Now, More than Ever: Reflections on LatCrit at Twenty

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INTRODUCTION

More than twenty years ago, as an untenured law professor, I flew to Puerto Rico to participate in a 1995 colloquium on Latinas/os and critical race theory. Sponsored by the Latino Law Professor section of the Hispanic National Bar Association, the event was part of the HNBA’s annual meeting. Seated together in front of me on the plane for the final leg of the journey were Michael Olivas, who became my mentor, as he was for so many Latina/o colleagues, and Juan Perea, whose scholarship on language discrimination illuminated the path of my early writing. The colloquium proved to be as much of a community-building event as an intellectual and activist conversation. In the span of a few days in an island paradise beset with the...
complexities and ravages of colonialism and class, I came to know scholars such as Margaret Montoya; Pedro Malavet; Berta Hernandez-Truyol; and especially Frank Valdes, whose writing and ideas and enduring friendships ignited my own voice toward an antisubordination future. Having attended every LatCrit annual and biennial conference held in the last twenty years, and having served as a LatCrit co-chair, treasurer, and longtime board member, it is my privilege to take stock of LatCrit’s sustained role in confronting the local and global struggles that existed then and continue today.

Much of the work of celebrating LatCrit’s accomplishments in its formative years—and detailing its growing pains—has been done in other commemorative publications. I can concentrate here, then, on charting the continued need for critical outsider jurisprudence and praxis in a world where antisubordination progress has stalled against a persistent tide of backlash.

As recounted elsewhere, those attending the 1995 Latina/o colloquium, known since as LatCrit 1/2, committed to a decade of scholarship, engagement, and activism that both interjected Latinas/os into the development of critical approaches to law and policy, and contributed to the articulation and advancement of critical outsider jurisprudence by offering a big and safe “tent” for the incubation of these ideas by a diverse and dedicated group of participants. As a relatively new law professor, fresh from the sanitized world of corporate law practice, the initial LatCrit conferences, with their emphasis on global subordinations, inter-


3. Hernandez-Truyol, Harris & Valdes, supra note 2, at 184.
disciplinarity, and attention to include Global South participants, opened my eyes to the breadth and historical depth of U.S. and global oppressions and systemic injustices. Now, two decades after that initial ten-year commitment and zooming toward the 25-year moment of LatCrit, it is evident that the need for our LatCrit collective is as great, or greater, than it was at the time of the 1995 colloquium. In that sobering spirit, I offer some thoughts on the importance of renewing our individual and collective commitment to the LatCrit experiment, project, intervention, campaign, family, tent, and community, as it has been variously called.

I. THE LONG ROAD TOWARD AN ANTISUBORDINATION FUTURE

In 2010, at LatCrit's quinceañera conference in Denver, Michael Olivas piqued my interest by suggesting, as part of the plenary Latina/o Education and Justice: Leading Voices, Lessons Learned, that Mexican Americans (and all Latinas/os) have a better life now than during the pre-integration and de jure discrimination times coinciding with the landmark 1954 Hernandez v. Texas decision. Elsewhere, I wrote a rejoinder

4. See, e.g., Grutter v. Bollinger, 539 U.S. 306, 343 (2003) (holding that the Equal Protection Clause does not prevent the narrowly tailored use of race in college admission decisions but expressing the expectation such programs will be unnecessary down the road: "It has been 25 years since Justice Powell first approved the use of race to further an interest in student body diversity in the context of public higher education. Since that time, the number of minority applicants with high grades and test scores has indeed increased. . . . We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today.").

5. LatCrit’s commitment to the anchor of antisubordination is a principle evolved from antidiscrimination, which proved insufficiently suited to eradicate deep-rooted and structural subordinations. See generally Hernandez-Truyol, Harris, and Valdes, supra note 2, at 185–186; Jerome M. Culp, Jr. et al., Subject Unrest, 55 Stan. L. Rev. 2435, 2449 (2003).

