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“Latinas/os” and The Politics of Knowledge Production: LatCrit Scholarship and Academic Activism as Social Justice Action

MARGARET E. MONTOYA* & FRANCISCO VALDES**

INTRODUCTION

For at least a decade now, drums have beat and trumpets blared heralding the arrival of Latinas/os onto the national policy-and-politics stage of the United States. Pundits have declared seismic political possibilities following from this demographic “surge”¹ while the 2000 Census confirmed that numerical growth among “Latina/o”-identified populations indeed continues to outpace that of other domestic social groups.² Yet the politics of Latina/o emergence—if indeed underway—have thus far failed to register any significant changes on pre-existing patterns of domination and subordination. For an example of the persistence of these patterns, one need only examine the ongoing presidential election debates surrounding immigration, and particularly Latina/o immigration, which has emerged as an important domestic issue for the forces of retrenchment, regression, and exclusion in contemporary North American society.

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** Professor of Law, University of Miami School of Law. As with all LatCrit knowledge production, this Article has benefited from a collective effort in the form of animated discussions with impassioned, if respectful, disagreements. We thank the members of the LatCrit, Inc., Board of Directors for their critical support and thoughtful encouragement. In particular we thank Board Members Steve Bender, Robert Chang, Sumi Cho, Colin Crawford, Tucker Culbertson, Nancy Ehrenreich, Angela Harris, Berta Esperanza Hernández-Truyol, Guadalupe Luna, Tayyab Mahmud, Camille Nelson, Charles Pouncy, Catharine Smith, Charles Venator-Santiago and Robert Westley for very helpful comments. We also thank Elvia Arriola, Jorge Esquirol, Carmen G. Gonzalez, and Christine Zuni Cruz for their similarly very helpful comments and support. Finally, we thank the community of scholars represented in the various LatCrit symposia we discuss and celebrate here, without whom this body of contemporary legal discourse simply would not exist. We received invaluable assistance from Richard Cornier (Miami) and Ernesto Longa (UNM) in finalizing this Article. All errors stay with us.

1. We are writing this Article while the debate about the five-year long U.S. invasion and occupation of Iraq rages on. In January 2007, George W. Bush chose the word “surge” to frame his decision to add 30,000 troops to a military effort that is widely unpopular among the U.S. public. See David S. Cloud & Thom Shanker, *Bush’s Troop-Increase Plan Is Expected to Draw Six Guard Brigades to Iraq*, N.Y. TIMES, Jan. 10, 2007, available at http://www.nytimes.com/2007/01/10/washington/10military.html?_r=1&scp=3&sq=j+10%2C+2007+bush+speech&st=nyt&oref=slogin. We have borrowed “surge” as a frame to emphasize the dramatic public policy implications of the demographic increases in the Latina/o population. See *Hispanics Rising: An Overview of the Emerging Politics of America’s Hispanic Population*, <http://www.ndn.org/hispanic/new-report.html>.

2. According to the U.S. Census Bureau’s data, the Hispanic (or Latina/o) population of the country has grown steadily from 9.6 million in 1970 to 35.3 million in 2000, and now is projected to expand numerically even more, to 102.6 million by 2050. Hispanics in the United States, http://www.census.gov/population/www/socdemo/hispanic/files/Internet_Hispanic_in_US_2006.ppt#453, 3, Slide 3.

Latina/o politics, it seems, can be either another force accommodating neocolonial patterns of in/justice—or an opportunity for something different, perhaps even something better, perhaps something truly “post” colonial.

With these broad social and cultural developments in mind, a dozen years ago a diverse group of outsider legal scholars banded together to launch the first systematic, programmatic experiment in “Latina/o legal studies” from within the legal academy of the United States. Though multiply diverse across many familiar identity categories—including race, ethnicity, religion, gender, sexual orientation, intellectual agenda, geographic location, and more—this initial band of scholars denominated this effort “LatCrit” for two reasons key to this Article and Symposium theme: with this act of naming, we aimed both to highlight the enduring invisibility of Latinas/os in the national imagination and in legal culture, including outsider scholarship, and also to align ourselves substantively and methodologically with the decimated ranks of “critical” legal scholars whose work was challenging, in contemporary times, the entrenched traditions of mainstream legal culture.³

3. See generally Francisco Valdes, *Latina/o Ethnicities, Critical Race Theory, and Post-Identity Politics in Postmodern Legal Culture: From Practices to Possibilities*, 9 LA RAZA L.J. 1 (1996) [hereinafter Valdes, *Practices to Possibilities*] (discussing the colloquium at which the “LatCrit” subject position was conceived); Francisco Valdes, *Poised at the Cusp: LatCrit Theory, Outsider Jurisprudence and Latina/o Self-Empowerment*, 2 HARV. LATINO L. REV. 1 (1997) (discussing the First Annual LatCrit Conference, held in 1996, and the circumstances leading up to it). For current and historical information on LatCrit projects and publications, see Latina and Latino Critical Legal Theory, Inc., www.latcrit.org. For recent applications of LatCrit theory, see Margaret E. Montoya, *Defending the Future Voices of Critical Race Feminism*, 39 U.C. DAVIS L. REV. 1305 (2006) (arguing that cultural competence education in medical schools would benefit from LatCritical race conscious theory and pedagogy); Margaret E. Montoya, *Uniendo Comunidades by Learning Lessons and Mobilizing Change*, 27 CHICANO-LATINO L. REV. (forthcoming 2008) (exhorting the law student members in NLLSA, the National Latino/a Law Students Association, to work more closely with LatCrit).

