

FOREWORD: MAPPING CRITICAL GEOGRAPHIES IN VIRTUAL SPACE

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In this Foreword to the LatCrit Symposium, the authors introduce the work of the 2021 LatCrit Biennial Meeting. They frame the movement as one of critical and liberatory theorizing in a time of retrenchment of opposition to the antisubordination project, highlighting the many strands of Critical Legal Studies that find home in the big tent of the LatCrit community. They introduce and contextualize within the broader critical theory literature four Articles written by members of the LatCrit community. Finally, they assert their own challenge to the movement, calling on critical legal scholars to question more seriously the meritocratic and productivist hierarchies of the academy itself.

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INTRODUCTION

Over twenty-five years after its first meeting, which occurred during the Hispanic Bar Association Meeting in San Juan, Puerto Rico, Latina and Latino Legal Theory (LatCrit)¹ has evolved into an organization with a portfolio of projects, an intentional, engaged community, and a highly theorized critical intellectual endeavor of knowledge production.² LatCrit,

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1. Francisco Valdes, *Foreword: Latina/o Ethnicities, Critical Race Theory, and Post-Identity Politics in Postmodern Legal Culture: From Practices to Possibilities*, 9 *LA RAZA L.J.* 1, 7 n.28 (1996) (introducing the symposium publication of the 1995 Hispanic National Bar Association colloquium); see also Francisco Valdes, *Foreword: Poised at the Cusp: LatCrit Theory, Outsider Jurisprudence and Latina/o Self-Empowerment*, 2 *HARV. LATINO L. REV.* 1 (1997).

2. FRANCISCO VALDES & STEVEN W. BENDER, *LATCRIT: FROM CRITICAL LEGAL THEORY TO ACADEMIC ACTIVISM* 7 (2021).

enabled by the conferences and workshops where the theory is created and the community is cultivated,³ provides not only the theoretical tools of an analytical framework grounded in a normative commitment to antistatist⁴ but also the sociopolitical movement space in which the postsubordination society can be imagined into being.⁵ In a time of protracted turmoil, during President Biden's first year in office, and in the wake of numerous overlapping national crises that had serious consequences for many key constituencies at the center of our advocacy and praxis in the LatCrit community,⁶ many community members felt it was imperative to honor the nutritive, regenerative space that is the LatCrit biennial conference. For participants in the United States, LatCrit 2021: Resistance and Transformation: Mapping Critical Geographies and Alternative Possibilities in Legal Scholarship and Praxis for the Next Twenty-Five Years occurred within the penumbra between hope and rage. This Foreword provides a brief description of the conference, including a discussion of the decision to hold a virtual event and an attempt to capture the atmosphere of participation and engagement. It also provides a framework for the Articles selected for publication in this symposium issue and situates them within the larger LatCrit project. We conclude with some thoughts on future avenues for critical engagement and its possible consequences in the LatCrit community.

I. THE LATCRIT CONFERENCE IN VIRTUAL SPACE

LatCrit 2021 was a virtual event, held in the shadow of the COVID-19 pandemic that began shortly after the 2019 LatCrit Conference.⁷ The LatCrit Board decided to host a virtual conference in response to community preferences and a shifting landscape of university travel restrictions due to the travel risks associated with the ongoing pandemic.

3. Knowledge production and community building have been essential aspects of the LatCrit project from its inception. Sarudzayi M. Matambanadzo, Francisco Valdes, & Sheila I. Velez Martinez, *Afterword: Kindling the Programmatic Production of Critical and Outsider Legal Scholarship, 1996-2016*, 37 WHITTIER L. REV. 439, 442 (2016); Steven Bender, Tayyab Mahmud, Francisco Valdes, Shelley Cavalieri, & Jasmine Gonzalez Rose, *Afterword: What's Next? Into a Third Decade of LatCrit Theory, Community, and Praxis*, 16 SEATTLE J. FOR SOC. JUST. 823, 831 (2018).

4. VALDES & BENDER, *supra* note 2, at 19.

5. *Id.* at 12.

6. In the fall of 2021, the United States was still in the throes of the COVID-19 pandemic, which had a disproportionate impact on people of color. Catherine Powell, *Color of COVID and Gender of COVID: Essential Workers, Not Disposable People*, 33 YALE J. L. & FEMINISM 1, 6 (2021). And during the COVID-19 crisis, the vulnerabilities of immigrant and migrant persons in the United States were exacerbated by failures of U.S. immigration law. Wendy E. Parmet, *Immigration Law's Adverse Impact on COVID-19*, ASSESSING LEGAL RESPONSES TO COVID-19 1, 240 (2020), <https://debeaumont.org/wp-content/uploads/2020/08/Assessing-Legal-Responses-to-COVID-19-APHA-de-Beaumont.pdf>. Commentators have noted that the Trump Administration's response to the COVID-19 crisis and the immigration policy was driven by racism and xenophobia. Michele Goodwin & Erwin Chemerinsky, *The Trump Administration: Immigration, Racism, and COVID-19*, 169 U. PA. L. REV. 313, 319 (2021).