6. I participated in the panel in the dual roles as a former co-chair of LatCrit and as the current SALT co-president.

7. 347 U.S. 475 (1954) (ruling for constitutional purposes that Texans considered Mexican-Americans as a separate group to discriminate against them). For additional background, see Steven W. Bender, The Chronicles of Immigration Law, in ACCIDENTAL HISTORIAN: THE MICHAEL OLIVAS READER,
that, although as the grandson of two Mexican immigrants, I do not have to wonder which men's restroom I can permissibly use,\textsuperscript{8} undocumented Latina/o immigrants, in particular, still do not enjoy fundamentally better circumstances than they did sixty years ago. At the time of the \textit{Hernandez} decision, there were no explicit numerical restrictions on the entry allowances or pathways to citizenship for immigrants from the Western Hemisphere, and the Bracero Program between the United States and Mexico allowed guest worker entry consistent with U.S. labor demand.\textsuperscript{9} Border crossings were no more perilous than a stroll across the U.S.-Mexico border to work in the fields of waiting U.S. employers, with no risk of death, or need to spend a small fortune on a coyote guide as required in today's era of a securitized border and of stingy immigration allowances for high-demand, and often high-risk but low-pay occupations such as construction, agriculture, and domestic work.

As Mexicans became the unwanted face of undocumented immigration,\textsuperscript{10} federal and local immigration policies shifted from the mid-1900s, when we banned Chinese and other Asian immigration,\textsuperscript{11} to today's undue emphasis on Mexican and Central American immigration, as evidenced by the spiraling U.S.-Mexico border infrastructure and the inflammatory rhetoric of the 2016 presidential campaign.\textsuperscript{12} Focused on unwanted Mexican immigration, that rhetoric surpassed even the anti-

(Ediberto Roman & Kevin Johnson, eds.) (forthcoming 2016) (on file with author).

8. \textit{See} Bender, \textit{supra} note 7 (discussing that part of the proof in the \textit{Hernandez} case demonstrating the separate and subordinate treatment of Mexican-Americans was the trial courthouse's basement bathroom which had a sign reading "Colored Men" and "Hombres Aquí.").

9. \textit{Id.} (but discussing how Latina/o immigrant numbers were kept in check if and when labor demand waned by administrative requirements and the 1950s federal Operation Wetback deportation round-up).


Mexican fervor of the 2012 campaign when Republican hopeful Herman Cain suggested building a lethal, electrified fence with an alligator moat along the U.S.-Mexico border. In this evident way, our racialized immigration laws, while eliminating the vestiges of anti-Asian immigration policy through the enactment of the Immigration and Nationality Act of 1965, merely shifted their exclusionary animus to Mexicans and Central Americans—who, if fortunate enough to evade the deadly gauntlet facing undocumented migrants, remain vulnerable to deportation raids that tear families apart or to vigilantes searching the borderlands and far interiors for migrants to abuse.13

As with U.S. immigration policy targeting Latinas/os, many of today's oppressions trace a similar lifeline to past subordinations, evidencing that marginalized groups and systemic injustices often shift their strategies, and even their targets, thus supplying the appearance of progress while carrying on business as usual. As part of mapping the current challenges and imagining the oppressions that lie ahead, it is important to look backward and imagine what LatCrit adherents—had our collective existed fifty, seventy, or one hundred seventy years ago—would have been grappling with.14 Many, if not most, of those historic oppressions are still the terrain of current antisubordination struggles that scholars and activists in the LatCrit community are fighting. In this sobering and fundamental way, those of us who challenge the power structures and the complicity of law in ongoing oppressions must accept that the struggle is not one with any measurable time limit. Rather, the struggle for an antisubordination future, even to the optimist, is a challenge that will outlive us. But with its institutionalization, attentiveness to cultivating new generations

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14. Of course, a critical mass of professors of color failed to exist in the academy (even arguably assuming one exists today) decades ago, in large part due to segregation and exclusions of students of color starting in their formative years. For example, Margaret Montoya, instrumental in the founding of LatCrit, was the first Latina accepted by Harvard Law School, graduating in 1978.
of scholars, and its demonstrated longevity in the austerity age, LatCrit is positioned to contribute toward constructing this antisubordination future in the months, decades, and even centuries ahead.

Oftentimes, the strategies of subordinating and controlling a particular vulnerable group evolve, while still holding the group in the grip of oppression. Undoubtedly, one hundred seventy years ago, a LatCrit community would have argued and fought against the atrocities of slavery and lynchings of blacks, and seventy years ago, a LatCrit community would have argued against the abuses of segregation targeting the same group. Latinos, too, were the targets of lynch mobs and of public and private— in businesses and neighborhood covenants— segregation.¹⁵ Yet, Michelle Alexander has compellingly situated today’s mass incarceration of blacks (and Latinas/os), primarily accomplished through the War on Drugs, as the “New Jim Crow,” and as merely an extension of the control and racial hierarchy maintained over black people that survived the invalidation of slavery.¹⁶ Our infatuation with enforcing the prevailing social order, through prison-building and using the War on Drugs— itself largely based in control of racial groups seen as dangerous to white interests¹⁷ to fill those prisons—is the terrain of current LatCrit scholarship and activism,¹⁸ yet little removed from oppressions of old.


