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## Foreword

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## Foreword

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Christian Halliburton

The Thirteenth Annual LatCrit Conference (LatCrit XIII) was held in the shadow of what then promised, and ultimately proved, to be a watershed moment in the social and political history of this country. The 2008 presidential race between Senators Barack Obama and John McCain appeared as a potential fork in the road for the country, if only because it is one that has long carried the burden of a volatile history of race relations and presented a concrete test of oft-repeated claims of progress in that regard.<sup>1</sup> With the campaign machines already humming, the annual conference was conceived as an opportunity to capture the immense intellectual energy created when so many minds collectively turn to consider a question of fundamental importance.

Yet the conference theme did not explicitly engage any of the myriad questions that could come from considering the significance of an Obama presidency only through the lens of race, just as the 2008 election proved to be a contest implicating, but not truly centering on, race as an issue of candidacy.<sup>2</sup> Instead, with the country facing crises at home and abroad, the 2008 presidential race seemed to be decided more on the basis of policy than on identity.<sup>3</sup> Likewise, the theme for LatCrit XIII called for LatCrit and allied critical scholarly communities to think about social movements, political representation, and electoral systems on both the institutional and individual levels.<sup>4</sup> The objective was to explore the causes and consequences of the connection between popular political sovereignty and the perpetuation of subordinating social architecture—“to illuminate the process by which socio-legal equality and transparency in government, which are pre-conditions for effective democratic representation, are forced to yield to hierarchies, subordinations, and disenfranchisement.”<sup>5</sup>

Nearly two hundred scholars, activists, students, and practitioners from a variety of disciplines responded to the call. They came together to explore how LatCrit theory and values can inform and be informed by what we observe in the mechanisms of government and governance. The papers delivered at the annual conference, a modest selection of which are presented in this symposium issue, applied the frameworks of antisubordination and intergroup justice, championed the values of anti-essentialism and multi-dimensional identity, and initiated change through the practice of outsider coalition-building, all in the context of recurring questions regarding political influence, accountability, transformation, and legitimacy.

On some level, the 2008 election year and the uniqueness of the race provided an obvious entrée to the discussion of political equality—both in meaning and in effect—that is at the heart of LatCrit discourse. It was, therefore, natural that the conference would include discussions of local, national, and international voting and election systems, examinations of the effects of identity and difference on political inclusion and voice, and assessments of the connection between imperial colonial expansion and modern hierarchies of power and exploitation. These streams of evaluation, in many ways, represent the latest instance of the continuing effort to use LatCrit theory to expose embedded resistance to progressive social reform and reformation on the institutional, state, and global level, and to develop LatCrit theory so that it is capacious enough to explain social and legal dynamics on each level of organization.

Alongside these discussions, much of the annual conference was spent exploring the practicalities of using the knowledge and principles generated during LatCrit's twelve-year development to expose hegemonic forces at work in less obvious, less overtly-political contexts, and further operationalizing the conceptual tenets of a truly complex multidimensional identity theory. These papers explored the interface between the personal and the social, that moment when self-definition meets public opinion, and

assessed the impact that race, gender, sexual identity, and other ways of finding and expressing selfhood have on day-to-day social experience and community membership. With that focus, the authors of those papers represent the latest instance of the continuing effort to connect LatCrit theory to a set of principles upon which our personal, professional, and political choices and behaviors are centered.

This robust binary focus—at once fostering the creation and development of a unique perspective within critical legal theory, and also making real the promise of that theory through conversion into praxis—has been the hallmark of LatCrit since its inception. Starting with the very first LatCrit symposium,<sup>6</sup> LatCrit scholars have pursued these twin aims with the understanding that it is the impact of theoretical interventions upon actual human experience that best measures the value of an idea. In every year since, the LatCrit community has come together to share its collective new insight into how to make LatCrit’s conceptual framework ever more coherent, as well as how to make LatCrit’s practical and political commitments ever more effective.