It bears emphasis that LatCrit theory—like outsider jurisprudence generally—emerges during times of backlash and retrenchment, including opposition to affirmative action values as well as hostility to critical studies and scholars within the legal academy. See, e.g., Richard M. Fischl, *The Question that Killed Critical Legal Studies*, 17 LAW & SOC. INQUIRY 779 (1992) (discussing the backlash campaign against the Crits, and why/how it succeeded); Margaret E. Montoya, *A Brief History of Chicana/o School Segregation: One Rationale for Affirmative Action*, 12 LA RAZA L. J. 159 (2002); Margaret E. Montoya, *Of “Subtle Prejudices,” White Supremacy, and Affirmative Action: A Reply to Paul Butler*, 68 U. COLO. L. REV. 891 (1997) (a colloquy on applying affirmative action jurisprudence to criminalization and incarceration practices); Symposium, *Countering Kulturkampf Through Critique and Justice Pedagogy*, 50 VILL. L. REV. 749 (2005) (publishing some of the papers presented to the Ninth Annual LatCrit Conference, focused generally on this phenomenon); Transcript, *Who Gets In? The Quest for Diversity after Grutter*, 52 BUFF. L. REV. 531 (2004); *The Future of Civil Rights: A Dialogue*, FOCUS ON LAW STUDIES, Spring 2002, at 1.

As these varied sources indicate, this academic backlash is part and parcel of the larger “culture wars” aimed at reversing New Deal and Civil Rights lawmaking legacies. Generally, culture wars and kulturkampf are associated with German politics, both during the Bismarckian struggle to assert secular state authority over Catholic dogma in the form of public policy, and during the efforts of the Nazi Party to reform German culture in line with their racist ideology. See generally RICHARD J. EVANS, *THE COMING OF THE THIRD REICH* 118–53 (2003) (focusing on

In this hostile environment, at this historical moment, and like other innovators in democratic knowledge production who came before us, we “believe we can understand [critical outsider jurisprudence]—and our own careers and approaches—better if we make sense of the generation[s] that preceded us.”⁴ With this conviction in mind, we chose to study and embrace the cumulative accomplishments of “OutCrit” legal studies⁵ to help inaugurate a new jurisprudential experiment that took those accomplishments as a point of departure both for theory (especially in the form of academic scholarship) and action (especially when directed at reforming and transforming legal culture) in critical and self-critical ways.⁶ As a result, though no formal or operational canon has been consecrated, LatCrit is perhaps one of the most highly self-aware and highly theorized experiments in contemporary legal discourses. In other words, the original choices and basic approaches we summarize below are both well-considered as well as fully elaborated elsewhere.⁷

the culture wars waged in Germany as part of the Nazi rise to power). This concept, however, has been used within the United States during the past couple of decades to describe campaigns aimed at reversing New Deal and Civil Rights lawmaking legacies. *See, e.g.*, Chris Black, *Buchanan Beckons Conservatives to Come “Home,”* BOSTON GLOBE, Aug. 18, 1992, at A12; Paul Galloway, *Divided We Stand: Today’s “Cultural War” Goes Deeper than Political Slogans,* CHI. TRIB., Oct. 28, 1992, at C1. These culture wars also operate to stifle criticality in general, and critical approaches to legal knowledge production in particular. *See* Francisco Valdes, *Culture, “Kulturkampf,” and Beyond: The Antidiscrimination Principle Under the Jurisprudence of Backlash,* in THE BLACKWELL COMPANION TO LAW AND SOCIETY 271 (Austin Sarat ed., 2004) (focusing broadly on three theoretical perspectives—backlash jurisprudence, liberal legalisms, and critical outsider jurisprudence—to compare their approaches to equality law and policy in the context of backlash “kulturkampf”). Thus, the existence and persistence of LatCrit and other outsider discourses is an act of defiance against the re-imposition of neocolonial and oligarchic stratification on North American society through law.

4. Bryant Garth & Joyce Sterling, *From Legal Realism to Law and Society: Reshaping Law for the Last Stages of the Social Activist State,* 32 LAW & SOC’Y REV. 409, 410 (1998).