7. For a characterization of the early days of the 2020 COVID-19 pandemic, see Marc-Tizoc González, Saru Matambanadzo, & Sheila I. Vélez Martínez, *Foreword: The Dispossessed Majority: Resisting the Second Redemption in América Posfascista (Postfascist America) with LatCrit, Scholarship, Community, and Praxis Amidst the Global Pandemic*, 23 HARV. LATINX L. REV. 149, 153–56 (2021) (describing the social and economic conditions during the COVID-19 pandemic).

Participants were ambivalent; they were buoyed by the opportunity for intellectual community, particularly with colleagues from abroad who were able to attend more easily, but wary of the ephemeral loss of connection that seemingly only the intimate, informal fellowship that in-person attendance can offer. As a pandemic moment, the decision proved prescient because the spring decline gave way to the COVID-19 Delta wave of the summer and fall. As part of the decision to commit to a virtual conference, LatCrit offered the possibility of money-saving institutional registration for conference participants which permitted faculty and students to present and participate for a modest flat rate. This modest fee was paid by twenty-six participating institutions and it enabled almost four hundred presenters and participants to attend panels and workshops across the three days of the conference.

In the political moment, there was some cautious optimism. This optimism arose in the wake of the 2020 U.S. election, in which political forces mobilized to unseat former U.S. President Donald Trump, retain Democratic control of the U.S. House of Representatives, and gain a tenuous Democratic advantage in the U.S. Senate, earned by the efforts of progressive activists like Stacy Abrams, who flipped states like Georgia. These political events also led Kamala Harris to serve as the first woman Vice President, and the first Black and first South Asian Vice President. In the LatCrit community, political optimism was further fueled by the Black Lives Matter protests of summer 2020. The protests proclaimed the unconscionability of racist models of policing and an emerging understanding, beyond our communities, of abolition and defunding the police as viable policy alternatives to the status quo. But this cautious optimism was tempered by the realities of life in a failed late-capitalist state, one in which Black and Brown lives had been disproportionately sacrificed for the continued ruse of economic normalcy, and in which the façade of rugged individualism had been exposed as a farce that turned on the caregiving labor of women in the family unit.⁸ In short, things could have been worse, but they certainly could have been better as well. Still, even in virtual spaces, we were glad to partake of the sacred work of making theory and in the important work of building community. After all, LatCrit is—while loose and large—a collective community of critical outsiders who find common cause, despite our diversity and contradictions. And as Anthony Paul Farley reminds us, “All communities are constellations that are dreamt around our otherwise undifferentiated and undifferentiable flesh. Sometimes we dream ourselves into being and sometimes others dream us

8. See generally Saru M. Matambanadzo, *Gender, Expulsion, and Law Under Racial Capitalism*, J.L. & POL. ECON. (forthcoming summer 2022) (manuscript at 10–16) (on file with authors); Shelley Cavalieri & Lua Kamál Yuille, *The White Androcentric Disposition of Capitalist Property*, J. L. & POL. ECON. (forthcoming summer 2022) (manuscript at 1–2) (on file with authors).

into flesh not of our own choosing.”⁹ It was nice to dream together, even if our flesh was “differentiated” by many miles and time zones.

In that space of dreaming together, the 2021 gathering of the LatCrit community connected us to a rich collective history of our successful intellectual movement, one that creates a hospitable space for those marginalized in the neoliberal academy, where synergy and synthesis of ideas and identity becomes possible.

This possibility has often been forged through discomfort. LatCrit, as a community, has weathered some contentious debates in the past and engaged in tense, uncomfortable conversations. For example, during its nascent emergence as a movement, LatCrit II devoted an entire conference to the difficult tensions around identity within the LatCrit Community that surround the definition of Latina/o identity, the critique of the “Black–White binary,”¹⁰ and the importance of Catholic religion in the Latina/o community.¹¹ These issues were challenging when LatCrit scholars first took them on and they continue to fuel what Francisco Valdes and Steven W. Bender have called “productive tensions” within the community.¹² At the center of this endeavor lies a rich engagement with Latine¹³ identity and the ways in which legal paradigms, even those of Critical Race Theory (CRT), elide the existence and experience of the Latine people.¹⁴ Questions of identity and the scope of community and belonging are recurrent within the literature and our relationships. Some of this has been embodied by the question of the relationship between “Lat” and “Crit” in our community and scholarship. LatCrit has embraced diversity, but there has been a persistent question about the scope of LatCrit projects and whether those

9. Anthony Paul Farley, *All Flesh Shall See It Together*, 19 CHICANO-LATINO L. REV. 163, 166 (1998).

10. The authors recognize that it is the style convention of the *Denver Law Review* (DLR) to use lowercase “white” when referring to the group of people, as opposed to “White.” The authors note that the term is disparately used and intentionally deviate from this DLR convention to reject the idea of whiteness as neutral. When we fail to capitalize White (in our specifically politicized use) we erase the real identity building that has created Whiteness as it is experienced both internally and externally, and to which LatCrit scholars direct their discourse on Whiteness.