LatCrit XIII continues this rich tradition of blending theory with praxis, and the LatCrit community’s ongoing effort to achieve harmony between the two will be of great utility to the LatCrit project as it moves into the next phase of theoretical inquiry and social justice activism. In keeping with the call to participate in LatCrit XIII, LatCrit and its broad-based community of critical scholars will be faced with the perennial challenge of simultaneously advancing knowledge and converting that knowledge into action. Indeed, it is particularly appropriate for the thirteenth iteration of the LatCrit symposium series to ensure that the marriage of theory and practice maintains its primary position in our collective consciousness, for organic developments within LatCrit’s own governance system recently have tested LatCrit’s ability to meet that challenge and convert its complex principles into concerted conduct.<sup>7</sup>

With an explicit awareness of LatCrit's two-fold mission of first developing theoretical frameworks of critical outsider jurisprudence and then using those frameworks to inform successful antisubordination practices, the two clusters of essays published in this symposium are designed to advance the discourse on each of these fronts. The two clusters—as aggregates of essays—offer valuable insight and make novel suggestions relevant to LatCrit inquiry as a whole, with one dedicated to expanding LatCrit's theoretical knowledge base and the other demonstrating the deployment of LatCrit theory through specific contextualized practices.

#### CONNECTING PLACE, IDENTITY, AND POLITICS

The first cluster of symposium essays deals directly with the operation of political and governing institutions and reflects either novel application or expansion of established LatCrit principles to contend with the specific issues implicated by the annual conference theme. As a trio, the three essays presented in this cluster demonstrate a theoretical and experiential connection between physical and cultural locality, subjective and objective identity assignment, and the architecture and performance of political regulatory mechanisms.

Leading this lineup is Dr. Denise da Silva's *Outline of a Global Political Subject: Reading Evo Morales's Election as a (Post-) Colonial Event*. This essay traces Morales's rise through the ranks of the Bolivian political system, places him in relation to the larger political movements afoot in Latin America, and analyzes the significance of the Morales election. Dr. Silva pursues twin objectives with this effort: first, to resist the convention of mainstream political theory to insist on universality in its selection of analytically valuable events; second, to fully examine the implications of Morales's racial and indigenous difference for his construction as a political subject in the text inscribed by globalization and as mechanisms for subjugation. The product of these twin pursuits is one that reasserts the

importance of place and person in shaping political behavior and in measuring its enduring significance.

Dr. Silva's essay resonates the note in the chord of the conference theme that was intended to reflect on various political communities' relative success or failure in guaranteeing political inclusion and dismantling regressive social hierarchies. In her *Global Political Subject*, the author presents a hopeful example of how existing democratic mechanisms may at times produce transformative moments for a society. The depth of the change effectuated in such moments is not to be discounted, even if some prevalent voices in the field of political theory would resist acknowledging their transcendent importance.

Building from this first look at the consequences of race and indigeneity on political subjectivity, Professors Jacqueline Bridgeman, Gracie Lawson-Borders, and Margaret Zamudio analyze race, gender, and class as influences on political opinion at their intersection with the particularities of geographic regional variation. In *Representative Democracy in Rural America*, the authors contend that race, gender, and class—issues obviously implicated in the 2008 election given the coded identity of the candidates and the claims made by the campaigns—affected voting behavior in different parts of the country (and especially rural America) in different ways.

To demonstrate and explain this disparate effect, Bridgeman, Lawson-Borders, and Zamudio develop the notion of *localism*, the system by which race, gender, and class considerations get colored by a matrix of individual interpersonal, reputational, and relational factors that reflect one's community and place therein. The authors suggest that racial, class-based, and gendered codes deployed in political rhetoric will actually influence behavior to differing degrees depending on the influences of localism, and that localism is a process of opinion-formation more frequently and more consistently at work depending on where you are.

The final essay in the Identity and Location cluster takes the broadest view of the three. In *The End of Republican Governance and the Rise of Imperial Cities*, Professor José María Monzón reveals a far-reaching and potentially devastating change underway in the manner in which the world's populations are governed. Professor Monzón suggests that parallel tracks of political discourse and influence—one embodied in the state, and one made up of wealthy private elites—have developed as a consequence of the rise of so-called “Imperial Cities.” The concept of the Imperial City is one in which so vast a proportion of the national or global wealth is concentrated that the city can effectively compete with or even displace the state in which it sits in the debate over social and political policy.

