious Knowledge Production, Academic Activism and Outsider Democracy: From Principles to Practices in LatCrit Theory, 1995-2008*, 8 SEATTLE J. SOC. JUST. 131 (2009).

n5 Lorenzo Bowman, Tonette Rocco & Elizabeth Peterson, *The Exclusion of Race from Mandated Continuing Legal Education Requirements: A Critical Race Theory Analysis*, 8 SEATTLE J. SOC. JUST. 229 (2009).

n6 Maria C. Malagon, Lindsay Perez Huber & Veronica N. Velez, *Our Experiences, Our Methods: Using Grounded Theory to Inform a CRT Methodology*, 8 SEATTLE J. SOC. JUST. 253 (2009).

n7 See Margaret Montoya, *Foreword: LatCrit at Ten Years*, 26 CHICANO-LATINO L. REV. 1, 7, 9 (2006) (introducing the LatCrit X symposium).

n8 Valdes, *supra* note 4, at 143.

n9 Gonzalez, *supra* note 3, at fns. 16-25 and accompanying text (discussing a review of the then twenty published LatCrit symposia and citing to the twenty-six individual works that I identified as focused on education).

n10 Cf. Montoya, *supra* note 10, at 7, with Gonzalez, *supra* note 3 at fns. 10-11 (identifying the risk of oversimplification yet concluding that such heuristic devices can appropriately inform potential readers about the new essays in light of the extant LatCrit corpus).

n11 [FOOTNOTE INCLUDED IN LINKED IMAGE ON PAGE 111.] Valdes, *supra* note 4.

n12 [FOOTNOTE INCLUDED IN LINKED IMAGE ON PAGE 111.] Robert Ashford, *Using Socio-Economics and Binary Economics to Serve the Interests of Poor and Working People: What Critical Scholars Can Do To Help*, 8 SEATTLE J. SOC. JUST. 173 (2009).

n13 [FOOTNOTE INCLUDED IN LINKED IMAGE ON PAGE 111.] Bowman et al., *supra* note 5.

n14 [FOOTNOTE INCLUDED IN LINKED IMAGE ON PAGE 111.] Malagon et al., *supra* note 6.

n15 [FOOTNOTE INCLUDED IN LINKED IMAGE ON PAGE 111.] Denise Pacheco & Veronica Nelly Velez, *Maps, Mapmaking, and Critical Pedagogy: Exploring GIS and Maps as a Teaching Tool for Social Change*, 8 SEATTLE J. SOC. JUST. 273 (2009).

n16 Valdes, *supra* note 4, at 132.

n17 Valdes, *supra* note 4, at 154.

n18 Valdes, *supra* note 4, at 144.

n19 Jack M. Balkin, *Bush v. Gore and the Boundary between Law and Politics*, 110 YALE L.J. 1407, 1453-54 (2001) (musing that "the possibility that a president might be installed by a coup, judicial or otherwise, does not seem to have been explicitly provided for in the Constitution."); *Bush v. Gore*, 531 U.S. 98 (2000).

n20 Valdes, *supra* note 4, at 133.

n21 Valdes, *supra* note 4, at 147 (quoting GERALD P. LOPEZ, *REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE* 382 (1992)).

n22 Valdes, *supra* note 4, at 134.

n23 Valdes, *supra* note 4, at 139 (emphasis added, citation omitted).

n24 Valdes, *supra* note 4, at 138.

n25 Valdes, *supra* note 4, at 144.

n26 Valdes, *supra* note 4, at 145 (citations omitted).

n27 Ashford, *supra* note 12, at 176.

n28 Ashford, *supra* note 12, at 174.

n29 Ashford, *supra* note 12, at 175.

n30 Ashford, *supra* note 12, at 180-81.

n31 Ashford, *supra* note 12, at 189.

n32 Ashford, *supra* note 12, at 194.

n33 Ashford, *supra* note 12, at 200.

n34 Ashford, *supra* note 12, at 205.

n35 Ashford, *supra* note 12, at 202.

n36 Ashford, *supra* note 12, at 213.