11. The essays, collected together in Volume Nineteen of the Chicano-Latino Law Review, published in 1998, provide an insight into disagreements and tensions of the movement between and among community members. They capture a spirit of outsider critique but also the joy of a nascent emerging intellectual movement in the throes of becoming.

12. VALDES & BENDER, *supra* note 2, at 39.

13. How to use Spanish in a gender-inclusive fashion is a difficult question. When speaking historically we have used Latina/o to refer to conversations that often happened in our absence, since these were the constructions used to create space for Latinas in lieu of normalizing the masculine. Since those discussions evolved, it has become common to use the term “Latinx” to create space for gender queer and nonbinary people of South and Central American cultures and heritage. However, this term is used primarily in the United States; it has become more common in Latin America to use the term Latine, which rejects the gendering of Spanish and instead uses a gender-neutral “e.” While none of the three coauthors are Latina, two are fluent Spanish speakers and in fealty to how this linguistic evolution is occurring in Latin America, we adopt the term “Latine” when we present our own ideas.

14. The LatCrit members have been crucial to the intersectional feminist project, bringing a focus on Latina identity to the conversation. See Margaret E. Montoya, *Máscaras, Trenzas, Y Greñas: Un/Masking the Self While Unbraiding Latina Stories and Legal Discourse*, 17 HARV. J. L. & GENDER 185, 210–11 (1994).

who identify as something other than Latine are appropriately included within the scope of the LatCrit community.¹⁵ We have historically puzzled together over whether the theoretical movement should be more focused on a liberal style of identity politics designed to promote Latine interests or instead should posit a critical intellectual project designed to promote particular values and commitments to law reform, activism, and advocacy that draws on the insights and experiences of Latine persons, while animated more broadly by a diverse coalition of critical scholars and the insights they bring from their communities. The answer has become and has been that we are a community, diverse and sundry, complex and critical, but always engaged with one another. A shining example of this engagement and diversity has been embodied by the scholarship of LatCrit luminaries like Margaret Montoya and Angela Harris, who gave a joint Jerome Culp, Jr. Lecture at the 2019 conference illustrating how identity, community, and critique weave together to produce the praxis of LatCrit.¹⁶ In this conversation, for example, perspectives on “DesiCrit”¹⁷ and the racialization of Muslims,¹⁸ became part of the ongoing LatCrit dialogue among persons deeply invested in and active in the intellectual community.

For this reason, LatCrit might be best understood as a particular, inclusive expression of a larger critical knowledge production project in the legal academy that engages with the contours of institutional subordination—particularly in law—and begins to articulate the possibilities of antistatist subordination beyond the status quo. This vibrant community of diverse intellectual movements, which includes LatCrit and also disparate and overlapping communities of scholars in intellectual-left legal movements like ClassCrits¹⁹ and Third World Approaches to International Law

15. VALDES & BENDER, *supra* note 2, at 39.

16. Margaret Montoya, “Who is LatCrit? ”: *Jerome Culp and Angela Harris Provide Answers and Ways of Being*, 18 SEATTLE J. FOR SOC. JUST. 217, 223 (2020).

17. Vinay Harpalani, *DesiCrit: Theorizing the Racial Ambiguity of South Asian Americans*, 69 N.Y.U. ANN. SURV. OF AM. L. 77, 86 (2013).

18. Cyra Akila Choudhury, *Terrorists & Muslims: The Construction, Performance, and Regulation of Muslim Identities in the Post 9/11 United States*, 7 RUTGERS J.L. & RELIGION 8, 59 (2006). Members of the LatCrit community have been on the cutting edge of defining the contours of this challenge. *See id.* at 43 (deconstructing the idea of a Muslim race or community); *see* Khaled A. Beydoun, *Between Muslim and White: The Legal Construction of Arab American Identity*, 69 N.Y.U. ANN. SURV. AM. L. 29, 34 (2013); *see* SAHAR F. AZIZ, *THE RACIAL MUSLIM: WHEN RACISM QUASHES RELIGIOUS FREEDOM* 25 (2022).