The challenge presented by the emergence of Imperial Cities, beyond their dilution of the domestic and international influence of the nation-state, lays in part in their defiance of traditional tools of critical resistance. While Imperial Cities undoubtedly perpetuate and reproduce racial, gender, and class hierarchies, the arrogation of wealth as the pivotal condition for membership in the elite echelons of imperial society render them less amenable to intervention using strategies centering on the more familiar vectors of identity and subordination. Indeed, it may be that prevailing discourse and public debate surrounding racial and other differences in the rubric of rights actually obscures the way in which political equality is most directly and most effectively undermined.

The triad of essays that is cluster one anticipates and begins to prove a fundamentally important premise in the development of LatCrit theory, the notion that *place* matters. Place, as an instantaneous location in space and time, affects how political subjects are coded and how their personal histories become embedded in the body of political theory. Place, as a relative geographic concept relying on a web of social awareness and localized allegiances, influences the development of political opinion and the expression of will through voting behavior. And place, as a series of concentric wealth-defined circles of social membership, can alter political

systems and may determine the future of Republican mechanisms of governance as viable political institutions. In so doing, these three essays forcefully punctuate the dynamic normative and analytical dialogue that characterized this symposium and annual conference and suggest several new theoretical frontiers for future LatCrit exploration.

#### ON EDUCATION AND PEDAGOGY

The second set of essays presented here provides a snapshot of the way in which LatCrit theory is translating in and into the process and substance of higher education. Each essay, separately, either suggests an addition to, or demonstrates a new application of LatCrit's established theoretical doctrines and pedagogical practices. Each essay, separately, demonstrates the bilateral enrichment that occurs when LatCrit values are used to deepen educational engagement and progressive impact while critical developments in outside disciplines continue to inform and refine these core principles. Most importantly, when read together, the essays offer a powerful depiction of how LatCrit's body of knowledge can be used to formulate specific techniques and practices that put that knowledge in motion.

For example, Professors Maria Malagon, Lindsay Perez Huber, and Veronica Velez use their essay, *Our Experiences, Our Methods*, to demonstrate the utility of Critical Race Theory (CRT) and LatCrit theory in the development of a methodology capable of accurately collecting qualitative data on the experiences of People of Color in the educational setting. Malagon, Perez Huber, and Velez argue that existing sampling methods used in the field of education have created two problematic situations: a lack of data available for analyzing the experience of students of color and a failure in the academy to produce a methodology sufficiently related to the lives of such individuals. Building on the work of Glaser and Strauss, the authors proceed from the premise that qualitative research methodologies are most effective when they are designed with sensitivity to the real-world experiences of the subjects of study, and that such a properly



grounded qualitative study can be a legitimate basis for the development of broader theoretical principles.

The authors of *Our Experiences* then proceed to show how the tenets of CRT can provide the insights necessary to reconstruct an experiential framework that is sufficient to begin formulation of a methodology grounded in the lived realities of People of Color, and thereby enabling the compilation of meaningful qualitative data sets. Malagon, Perez Huber, and Velez directly connect the expectations of a grounded theory with that supplied by CRT, then sketch the preliminary details regarding what a CRT-grounded research methodology would look like, and pose the questions from which the research design would proceed. The authors ultimately conclude that any grounded theory capable of serving the need for qualitative assessment of the experiential histories of Students of Color would necessarily center on a social justice component. Here is where CRT and LatCrit, and an alliance between the two, are shown to have such value. By using CRT as a foundational framework which positions race and racism as social constructs, and then overlaying it with LatCrit's antisubordination principles<sup>8</sup> and the distinct awareness of the role played by intersectional identities,<sup>9</sup> the authors chart the impact of progressive theoretical concepts on the very ways in which educational experience is conceived and measured.

The second essay in this cluster connects LatCrit as a body of work to the process of education in a more fundamental way. In *Rebellious Knowledge Production, Academic Activism, and Outsider Democracy*, Professor Francisco Valdes describes the very specific principles and practices that "animate" LatCrit's praxis, tracing both its conceptual inspiration for these principles and practices and its discrete application in the context of critical outsider jurisprudence.<sup>10</sup> This essay, it should be noted, is an outgrowth of the presentation Professor Valdes delivered at the Sixth Annual LatCrit-SALT Junior Faculty Development Workshop—an initiative designed to attract, prepare, and support new critical law teachers. It thus articulates an

aspect of LatCrit's pedagogy of pedagogy, a set of principles identifying, in a complex way, both *what* we seek to teach and *how* we commit to teach it.