¹⁷. See Steven W. Bender, Joint Reform?: The Interplay of State, Federal, and Hemispheric Regulation of Recreational Marijuana and the Failed War on Drugs, 6 ALB. GOV’T L. REV. 359 (2013).

Examples abound of new strategies replacing old ones meant to target the same vulnerable group. Yesterday's poll taxes and literacy tests, administered even after the Fifteenth Amendment prevented states from denying the right to vote on the basis of race or the status as a former slave, evolved to new methods of voter suppression, such as the citizenship identification laws, that LatCrit scholars confront today. However, old methods sometimes die hard, as evidenced by the outright intimidation of African American voters in Florida during the 2000 presidential election and the resiliency of laws disenfranchising voters convicted of certain crimes, the latter bolstered by the tools of mass incarceration of minorities such as racial profiling.

Lynching, as a brutal means of avoiding the constitutional protections of the criminal justice system, may be abandoned as a ritual, but summary executions by police officers and private citizens of black and brown residents, once the prime targets of lynchings, accomplish the same goal and suggest that all we have lost from the days of lynching is the macabre real-time public celebration of death.


21. See BENDER, supra note 11, at 110–112 (discussing the racialized reliance on state Stand Your Ground Laws to justify shootings by private citizens).

22. Cf. Anthony Paul Farley, The Bitter Tears of Jesse Owens, 22 BERKELEY LA RAZA L.J. 231, 235-236 (2012). This LatCrit XV conference symposium article quoted black Olympian Jesse Owens, who described a particularly horrific Southern lynching:

When in doubt about anything, murder a Negro. . . . Only this time one of the men they hung had a wife who was eight months pregnant . . . [who] clawed at the shoes of the white men as they dragged [her husband] to the tree. . . . So they strung her up, too. Only
On the global front, the abominable slave trade still thrives for sexual and labor trafficking, but without the explicit blessing of U.S. law that slavery enjoyed during its heyday. Still, today’s neoliberal reality of globalization allows for slavery in place, by bringing the jobs of export assembly to the location of the most vulnerable and precarious labor forces. In this way, colonialism, among others and with slavery as its economic engine, gave way to neoliberalism to maintain the social order, which LatCrit and ClassCrit have begun to expose.

As one example of the role of globalization in the evolution of strategies of oppression, consider that, fifty years ago, a LatCrit collective might have confronted grower-violence, which suppressed unionization of farm workers in California. Yet in

they didn’t tighten the knot enough to kill her, just to dangle her above the fire they’d made so she’d slowly burn to death. Before she lost consciousness, her ready-to-be-born baby dropped into the flames. That wasn’t the worst of it. As the baby fell into the fire, the white men ran to their homes to call their wives and their children. To watch it roast.


23. See Steven W. Bender, *Guatemala Labor as an Extractive Industry: Critiquing the Precarity of the Maquiladora Export Model in the Neoliberal Era*, in FROM EXTRACTION TO EMANCIPATION: REIMAGINING DEVELOPMENT FOR GUATEMALA (Raquel Aldana and Steven W. Bender, eds.) (forthcoming publication of LatCrit Study Space, Guatemala) (addressing the tensions and appropriate role, if any, of the oppressive maquiladora export model in the development of a weak and impoverished state); Elvia R. Arriola, *Accountability for Murder in the Maquiladoras: Linking Corporate Indifference to Gender Violence at the U.S.-Mexico Border*, 5 SEATTLE J. SOC. JUST. 603 (2007) (LatCrit SNX, Bogota, Colombia conference symposium).


the years since, neoliberalism’s war on organized labor took the
fight to the global stage, with the threat of competition from
cheaper labor in the Global South freed from union-busting
protections, effectively accomplishing the “near collapse” of U.S.
unions without bloodshed on U.S. soil. Given the global
proportions of the neoliberal counterrevolution, it is no surprise
that LatCrit, since its inception, has acted with a global
orientation and urgency.

On other historic fronts, fifty years ago, LatCrit may have
joined the fight for reproductive rights before Roe v. Wade but
the Whole Women’s Health v. Hellerstedt case before the
Supreme Court in 2016 reveals that the battle for reproductive
rights continues, and as evidenced by a raft of restrictive state
laws has nearly returned the country to the regrettable days of
illicit and dangerous abortions.