19. ClassCrits is a non-profit organization, conference, and group of scholars and activists who address the proliferation of economic inequality—locally, nationally, globally—through a variety of methodologies and frameworks. ClassCrits, in its history and development, was named to signal its adjacency, inclusion of, and fidelity to critical perspectives that come before and coexist in solidarity, like race-crits, femcrits, queer crits, and others. *See* Angela P. Harris, *From Precarity to Positive Freedom: ClassCrits at Seven ClassCrits VII Symposium Introduction*, 44 SW. L. REV. 621, 622 (2015). ClassCrits is a welcoming big-tent project with a variety of interdisciplinary commitment. Athena D. Mutua, *ClassCrits Time? Building Institutions, Building Frameworks*, 1 J.L. & POL. ECON. 333, 336 (2021). ClassCrits scholars, however, do share commitments to two fundamental notions. First, historical debates about the primacy of race, gender, or class in subordination are counterproductive because “class power is inextricably connected to the development of race and gender hierarchies, as well as to other systems of unequal power and privilege.” Justin Desautels-Stein, Angela P. Harris, Martha McCluskey, Athena Mutua, James Pope, & Ann Tweedy, *ClassCrits Mission Statement*, 43

(TWAIL)²⁰ in addition to the scholarship that is historically associated with race-crit perspectives,²¹ is being framed in popular discourse under the CRT umbrella. CRT, which is currently under attack at the state and local level, has been wildly successful in influencing cultural thinking and normalizing considerations of the centrality of racialized hierarchy as constitutive aspects of U.S. socio-legal structures. There is no academic scholarship on race that has not been influenced by CRT; it has made inroads in education, philosophy, social work, and medicine, to name a few. To the powerful influence of CRT, LatCrit has contributed its inceptive integration of, and engagement with, sister critical postures like queer theory, postcolonial theory, and critical feminist theory—Outcrit,²² writ large. The recent backlash about CRT and its cousins and comrades, including LatCrit, largely results from its myriad successes in altering the contemporary intellectual and public discourse.

To this end, this brief Foreword looks back on LatCrit 2021, excavating how its participants deployed technologies of resistance to further the antisubordination objectives of the LatCrit movement. It also looks at the symposium articles, placing them in conversation with the canon. Finally, in the spirit of LatCrit praxis, we take this moment to comment on what LatCrit might still omit, which we perceive to be a broader critique of social class, status, and productivism,²³ both within society writ large and within our community itself.

II. PAST AND PRESENT MAPPINGS OF CRITICAL GEOGRAPHIES

The “map of the critical geographies” of the LatCrit conference reveals a series of themes that both parallel the extant movement’s persistent geographies of comparativism, CRT, and migration law, and expand into new spaces as well, such as critical intellectual property. In earlier times, the movement expended more effort to demarcate the boundaries of what

Sw. L. REV. 651, 651–52 (2014). Second, ClassCrit scholars regard law as a central institution in the creation of structural inequality and the maintenance of economic hierarchies and recognize, tentatively and critically, that it may have generative possibilities to dismantle such hierarchies. *Id.* at 652.

20. TWAIL has been described as a decentralized network of insurgent scholars from a “Third World” perspective who critique the presumptions and expectations of international law in a way that rejects underlying presumptions of this body of law that stem from imperialism and colonialism. See Makau W. Mutua, *What is TWAIL?*, 94 AM. SOC’Y INT’L L. PROC. 31, 31 (2000); James Thuo Gathii, *TWAIL: A Brief History of Its Origins, Its Decentralized Network, and a Tentative Bibliography*, 3 TRADE L. & DEV. 26, 27 (2011).

21. We might think of race-crits as bringing something like “traditional” CRT perspectives to these discussions, and these later movements being subsequent stages in the evolution of the critical legal theory canon. On the history and substance of critical race theory see generally DERRICK BELL, *RACE, RACISM, AND AMERICAN LAW* 1 (6th ed. 2008); KHIARA M. BRIDGES, *CRITICAL RACE THEORY: A PRIMER* (1st ed. 2018); *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* xiii–xv (Kimberlé Crenshaw, Neil Gotanda, Gary Peller, & Kendall Thomas eds., 1995); RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY: AN INTRODUCTION* 3–4 (3d ed. 2017) [hereinafter Delgado & Stefancic, CRT Introduction]; *CRITICAL RACE THEORY: THE CUTTING EDGE* 1–3 (Richard Delgado & Jean Stefancic eds., 3d ed. 2013).

22. We deploy the term Outcrit to refer collectively to all outsider critical legal theory without regard for the particular identity that is its focus.

23. We use the term “productivism” to refer to “hustle culture”—the cult-like focus on productivity that animates much of contemporary life in the United States.

LatCrit is and is not, but in the current moment of sensed crisis, ain't nobody got time for that. The preoccupation of delineating the outer limits of LatCrit has given way to an expansive, inclusive, big-tent approach to critical theory—if a scholar or activist is engaged in critical deconstruction or reconstruction, they can find a home here. The movement is trying to figure out how stay in community and solidarity. Who is “Lat” and what is “Crit” has given way to a new focus on emerging preoccupations that cut across different portions of our community, including issues of racial capitalism, policing, and security, to name a few.