n37 Recent years have seen multiple books published on this subject. *See, e.g.*, EDWARD TAYLOR, DAVID GILLBORN, GLORIA LADSON-BILLINGS (EDS.), FOUNDATIONS OF CRITICAL RACE THEORY IN EDUCATION (2009); MIKE COLE, CRITICAL RACE THEORY AND EDUCATION: A MARXIST RESPONSE (2009); ADRIENNE D. DIXSON & CELIA K. ROUSSEAU, CRITICAL RACE THEORY IN EDUCATION: ALL GOD'S CHILDREN GOT A SONG (2006); TARA J. YOSSO, CRITICAL RACE COUNTERSTORIES ALONG THE CHICANA/CHICANO EDUCATIONAL PIPELINE (2006).

n38 Bowman et al., *supra* note 5, at 233.

n39 Bowman et al., *supra* note 5, at 230.

n40 Bowman et al., *supra* note 5, at 239 (citation omitted).

n41 Bowman et al., *supra* note 5, at 229 (citation omitted, emphasis added).

n42 Bowman et al., *supra* note 5, at 239.

n43 *Id.*

n44 Bowman et al., *supra* note 5, at 240.

n45 Bowman et al., *supra* note 5, at 241.

n46 *Id.*

n47 Bowman et al., *supra* note 5, at 247.

n48 Bowman et al., *supra* note 5.

n49 See, e.g., Athena D. Mutua, *Shifting Bottoms and Rotating Center: Reflections on LatCrit III and the Black/White Paradigm*, 53 U. MIAMI L. REV. 1177 (1999); and Francisco Valdes, *LatCrit: A Conceptual Overview*, <http://www.law.du.edu/latcrit/ConceptualOverview.htm> (adapted from Francisco Valdes, *Afterword: Theorizing "OutCrit" Theories: Coalitional Method and Comparative Jurisprudential Experience - RaceCrits, QueerCrits and LatCrits*, 53 U. MIAMI L. REV. 1265 (1999)).

n50 Additionally, where LatCrit-affiliated scholars have already engaged such tasks, it could be useful to link these efforts together via the LatCrit webpage. In an analogous move to the recent LatCrit Electronic Syllabi Bank, such CLE offerings could be listed, along with their supporting materials. See LATINA & LATINO CRITICAL LEGAL THEORY, ELECTRONIC SYLLABI BANK, <http://www.law.du.edu/latcrit/esb.htm>. For recent efforts to infuse anti-bias CLE with LatCrit theory, praxis and community in the San Francisco Bay Area, see Immigration Prof Blog, *Anti-Racism and the Law Practice*, <http://lawprofessors.typepad.com/immigration/2008/04/anti-racism-and.html>; National Lawyers Guild San Francisco Bay Area Chapter, *Anti-Racism and Anti-Oppression Workshops: Four Part Series with CLE Credit*, <http://www.facebook.com/event.php?eid=115442518190&ref=mf>.

n51 Malagon et al., *supra* note 7, at 258.

n52 See Gonzalez, *supra* note 3 (discussing this branch of LatCrit's critical education tradition and citing to the numerous publications that constitute it, including several authored by Professors Malagon, Perez Huber and Velez).

n53 Malagon et al., *supra* note 6, at 253.

n54 Malagon et al., *supra* note 6 (citations omitted).

n55 Malagon et al., *supra* note 6, at 256.

n56 Malagon et al., *supra* note 6, at 262.

n57 *Id.*

n58 Malagon et al., *supra* note 6, at 263.

n59 Malagon et al., *supra* note 6, at 264 (emphasis added).

n60 *Id.*

n61 Malagon et al., *supra* note 6, at 266.

n62 Malagon et al., *supra* note 6, at 267.

n63 Malagon et al., *supra* note 6, at 268.

n64 Pacheco & Velez, *supra* note 15, at 275.

n65 *Id.*

n66 *See* Pacheco & Velez, *supra* note 15, at 280.

n67 Pacheco & Velez, *supra* note 15, at 289.

n68 Pacheco & Velez, *supra* note 15, at 291-92 (citations omitted).

n69 *See supra* note 25 and accompanying text.

n70 Pacheco & Velez, *supra* note 15, at 293-94.

n71 Pacheco & Velez, *supra* note 15, at 294.

n72 Valdes, *supra* note 4, at 147.

n73 Valdes, *supra* note 4, at 148.

n74 Valdes, *supra* note 4, at 152.

n75 Valdes, *supra* note 4, at 155.