In this latest chapter of what is described as a multi-year, "multi-vocal" explication of what LatCrit theory entails and who comprises the LatCrit community of scholars, Professor Valdes chose to illustrate the significance of Professor Gerald Lopez's 1993 book *Rebellious Lawyering* as reflected in LatCritters functioning as academic activists,<sup>11</sup> and to unpack the list of values generated in response to Professor Hugo Rojas's 2001 call to translate LatCrit's theoretical transformative commitments into concrete organizational principles.<sup>12</sup>

Blending a deep understanding of these influential forces with the wisdom of firsthand experiential engagement, Professor Valdes, using the product of these two specific interventions, increases the level of resolution with which the constellation of LatCrit principles and practices can be comprehended, integrated, and employed in the academy. While his ability to provide additional nuance and sophistication to the meaning of LatCrit as an academic and political project is impressive, equally so is Professor Valdes's modeling of many of the principles and practices implicit in that project. His essay springs from a robust appreciation of subjectivity and the influence of role-positioning on perspective, reflects the centrality of antisubordination principles and social justice commitments to interrogating power hierarchies, and admits to an awareness of the need for further theory and knowledge development. The harmonization of tensions produced by this merging of criticality and self-criticality is one of the crucial tools in outsider coalition building, one that is ably modeled in *Rebellious Knowledge Production* and essential for understanding LatCrit's theoretical principles as manifest in pedagogical practices.

The third essay of the Education and Pedagogy cluster uses the lenses of CRT and LatCrit to examine the seemingly consistent failure of continuing legal education programs to contend with matters of race and racial bias and their failure to evaluate the impact of such obscuring practices on the

development of the legal profession. In *The Exclusion of Race from Mandated CLE Requirements*, Professors Lorenzo Bowman, Tonette Rocco, and Elizabeth Peterson utilize progressive analytical tools in order to begin to explain the absence of race in mandatory CLE training (in spite of the ubiquity of race as a factor affecting legal systems and the legal profession), to critique the few existing examples where race does make an appearance in such programs and to suggest ways to improve upon the current regime.

As a perfect example of the application of emerging critical legal theories to a specific educational context—the training of legal professionals—Bowman, Rocco, and Peterson lucidly sketch the disconnect between the widespread role of race in shaping social experience and the absence of a discourse that fully appreciates that role in professional education programs. The authors are thus able to uncover racial and racializing dynamics in the allocation of social capital and the experience with social institutions that would remain obscured without the illumination provided by critical theoretical frameworks. Bowman, Rocco, and Peterson are then able to shift the effort to digesting empirical data regarding the content of CLE programs and to use critical legal theory to resist and controvert efforts to explain the failure to engage race in neutral or objective terms.

The last two essays contained in the Education and Pedagogy cluster reverse the flow of influence and suggest ways in which the tools or concepts developed outside the sphere of critical legal theory can be integrated back into the legal discourse in order to complement its complexity and effectiveness in suggesting or creating pathways to social change. The first of these, Professor Robert Ashford's essay, *Using Socio-Economics and Binary Economics to Serve the Interests of Subordinated People*, develops the frameworks of binary economics and socioeconomics in order to suggest that these two bodies of related analytical presumptions and principles can be instrumental in achieving the explicit anti-essentialism and antistatist objectives of the LatCrit and CRT movements.

Professor Ashford not only manages to decouple the economics-driven models from their conventional conservative associations, but he also demonstrates how binary economics and socioeconomics promise to fill certain existing and persistent gaps in the jurisprudential models employed to counter oppression and marginalization.