LatCrit has always been an assemblage of critical stances and poses that respond (frequently analytically, politically, and aesthetically) to the operational norms and assumptions of law and legal scholarship in the United States. These stances involve doing differently the work of analysis, animating the work from alternative grounds, and crafting the work to speak and look differently in defiance of these norms. The analytic tools of critique are engaged in a constant conversation with critical methodologies from critical legal studies, CRT, postcolonial theory, queer theory, and feminist legal theory, among others including comparativist and international forms of analysis. These methodologies are used to inform the way in which LatCrit theorists examine law and legal institutions, offering a challenge to the settled narratives of law and the stated explicit motivations of legal institutions.

Historically, the LatCrit community has been productively challenged by questions about the focus on the community and the possibilities of making meaning and committing to belonging across difference and divergence. These concerns have been embodied by efforts to interrogate the scope of how Latine LatCrit should be, including questions regarding the inclusion and investment in mentoring Latine students and ensuring the inclusion of more Latine individuals in the legal academy, as well as whether and how to privilege the concerns, histories, and perspectives of Latine persons in the United States against and over others. There have also been concerns with the preoccupation among many to ensure and determine that LatCrit is sufficiently critical, constructed with a commitment to adopt a political stance in opposition to the liberal commitments of the mainstream legal academy—centering radical and progressive commitments that reflect critical perspectives.

But increasingly over the last decade, and as reflected in our 2021 conference, the overall landscape has shifted. Perhaps it was the virtual world. Perhaps it was the sense of impending doom and ever-expanding crisis. Perhaps it was the reality of our compounding sense of isolation and yearning for community in the pandemic. But individuals gathered in a sense of mutual support—we directed our critique outwardly; and inwardly, within our community, we found solidarity and a balm for the isolation of the preceding eighteen months.

Throughout these conversations, however, the landscape is mutable and shifting in response to current moments and social movements that LatCrit is engaged with. Inspired by the papers and panels proposed, the conference operated in a way in which the center of the conversation shifted between paradigms focused on migration and ethnicity and those focused on race. The conference contained, for example, numerous panels of sustained discussion on migration and immigration, focused on addressing the harms wrought by President Trump's administration and critiquing the response spearheaded by President Biden. In response to right-wing efforts to weaponize public education by state legislatures to ban CRT in the classroom, the 2021 landscape of LatCrit then shifted to a serious engagement with CRT in an effort to resist the narratives that vilify the work of our movement.

The LatCrit literatures deploy a set of technologies of resistance. First, our community reflects a drive towards a more intentional version of traditional liberal reform that attends to the specific experiences of marginalized communities. This approach can be understood as playing the master's games with his tools in his house. For example, our people enlist traditional logics of legal analysis, like analogy and distinction, returns to first principles, and various policy arguments, to examine the status quo and argue for something greater, more equal, and more radical in terms of law reform. At times we examine legislative history, work specific reforms on particular policies, or otherwise stay within the confines of extant structures as we seek critical change. Yet we also often combine this model with the deconstructive, arguing that the legal system is doing what it intends to do. Indeed, the most common technology of resistance strategically deployed by lawyers invested in counterhegemonic intellectual social movements is liberal reform. As numerous leading theorists of the movement have demonstrated, the costs of such liberal reform, however, are sometimes high. As highlighted by theorists in the critical canon of scholarship, liberal reforms often create severe and dangerous unintended consequences that violently devalue the lives of those on the margins: the limits of rights talk;²⁴ the limitations of equality that haunt the work of feminist legal theory;²⁵ the ineffectiveness of colorblind, symmetrical

24. The critique of rights has been an influential, if not essentially shared, aspect of critical legal studies. See Duncan Kennedy, *The Critique of Rights in Critical Legal Studies*, in LEFT LEGALISM/LEFT CRITIQUE 178 (Wendy Brown & Janet Halley eds., 2002). However, this critique of rights is contested among various "crits" and the shared norms of the critical legal studies movement may be characterized in other ways. In a discussion of the history of the critical legal studies, Mark Tushnet notes that there is commitment across diverse movements in conversation with critical legal studies to the indeterminacy of law, efforts to contextualize law, and to a view that law is political. Mark Tushnet, *Critical Legal Studies: A Political History*, 100 YALE L.J. 1515, 1518 (1991). Many in the race crit and LatCrit community regard rights as pragmatically necessary, finding it necessary to diverge from critical legal studies in important ways. See, e.g., Richard Delgado, *The Ethereal Scholar: Does Critical Legal Studies Have What Minorities Want?*, 22 HARV. C.R.-C.L. L. REV. 301, 301 (1987) (describing underlying reasons for the schism between CLS and CRT).