One hundred seventy years ago, the LatCrit collective may
have contested the unjust war fought to claim half of Mexico’s
territory, and one hundred fifty years ago, LatCrit may have
decried the variety of techniques, deployed after that war, to
divest Mexican property owners in the Southwest of their land
titles from Spain or Mexico. Yet in a similar script of legal and
extralegal exploitation detailed by LatCrit scholars, Mexican-
American borrowers—and other Latina/o and black borrowers—
lost their homes in vast numbers in the recent subprime
mortgage crisis.

26. Mahmud, Mutua & Valdes, supra note 2, at 377–378 (discussing the
near collapse of U.S. unions).
27. See Bender, supra note 23 (detailing anti-union tactics in the
Guatemalan maquiladoras).
30. See An Overview of Abortion Laws, THE GUTTMACHER INSTITUTE (Jul. 1,
2016) https://perma.cc/L8KT-WFMW (describing the restrictions of certain laws
and providing a comparative chart).
31. See generally STEVEN W. BENDER, HOW THE WEST WAS JUAN:
32. See generally STEVEN A. RAMIREZ, LAWLESS CAPITALISM: THE SUBPRIME
CRISIS AND THE CASE FOR AN ECONOMIC RULE OF LAW (2012); STEVEN W. BENDER,
TIERRA Y LIBERTAD: LAND, LIBERTY, AND LATINO HOUSING ch. 5 (2010); see also
Dariely Rodriguez, Left Behind: The Impact of the Bankruptcy Abuse Prevention
As LatCrit scholars have recounted, Southwestern schools that once punished schoolchildren for speaking Spanish now may place English learners in the deep end of the assimilation pool by forcing them to learn English on an accelerated basis, but not nurturing their abilities in Spanish.

Decades ago, LatCrit may have helped supply the legal ammunition against racially segregated schools—which were aimed at a variety of groups, including blacks, Latinas/os, and Asians—and which sought to separate minorities from white children. But the invalidation of racially segregated schools in Brown v. Board of Education was seamlessly replaced by de facto techniques of unequal school funding mechanisms and the exclusion of minorities from neighborhoods by discriminatory tactics that survived the Supreme Court’s invalidation of racially-restrictive covenants.

In sum, we’ve seen this movie before.

Similar to deploying different techniques to target the same vulnerable group for oppression are subordinating strategies used against different targets. For example, there is little doubt that LatCrit, had it existed seventy years ago, would have contested the internment of Japanese-Americans during World
War II.\textsuperscript{37} But in the post-September 11th world of the War on Terror, tactics approaching the shame of internment have been implemented or suggested by politicians,\textsuperscript{38} and the stain of the terrorist label has been deployed to justify restrictive entry policies against Mexican immigrants.\textsuperscript{39} In the same vein, oppression against some religious groups, such as Jews and Catholics who were once discriminated against in a variety of settings, shifted to other groups, notably Muslims.\textsuperscript{40}

Sometimes discrimination comes full circle. Politicians were once shockingly explicit in their subordinate views of racial minorities.\textsuperscript{41} During the short-lived era of political correctness, politicians replaced explicit disdain for communities of color with thinly veiled code-words and phrases. Familiar examples include: "illegals" to refer to Mexican immigrants and justify racially targeted policies that exclude or round them up for deportation,