The final essay in the Education and Pedagogy cluster moves the conversation from the power of economics in countering the institutionalization of race to the power of maps to educate for resistance against hegemonic social narratives. In *Maps, Mapmaking, and Critical Pedagogy*, Professors Denise Pacheco and Veronica Nelly Velez show how the conceptual tools of LatCrit theory can be enhanced by the use of maps and other geographic information systems as critical educational devices. “As pedagogues committed to using educational spaces to foster the development of critical thinking, [Pacheco and Velez] believe that maps can be used to assist students . . . in better understanding the dynamics that shape their communities” and advance the “larger goal of social change through education.”<sup>13</sup>

This final offering, when read together with Professor Ashford’s work, represents an instantiation of the LatCrit commitment to interdisciplinarity and to evolving innovations of the academy as a whole. When read together with the previous three essays to create the full cluster, the essays clearly depict the reflexive relationship between LatCrit theory and praxis, as well as between LatCrit and the broader field of critical pedagogy. Thus, they collectively represent the stream of LatCrit inquiry designed to connect our concept of the individual and her social construction with the patterns and practices of professional engagement and personal value formation in the real world.

In closing, it bears emphasizing that it is the presentation of a collection of essays precisely like the one contained in the aggregate of these two thematic clusters that is the purpose of the annual conference symposium issue. The clusters are meant to offer a record of the conference and to

provide a sampling of the proceedings for attendees and non-attendees alike. The purpose of the annual conference is to explore the specifics of a yearly theme in the context of the larger and ongoing theoretical evolution of LatCrit, and one of the purposes of LatCrit is to pursue the practice of social justice activism through critical theory-making in the grand scheme and through conversion of theory into praxis on the small scale. With these purposes explicitly invoked, this thirteenth LatCrit symposium is presented for consideration.

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<sup>1</sup> See Gary Langer, *Blacks' Political Engagement Spikes, Though Racial Divisions Remain Deep*, ABC NEWS, Sept. 23, 2008, available at <http://abcnews.go.com/PollingUnit/Politics/story?id=5831483>.

<sup>2</sup> For polling data and economic analysis supporting such a claim, see ALEXANDRE MAS & ENRICO MORETTI, *RACIAL BIAS IN THE 2008 PRESIDENTIAL ELECTION* (Dec. 2008), [http://www.aeaweb.org/annual\\_mtg\\_papers/2009/retrieve.php?pdfid=425](http://www.aeaweb.org/annual_mtg_papers/2009/retrieve.php?pdfid=425).

<sup>3</sup> See John B. Judis, *Race Didn't Decide Election*, L.A. TIMES, Nov. 9, 2008, available at <http://www.latimes.com/news/opinion/commentary/la-oe-judis9-2008nov09,0,7608119.story>.

<sup>4</sup> The title of the LatCrit XIII conference is "Representation and Republican Governance: Critical Interrogation of Electoral Systems and the Exercise of the Franchise." For more information regarding the substantive theme, see the Thirteenth Annual LatCrit Conference, <http://www.law.du.edu/latCrit/ACXIII.htm> (last visited Oct. 25, 2009).

<sup>5</sup> *Id.*

<sup>6</sup> For a record of the proceedings from this first symposium, see *LatCrit Theory: Naming and Launching a New Discourse of Critical Legal Scholarship*, 2 HARV. LATINO L. REV. 1 (1997).

<sup>7</sup> For an overview of these developments, see Marc-Tizoc Gonzalez, Yanira Reyes-Gil, Belkys Torres, & Charles R. Venator-Santiago, *Afterword: Change and Continuity, An Introduction to the LatCrit Taskforce Recommendations*, 8 SEATTLE J. SOC. JUST. 303 (2009).

<sup>8</sup> See, e.g., Athena D. Mutua, *Shifting Bottoms and Rotating Centers: Reflections on LatCrit III and the Black/White Paradigm*, 53 U. MIAMI L. REV. 1177 (1999).

<sup>9</sup> See, e.g., Robert S. Chang and Neil Gotanda, *The Race Question in LatCrit Theory and Asian American Jurisprudence*, 7 NEV. L.J. 1012 (2007).

<sup>10</sup> 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).

<sup>11</sup> *Id.* at 133.

<sup>12</sup> *Id.* at 134.

<sup>13</sup> Denise Pacheco & Veronica Nelly Velez, *Maps, Mapmaking and Critical Pedagogy*, 8 SEATTLE J. FOR SOC. JUST. 273 (2009).