25. Critical voices in feminist legal theory have warned of the limitations of equality as an organizing force in law reform. See Christine A. Littleton, *Reconstructing Sexual Equality*, 75 CALIF.

responses to discrimination highlighted by CRT;²⁶ the flattening and exclusion of multiplicity and complexity highlighted by the co-constitutive movements LatCrit Theory²⁷ and Intersectional Feminism;²⁸ the extractive, productivism-justified, heterodox explanations of the operation of capitalism from the ClassCrits perspective;²⁹ and the Eurocentric degradation of extracolonial and non-European ontologies, epistemologies, and governance that is challenged through TWAAIL interventions.

The LatCrit conference plays an important role in propelling these theory movements forward, as it is frequently a place where these critical thinkers play together in solidarity and experiment with synergistic articulations of new or alternative paradigms that build on what came before. For example, LatCrit theorists have been engaged in serious thinking about the abolition of carceral logics in immigration³⁰ and criminal law.³¹ As Critical Legal Studies reveals, legal doctrines can be flipped to serve the interests of opposing individuals depending on how duties and obligations are allocated. Further, legal rights represent an impoverished answer to the challenges that drive the reform. Legal rights are often limited in their possibilities for making change. Further, rights paradigms often involve some kind of negotiation with the status quo, while much of the work of LatCrit involves a more fulsome refusal of the status quo and rejection of what is, in favor of a reimagined future of what could be and what is to come. As Professor Montoya explains, “LatCrit has developed into a cohesive community of critical intellectuals who reveal and voice legal issues and analyze them by applying progressive principles and perspectives based on an

L. REV. 1279, 1306 (1987); Joanna L. Grossman, *Pregnancy, Work, and the Promise of Equal Citizenship*, 98 GEO. L.J. 567, 595 (2010). This has led some feminists to critique the default norms underlying equality as masculine in nature. Joan Williams has noted that “gender differences, real and imagined, create social disadvantage when women are measured against unspoken and unacknowledged masculine norms.” Joan C. Williams, *Reconstructive Feminism: Changing the Way We Talk About Gender and Work Thirty Years After the PDA*, 21 YALE J.L. & FEMINISM 79, 100 (2009); see also CATHARINE A. MACKINNON, *TOWARD A FEMINIST THEORY OF THE STATES* 116 (2d ed. 1991).

26. Delgado & Stefancic, CRT Introduction, *supra* note 21, at 8–11.

27. Juan F. Perea, *The Black/White Binary Paradigm of Race: The “Normal Science” of American Racial Thought*, 85 CALIF. L. REV. 1213, 1215 (1997), reprinted in 10 LA RAZA L.J. 127 (1998) (demonstrating how the Black-White binary paradigm excludes Latinos/as). *But see*, Leslie Espinoza & Angela P. Harris, *Afterword, Embracing the Tar-Baby: LatCrit Theory and the Sticky Mess of Race*, 85 CALIF. L. REV. 1585, 1597 (1997), reprinted in 10 LA RAZA L.J. 499, 510 (1998) (discussing how the Black-White paradigm reveals an important truth about the racialized aspects of the social, economic, and legal structures of society); Farley, *supra* note 9, at 171 (arguing that critiques of the Black-White binary serve white supremacy).

28. Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1244 (1991); see also, Montoya, *supra* note 14; Sumi K. Cho, *Converging Stereotypes in Racialized Sexual Harassment: Where Model Minority Meets Suzie Wong*, 1 J. Gender Race & Just. 177, 181–82 (1997).

29. Carmen G. Gonzalez & Athena D. Mutua, *Mapping Racial Capitalism: Implications for Law*, J. L. & POL. ECON. (forthcoming 2022) (examining the operation of racial capitalism arguing that it presents the possibilities of exploitation, extraction, and expulsion for its subjects).

30. See, e.g., Jennifer M. Chacón, *Managing Migration Through Crime*, 109 COLUM. L. REV. SIDEBAR 135, 147 (2009); see also CÉSAR CUAUHTÉMOC GARCÍA HERNÁNDEZ, *CRIMMIGRATION LAW* (2nd ed. 2021).

31. See, e.g., AYA GRUBER, *THE FEMINIST WAR ON CRIME: THE UNEXPECTED ROLE OF WOMEN’S LIBERATION IN MASS INCARCERATION* 19, 20 (2020).

ethos of anti-subordination and a strategic anti-essentialism.”³² The articles that are part of this written iteration of the symposium reflect a broad array of the strands of LatCrit thought. Professor Sundquist’s article interrogates the concept of race neutrality. Professor Padilla documents the sea change brought by women of color deans. Professor Singh brings critical methods to the propertization of traditional yoga knowledge. Professor Loza de Siles expands the geography of inquiry into virtual space.