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\item \textsuperscript{37}See generally LORRAINE K. BANNAI, ENDURING CONVICTION: FRED KOREMATSU AND HIS QUEST FOR JUSTICE (2015). The reality was that the legal academy stood by silently during the internment. See Sarah H. Ludington, The Dogs That Did Not Bark: The Silence of the Legal Academy during World War II, 60 J. LEGAL EDUC. 397 (2011).
\item \textsuperscript{38}For example, 2016 presidential candidate Donald Trump suggested barring all Muslims from entering the United States and was open to creating a database identifying all U.S. Muslims. Jeremy Diamond, Donald Trump: Ban All Muslim Travel to U.S., CNN (Dec. 8, 2015, 4:18 AM), https://perma.cc/588J-PMBB.
\item \textsuperscript{39}Steven W. Bender, Sight, Sound, and Stereotype: The War Against Terrorism and Its Consequences for Latinas/os, 81 OR. L. REV. 1153 (2002) (LatCrit VII conference symposium).
\item \textsuperscript{41}For example, Thomas Jefferson wrote that blacks were "inferior to the whites in . . . body and mind" and unable to utter "a thought above the level of plain narration." See PAUL FINKELMAN, DEFENDING SLAVERY: PROSLAVERY THOUGHT IN THE OLD SOUTH: A BRIEF HISTORY WITH DOCUMENTS 20 (2003). Florida Senator James D. Westcott expressed similar racialized concerns during the U.S.-Mexican War about annexing too much Mexican territory and thereby taking control of "not merely the white citizens of California and New Mexico, but the peons, negroes, and Indians . . . and other half-monkey savages . . . as equal citizens of the United States." NATSU TAYLOR SAITO, MEETING THE ENEMY: AMERICAN EXCEPTIONALISM AND INTERNATIONAL LAW 129 (2010).
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and "welfare queens" to refer to African-American women allegedly abusing welfare. But in the 2016 presidential campaign, Donald Trump gave voice to voters fed up with masking their prejudices, essentially returning us to the days when politicians felt empowered to express their hatred without consequence—even to their benefit by garnering voter support. Among his vitriol was Trump's condemnation of the culture and character of Mexicans: "When Mexico sends its people, they're not sending their best. . . . They're sending people that have lots of problems . . . . They're bringing drugs. They're bringing crime. They're rapists. And some, I assume, are good people."42

II. RACIAL CAMPUS UNREST AS A BAROMETER OF SUBORDINATION

Trump's bombast on Mexican immigrants and Muslims was just one barometer of deteriorating conditions for U.S. racial minorities and other vulnerable groups. The backlash of the culture wars has stretched from presidential debates; to city streets where officers murder black and brown suspects with impunity; to college campuses where vulnerable groups confront the disregard of their culture and needs; to legislatures developing new ways to suppress the non-dominant culture and restore the social order;43 to the courts where culture defenders use theories such as reverse discrimination to erase the few gains of the fleeting civil rights era.44

Coinciding with LatCrit's Twentieth Anniversary Conference on Critical Constitutionalism in the fall of 2015, campus racial unrest drew national attention. Reaching elite institutions such as Yale, Harvard, and Princeton—and sometimes aligning with

42. Michelle Yee Hee Lee, Donald Trump's False Comments Connecting Mexican Immigrants and Crime, WASH. POST (July 8, 2015), https://perma.cc/PDK7-PZYR; see also Huber, supra note 12.

43. Among the notable examples is Arizona's anti-Ethnic Studies law, ARIZ. REV. STAT. § 15:112 (2016) (banning classes promoting U.S. government overthrow, promoting resentment toward a race or class of people, designed for a particular ethnic group, or advocating ethnic solidarity).

44. An example is the current attack on affirmative action. See Fisher v. Univ. of Tex. at Austin, 758 F.3d 633 (6th Cir. 2014), cert. granted, 135 S. Ct. 2888 (U.S. June 29, 2015) (No. 14-981).
broader movements for racial justice such as Black Lives Matter—protests challenged the status quo of unwelcoming campus environments for students of color. The backlash of a hostile campus environment, coinciding with the corporatization of universities and the broader culture war backlash sweeping other institutions, was evident on campuses by the time of LatCrit’s 2010 quinceañera conference. The demands articulated in many of the current protests share common themes of developing a curriculum that better speaks to diverse students, recruiting and retaining minority faculty, and admitting a critical mass of minority students. Given LatCrit’s inception and sustained presence in the academy, it is reaffirming to the mission and vitality of LatCrit to consider how the aims of these campus protests are central to LatCrit’s scholarship and praxis. As addressed below, LatCrit occupies a critical place in the interrogation and resolution of these disputes that intersect with so many of LatCrit’s core goals of community-building and antisubordination.

LatCrit praxis and scholarship connect directly to the core goals of the current campus protests. Having just completed its

45. See Alia Wong & Adrienne Green, Campus Politics: A Cheat Sheet, THE ATLANTIC, (Mar. 4, 2016), https://perma.cc/8W3P-29XR (detailing several high-profile protests including the most newsworthy event when University of Missouri President Tim Wolfe resigned in response to a strike of the university’s football team and mass student demonstrations protesting his lukewarm response to racial incidents on campus).

46. See Valdes, supra note 2, at 996-97; Francisco Valdes, Afterword, Culture by Law: Backlash as Jurisprudence, 50 VILL. L. REV. 1135, 1143-45 (2005) (discussing the origins of the culture war to take back civil rights gains in the name of angry white males); see also Mahmud, supra note 24, at 747-54 (discussing the broader backlash in the form of the global neoliberal counterrevolution).