In *White Vigilantism and the Racism of Race-Neutrality*, Professor Sundquist builds on the tradition of some veins of LatCrit scholarship, offering a critique of the ways in which “race-neutrality” has served simultaneously as a response to crisis and tool to perpetuate white supremacy. Professor Sundquist draws his insights in part from the ways in which racism has persistently served structural and psychic purposes during the cyclical crises designed to stabilize the status quo, despite the lip service paid by policy makers to equality and diversity. Race as a technology of white supremacy bridges the tension between the universal demands of equality for all required by the traditions of the Enlightenment and the specificity of social and economic inequality demanded by capitalism. Further, Professor Sundquist argues that the possibility of crisis and the government’s response to crises serves to stabilize the precarious tension at play between the demands of equality and the realities of inequality. The stabilization response crisis requires is, at least in part, dependent upon the psychic and structural forms of racism. Whether the crisis is COVID-19 or an economic recession, these expressions, according to Professor Sundquist, are masked by notions of neutrality. However, all is not lost. Professor Sundquist argues that race consciousness and strategic efforts at reform have the potential to disrupt the operation of racism. To demonstrate how “crisis opportunism” functions, Professor Sundquist examines the conviction of Kyle Rittenhouse and the defendants convicted in the murder of Ahmaud Arbery with a focus on the operation of self-defense laws as technologies of white supremacy, which rely upon racist tropes and stereotypes.

In *Yoga as Property: A Century of United States Yoga Copyrights, 1937-2021*, Professor Roopa Bala Singh undertakes the systematic documentation of the co-optation of traditional yoga practices by people in the United States and the deployment of U.S. copyright law as a mechanism to propertize the historically collective knowledge of yogic practice. Her careful work in the U.S. Copyright Archives demonstrates how commonplace this maneuver has become, whereby traditional cultural practices become appropriated by cultural outsiders, thereby rendering the practices inaccessible to those who are the proper cultural devisees of such knowledge. Professor Singh reveals how this process not only represented a theft of knowledge but also the racialization of that knowledge as it was being stolen. Her project resonates within a long U.S. history of the theft

32. Margaret Montoya, *LatCrit at Ten Years*, 26 CHICANA/O-LATINA/O L. REV. 1, 1 (2006).

of traditional and Indigenous property—real property and cultural property alike—that undergirds the capitalist system in which wealth is extracted from any possible site, but due to racism and exploitation, people of color are the most vulnerable to this extraction.³³

In *Artificial Intelligence Subordination: Consequence of the Failure to Govern*, Professor Emile Loza de Siles intervenes in a larger scholarly discourse about law, privacy, and technology that focuses on the evolution of artificial intelligence. Recognizing privacy law as a site for the technological evolution of subordination,³⁴ Professor Loza de Siles adds to the literature on artificial intelligence (AI) by focusing on how the government uses AI as a means of governance, which has the potential to deprive people of life, liberty, property, family, health, and home. Professor Loza de Siles argues that market-based interactions with AI exist in a regulatory lacuna, in which applicable laws and policies are often not applied or interpreted to accomplish actual impact on AI. For this reason, Professor Loza de Siles characterizes AI as ungoverned in a way that implicates social justice concerns because AI harms individuals often without their awareness or consent. Using a provocative rhetorical framework, the author argues that using AI in these unregulated and ungoverned spaces has serious consequences because it shapes and limits the personhood of individuals, constituting a return to a form of chattel slavery, where individuals are instrumentally useful productive units that can be manipulated to extract profit at their expense. To this end, AI engenders a kind of mediated form of enslavement that treats people as a form of property. The use of AI has the potential to contract the autonomy and dignity typically accorded to human legal persons. It also allows corporate and governmental entities that deploy AI—and the people who hide behind these juridical structures—to exploit individuals who are subject to the intrusions of AI via surveillance and propertization of personal data. As a LatCrit intervention, Professor Loza de Siles's article activates the ongoing interrogation of subordination wherever it may be manifest.

In *The Black-White Paradigm's Continuing Erasure of Latinas: See Women Law Deans of Color*, Professor Laura Padilla provides a sobering reflection on the already bittersweet celebration of the new era of woman law deans of color. Drawing on the long-standing critique of the “Black-White paradigm”—a critique that was popularized and articulated by early LatCrit scholars³⁵—Professor Padilla is frank: The era of the woman law deans of color might be better described as an era of Black woman law

33. Natsu Taylor Saito, *Race and Decolonization: Whiteness as Property in the American Settler Colonial Project*, 31 HARV. J. RACIAL & ETHNIC JUST. 31, 33–34 (2015).

34. See, e.g., Francisco Valdes, *Anomalies, Warts and All: Four Score of Liberty, Privacy and Equality*, 65 OHIO ST. L.J. 1341, 1346–52 (2004) (engaging privacy law as a site of civil rights *kulturkampf*).