47. See Bender & Valdes, supra note 2, at 323-24 (connecting campus backlash to corporate and identitarian politicking).

48. See Wong & Green, supra note 45 (reporting that students at 60 schools submitted racial demands to their campus leaders). Other campus demands addressed violence against minority, particularly black, students. See, e.g., Matt Coker, UC Irvine Black Student Union Demands End to Campus Police Department, OCWEEKLY, (Jan. 28, 2016), https://perma.cc/7P5H-SDPX.

49. See, e.g., Anita Tijerina Revilla, Raza Womyn Engaged in Love and Revolution: Chicana/Latina Student Activists Creating Safe Spaces Within the University, 52 CLEV. ST. L. REV. 155 (2005) (LatCrit VIII conference
twelfth annual session, the LatCrit-SALT junior faculty development workshop is the best known mentoring structure in the LatCrit landscape. Designed for pre-tenure faculty or those contemplating a teaching career, the annual workshop is meant to ensure the success of junior participants in their scholarship, teaching, and service. Another pipeline project, the LatCrit Student Scholar Program, has seen many of its diverse participants successfully enter the teaching market.\textsuperscript{50} Knowing the importance of scholarly achievement in attaining tenure, LatCrit elders have consistently solicited and featured junior faculty in LatCrit symposium publications, which is apparent with the recent example of the freestanding Chicago-Kent Law Review symposium being dominated by junior faculty.\textsuperscript{51} Equally essential in maintaining a diverse faculty to serve a diverse student body is LatCrit's role in providing a safe haven and support for faculty at all levels of seniority, who are too often embattled in their home institutions.\textsuperscript{52} A sentiment oft-expressed in LatCrit gatherings is how transformative legal education might be for students, faculty, and more broadly, clients and society, if a law school were comprised of the collective of faculty in the LatCrit community. The brick-and-mortar Campo Sano facility in Florida is the first concrete step toward the reality of that inclusive and supportive campus environment.

Current campus unrest attacked the mainstream curriculum that reinforced systemic oppressions of past and present. Calls for meaningful curriculum, such as the demand for "racial awareness"\textsuperscript{53} curriculum made by University of Cincinnati petitioners in the fall of 2015, expose how current university courses tend to assimilate even diverse student bodies into the prevailing norms of racial subordination.\textsuperscript{54} Graduate programs

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\item[50.] See Bender & Valdes, \textit{supra} note 2, at 400 n.9.  
\item[51.] Mahmud et. al., \textit{supra} note 2.  
\item[52.] Even diverse faculties can pose a hostile environment for their seemingly kindred faculty of color in certain circumstances, for which LatCrit has provided a safe zone.  
\item[53.] See Wong & Green, \textit{supra} note 45.  
\item[54.] David Shih, \textit{Campus Protests and Whiteness as Property}, \textsc{BlogSpot} (Jan. 25, 2016, 8:20 AM), https://perma.cc/SUQA-Z9VH (explaining the
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inculcate the same culture of assimilation and suppression. Law schools are no haven from curriculum designed to reinforce the dominant culture, as they failed to change their curriculum when affirmative action brought substantial numbers of Latina/o, black, and Asian students to the classroom in the late 1960s. In the last decade, LatCrit members have devoted considerable time to developing a coursebook and accompanying web resources—anticipated to be available in 2017 and intended for use beyond law schools—that respond to the white-washing of most law school textbooks that ignore race and the law’s complicity in ongoing subordinations. Drawn from the impressive LatCrit scholarly record and from other kindred works, the coursebook is meant to honor the calls from both diverse students and faculty for materials that speak to the oppressions and struggles affecting the communities from which the students came and to which many will return. Steeped in the LatCrit value of meaningful praxis, the classroom materials are grounded in the interventions, campaigns, and values of social impact advocacy that matter to students, which are so tellingly absent from the core or even elective curriculum of many law schools and college campuses. In sum, attention to disrupting and reshaping the curriculum of the law school classroom—and the broader university—is underway within LatCrit, with many initiatives to come.


56. Among the projects for future development after release of the initial coursebook are developing spin-off volumes on the various themes of the book, such as racialized materialism, as well as companion volumes for a variety of relationship between the racist status quo and college curriculum).
LatCrit has also been attentive to the pipeline of diverse students in law school and college campuses, both in its support of affirmative action programs and its intervention in the Arizona ethnic studies litigation. In the latter action, the Arizona legislature and public officials targeted the Tucson Mexican-American studies curriculum for high school students despite the fact that at-risk students taking those courses performed better on state standardized tests and graduated at a higher rate—effectively increasing the diversity pipeline to universities. Law school diversity will not significantly increase across the board without taking measures to increase the enrollment and success of diverse students in undergraduate institutions, and before that, ensuring they graduate from high school. Otherwise, law schools will be doing more of the same—mouthing commitments to diversity while jockeying for students in the same shallow national pool of applicants with sufficient

law school courses in the first year and elective curriculum that carry the themes of the LatCrit Critical Justice coursebook into those courses rather than waiting for them to be taught in a freestanding elective course. That approach also reflects the reality that many LatCrit faculty are teaching core courses but lack meaningful choice of materials other than the time-consuming prospect of undertaking the individual supplementation of the traditional coursebook. Akin to the burgeoning sharing economy in the marketplace, LatCrit can draw on the collective to develop antisubordination materials across the curriculum, as well as developing disruptive online courses intended for students on campuses without a critical mass of faculty or students to offer antisubordination curriculum.

A past LatCrit project established in 1998, the Cyber Classroom Project, connected geographically dispersed students to likeminded peers and faculty via an electronic discussion list, enabling the discussion of LatCrit texts, and could serve as the basis for a reinvigorated online project delivering course content for credit as a number of schools have since undertaken for mainstream curriculum.

57. For example, several LatCrit scholars helped to prepare amici curiae briefs in the Supreme Court’s landmark affirmative action decisions addressing the University of Michigan’s programs at its undergraduate and law schools. See generally Grutter v. Bollinger, 539 U.S. 306 (2003) and Gratz v. Bollinger, 539 U.S. 244 (2003).


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test scores and grades. Law professors, myself included, fail to pay enough attention to expanding the pipeline at the K-12 level by exposing students to the benefits of legal education. The success of the Arizona Mexican-American studies program, using sophisticated texts and classroom pedagogy introducing the students to Critical Race and LatCrit theory, suggests a future intervention for LatCrit—develop materials based on the forthcoming Critical Justice coursebook but designed for younger readers. Regrettably, the legal education reward structure takes little account of scholarship destined for readership outside the academy and judiciary, but LatCrit scholars must continue to do what they are used to doing: overachieve, and thereby, gain the headroom to do the things that legal education has not traditionally valued and rewarded—mentoring; reaching out and connecting beyond the power and reputation base of the school; building community; and deferring when possible to the success of junior faculty, even those at other institutions. Although now somewhat of an outlier, LatCrit continues to write and develop the blueprint for more compassionate and transformative legal, and other, education.

III. SURVEY OF SYMPOSIUM CONTRIBUTIONS

As is typically the case, the symposium contributions reflect the variety of discussions at the LatCrit biennial—formerly annual—conference. Shared between two law reviews, some of this year’s submissions engage the Twentieth Anniversary Conference rotating center of Critical Constitutionalism, while others emanate from the streams of programming each conference invites to provide flexibility for participants to address prevailing antisubordination challenges.

Consistent with the articulation of five highlights of LatCrit’s scholarly contribution on the occasion of its tenth anniversary, the twentieth anniversary conference symposium embodies all those highlights. First is the investigation of the complexities and

61. See Hernandez-Truyol et al., supra note 2, at 187-93.
diversities of Latina/o communities and the subordinations they face, represented by six of the eight symposium contributions. As well, they address intra-and inter-group issues and contribute to internationalism in critical outsider jurisprudence. The articles particularly embody LatCrit’s commitment to interdisciplinarity, as evidenced by several submissions from educational studies professors, political scientists, and an international studies professor. Finally, as the fifth noteworthy contribution of LatCrit scholarship, some of the articles incorporate class into the analysis of systems of oppression.