35. See, e.g., Richard Delgado, *Rodrigo's Fifteenth Chronicle: Racial Mixture, Latino-Critical Scholarship, and the Black-White Binary*, 75 TEX. L. REV. 1181, 1185–86 (1997); Rachel F. Moran, *Neither Black Nor White*, 2 HARV. LATINO L. REV. 61, 81–82 (1997); Kevin R. Johnson, *Some Thoughts on the Future of Latino Legal Scholarship*, 2 HARV. LATINO L. REV. 101, 110 (1997).

deans, who are markedly overrepresented compared to the academy, the profession, and even the population. The reality triggers ambivalence. Chipping away at the dominance of White male rule is cause for celebration, but the paucity of non-Black women of color in positions of authority is disheartening. Professor Padilla identifies the erasing essentialization of the Black-White paradigm for diverting resources and energy from inclusive frameworks for change to those that disproportionately benefit the groups highlighted by the binary. Professor Padilla's reflections also open space for a wider range of LatCrit queries. From its infancy, LatCrit (as an institution) has adopted an ethic and praxis of "rotating centers,"³⁶ which is intended to ensure meaningful, substantive analysis of the different ways in which white supremacy distributes relative privilege and oppression among and within different non-White groups. Professor Padilla's examination of the political and organizational support that have uniquely benefited Black women, as well as her suggestion of the types of supports that might support Latinas, poses the question of what and how to further extend and institutionalize a rotating-center praxis beyond the internal workings of the LatCrit community. Latinidad, not only as an identity but also as a sociopolitical economic status, is complex and diverse. Professor Padilla's reliance on the fuzzy statistical categorization of women law deans of color as Black, Asian, Indigenous, or Latina raises important questions about Latinidad that have always occupied LatCrit theorizing.³⁷ In that vein, the unique value that Professor Padilla suggests more Latina law deans might add to the academy prompts an essential examination of the goals of representation. And, maybe most important for an intellectual community founded upon the ideals of antisubordination, Professor Padilla triggers the core structural question at the center of LatCrit's antisubordination work: Is a diversified decanal space—to accompany diversified student spaces for a diversified legal profession to serve a diversified world—the aim of antisubordination work? If not, must the entire project be reimagined? If it must, what must we demand of the decanal reforms Latinas might create?

CONCLUSION: CRITICAL CARTOGRAPHIES OF THE FUTURE

From the perspective of these authors, who are LatCrit community members serving as commentators and interlocutors of this moment, LatCrit's big tent remains an expansive site of connection and dialogue. But what continues to often be omitted, and what we urge, is that our community begin to adopt a more critical eye to our own institutions of legal education and how we replicate the hierarchies of the broader society. Adding people of color, queer folk, and women to the extant power imbalances is not a critical move—it is a fundamentally liberal one in which the

36. Elizabeth M. Iglesias, *Foreword: Identity, Democracy, Communicative Power, Inter/National Labor Rights and the Evolution of LatCrit Theory and Community*, 53 U. MIAMI L. REV. 575, 625 (1999).

37. See, e.g., Ian F. Haney López, *Race, Ethnicity, Erasure: The Salience of Race to LatCrit Theory*, 85 CALIF. L. REV. 1143, 1148 (1997).

structures themselves are treated as neutral entities but for their exclusion. Yet the reality is that our structures are themselves deeply hierarchical, whether they invite us in or not. Legal education—and the law writ large—is elitist and classist; the law declares rules of engagement that are opaque and inaccessible to the masses, and then bars the majority of those masses from gaining access to the education that would enable their comprehension. We therefore perceive that a deeper critique of the classism that animates the legal academy is in order. Our systems of legal education reify hierarchy; we and our colleagues come from academic pedigrees that are available only to the few.

Furthermore, the pandemic era of legal education has revealed the degree to which our institutions turn on the exploitation of reproductive labor. We three commentators are the mothers of six daughters under the age of ten; we have labored to care for our students, our institutions, and our children over these preceding years of pandemic chaos, but the productivist creed devalues this reproductive labor. Yet our students have been suffering, our children have needed us, our institutions require labor that goes unrecognized and unrewarded due to the cult of productivism. Fem-Crit insights reveal that people are more than what they produce; the reproductive labors warrant recognition and merit quantification in a way that demonstrates how they should be valued.

We therefore set forth a challenge to our critical communities to become more introspective about who continues to be denied access, and on what basis status is derived. This challenge has several crucial valences. First, we must seriously engage the hierarchy that treats pedigree and ranking as meaningful—we must turn our critical gaze inward to consider whether the posturing of meritocratic differentiation is just another iteration of self-replication. Second, we call for a stronger recognition of the ways that this ostensible fetishized meritocracy is indulgent and self-congratulatory, while literally casting to the margins of the law the voices that offer the most incisive critical insights. Third, we ask the academy to begin to consider the life cycle of scholars more seriously, their contributions often occurring over decades, not years.