Political scientist Charles Venator-Santiago, a former longtime LatCrit board member, and two of his students, engage the twentieth anniversary conference theme by adding to the ranks of the constitutionally unclaimed—here, the inhabitants of the Pacific Island U.S. territories of Guam, American Samoa, and the Commonwealth of the Northern Marianas. Enriching the

62. Id. at 187-90.
64. See, e.g., Solorzano & Vélez, supra note 63.
66. Huber, supra note 12; Poza, supra note 63; Solorzano & Vélez, supra note 63.
67. Venator-Santiago et al., supra note 65.
68. Gott, supra note 65.
69. See Hernandez-Truyol et al., supra note 2, at 192-93.
70. See Solorzano & Vélez, supra note 65; Gott, supra note 65.
71. Editor’s Note: This foreword focuses only on those four articles published in this issue.
72. Venator-Santiago et al., supra note 65.
LatCrit literature on the status of U.S. territories, mostly centered on Puerto Rico, this contribution addresses the tenuous and varied constitutional rights of these unincorporated territories on the subject of birthright citizenship. Against the backdrop of a 2015 D.C. Circuit ruling that the Fourteenth Amendment does not supply birthright citizenship to American Samoans, the article exposes the inequality embedded in the doctrine of territorial incorporation whereby the United States enjoys the strategic advantages of territorial control while allowing Congress, in the style of immigration law plenary power, to selectively confer constitutional rights on its residents.

Lindsay Pérez Huber confronts the inflammatory anti-Mexican and anti-immigrant rhetoric of presidential candidate Donald Trump as racist nativist discourse promoting white supremacy in the façade of a postracial America. Despite the temptation to dismiss Trump as a clownish outlier, Huber demonstrates how his positions reflect our embedded systemic racism in policies and practices that maintain white supremacy. Changing demographics pose a threat to the status quo of white establishment. For better or worse, the Trump campaign has empowered nativists, threatened by those changes, to more overtly expose their agenda of excluding people of color from political office—most notably represented by the backlash against President Obama—and other repositories of power; from immigrating to the United States; and from replacing, or even augmenting, the dominant white culture. Now that the nativist gloves are off, her article poses a challenge to LatCrit going forward to consider how to confront and dismantle more overt expressions and justifications of white supremacy.

Further demonstrating more overt racialized backlash

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against perceived newcomers is Arizona’s dismantling of the Tucson school district Mexican-American studies program. Longtime LatCrit participant Guadalupe Luna situates the LatCrit praxis of its amicus brief—filed in the federal lawsuit challenging the Arizona law relied on to terminate the program—within the history of subordination of Mexican-American schoolchildren in the Southwest. Whether through punishment of use of the Spanish language, segregation of students into Mexican-only schools, or the white-washing of texts studied by Mexican-American students, Southwestern schools have long practiced white supremacy and the subordination of Mexican-American youth. Ironically, as politicians attempt to rid schools of all vestiges of the Mexican culture and history, LatCrit, as an organization, has centered the subordinations of Latinas/os in its scholarship and interventions. The amicus brief, which I helped organize, fused scholarship and praxis together to move the legal challenge back to the trial court where the right to teach students about the reality of how Manifest Destiny and conquest connect seamlessly to today’s oppressions may eventually be restored.

Finally, Gil Gott’s contribution adds to the considerable work done within LatCrit on urban studies. Gott addresses the “right to the city” theory developed by critical urban theorists,
and succeeds in bringing all five LatCrit scholarly “highlights” to bear in his study—he confronts urban immigration economies of informality that are primarily Latina/o; addresses the inter-group conflicts of segregation and gentrification; draws on rich interdisciplinary and international perspectives of the global city; and incorporates class into his analysis of systems of oppression.

IV. CONCLUSION

In the midst of the culture war backlash, or counterrevolution, the twentieth anniversary of LatCrit supplies a moment of calm reflection to prepare for the storm ahead. Rather than having some definite expectation of endpoint, the antisubordination agenda and orientation of LatCrit may well have to endure for the long haul. As Francisco Valdes remarked on the long arc of justice through legal scholarship:

Legal scholarship is never about changing the world tomorrow but about changing the world over time. So, whether it’s LatCrit or anything else, the project in legal scholarship cannot be about the social results you personally can see in your own lifetime but about helping to chart a path towards them.76

Praxis interventions, too, must anticipate that even seeming victories may invite later backlash to restore the dominant social order and hierarchy. In that spirit, our LatCrit community must continue to do what we have done from LatCrit’s inception—protect a safe space for the creation of antisubordination blueprints, and venture out into unsafe venues to implement those ideas through transformative praxis, all without discouragement when results come slow, or not at all, during our brief individual time in the arc of justice and equality. Now, more than ever, an antisubordination future depends on our individual and collective resolve and commitment to continue what we have started.

76. Richard Goldstein, Professor, UF Grad Returns to Discuss LatCrit Legal Scholarship Movement, LAW.UFL (Dec. 2010), https://www.law.ufl.edu/enews/122010/valdes.shtml.