5. The OutCrit label is one way of expressing the commonalities shared by varied genres of contemporary legal discourses defined both by outsider positionality and critical stance. Among these we include feminist legal theory, critical race theory, critical race feminism, queer legal theory, and LatCrit theory. These overlapping and intersecting genres share a common lineage in critical legal studies and realism. *See generally* Francisco Valdes, *Outsider Scholars, Legal Theory & OutCrit Perspectivity: Postsubordination Vision as Jurisprudential Method,* 49 DEPAUL L. REV. 831 (2000); *infra* Part II (on models of legal scholarship and LatCrit’s jurisprudential links and precursors). LatCrit allies itself with scholars working in the area of tribal and Indigenous legal studies with theoretical ties to international human rights and post/colonial movements, such as the Zapatistas in Chiapas. *See* Christine Zuni Cruz, *Shadow War Scholarship: Indigenous Legal Tradition and Modern Law in Indian Country,* 47 WASHBURN L.J. (forthcoming 2008).

6. “[A]lmost from the outset we have sought to develop a theory about legal theory. At our gatherings and through our early writings, we continually and critically theorize about the purpose of our theorizing.” Francisco Valdes, *Under Construction: LatCrit Consciousness, Community, and Theory,* 85 CAL. L. REV. 1087, 1092 (1997) [hereinafter Valdes, *Under Construction*]. LatCrit “represents a self-conscious effort to recast legal theory as such. LatCrit theory signifies a particular consciousness about, and approach to, the work of a legal theorist.” *Id.* at 1096.

7. The procedural materials attached to each of the projects described and listed on the LatCrit website are evidence of the care and attention that has gone into designing, launching,

As we summarize below, these principles and practices gave rise to the LatCrit version of a “democratic” approach to critical legal studies, as well as to the then-incipient field of Latina/o legal studies. Because we believe the LatCrit experience in Latina/o legal studies provides many lessons to help ensure that Latina/o discourses and politics will be liberational and pluralistic rather than assimilationist or neocolonialist, we offer this experiment as a microcosm of issues and possibilities facing any project devoted, as is this Symposium, to situating “Latinas/os” at the “epicenter” of “contemporary legal discourses.” We believe this model is best suited for articulation of “Latina/o” identity in law and society because of historical legacies and structural circumstances—like other traditionally marginalized groups, Latinas/os in the United States today face an entrenched, righteous, and majoritarian status quo resistant to transformative social change.⁸ To effectuate transformation, Latinas/os must address and transcend these historical and structural realities. To change the facts on the ground, we must deal with questions of history, power, and possibility.

This engagement, in turn, calls for more than single-issue nationalisms that, among disempowered minorities, can never hope to garner enough traction to make a serious and enduring dent in established patterns of domination and subordination. In the context of the United States, this engagement, to be successful, requires capacious, coalitional projects capable of overcoming entrenched and majoritarian obstacles to social justice. These coalitional projects, however, cannot be grounded merely in the ephemeral kinds of “converging interests” that help to explain the Civil Rights successes of the mid-twentieth century, and that two decades later helped to seal their limited fates. As history (and the work of critical outsider pioneers) has taught us, interest convergence provides, at best, a temporary and thin platform for concerted social justice action.⁹ Thus, rather than settle now for still more rickety coalitions based

and maintaining each project, that is, the Critical Global Classroom, the South-North Exchange, the Student Scholar Project, CLAVE, etc. Each of these projects is the result of scholarly discussions and organizational debates, and LatCrit members have taken time and effort to theorize, thematize, and create explicit linkages among the projects. *See generally* LatCrit Primer, Flyer, and/or Portfolio of Projects at <http://www.latcrit.org/>. *See* Valdes, *Under Construction*, *supra* note 6 (providing an early exposition of these points).

8. The histories of group *de jure* marginalization based on race, ethnicity, gender and other axes of identity in North American society is well documented and generally known. *E.g.*, RACE AND RACES: CASES AND RESOURCES FOR A DIVERSE AMERICA (Juan F. Perea, Richard Delgado, Angela P. Harris & Stephanie M. Wildman eds., 1999). For a recent acclaimed exposition of the Black experience, which continues the project of reclaiming these distorted or suppressed histories, see DAVID BRION DAVIS, INHUMAN BONDAGE: THE RISE AND FALL OF SLAVERY IN THE NEW WORLD (2006). For a historically recent account of sex integration in its early stages at Yale Law School during the mid-late 1980s, see Catherine Weiss & Louise Melling, *The Legal Education of Twenty Women*, 40 STAN. L. REV. 1299 (1987–1988).

9. *See* Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518 (1980) (observing that Civil Rights progress depended on a perceived convergence of interests between majority and minority interests). This notion was corroborated in chilling detail years later, when secret government documents revealed that federal civil rights efforts were motivated in part by Cold War competition for the hearts and minds of the “Third World”—comprised mostly of people of color. *See* MARY L. DUDZIAK, COLD WAR CIVIL RIGHTS: RACE AND THE IMAGE OF AMERICAN DEMOCRACY (2000); Mary L. Dudziak, *Brown as a Cold War Case*, 91 J. AM. HIST. 32 (2004). Contemporary scholars continue to explore how interest convergence explains the ebbs and flows of social justice

on the short-term politics of self interest, we emphasize the utility of a principled alternative based on postsubordination vision, an alternative explored and modeled (even if imperfectly) in the LatCrit context during the past decade or more.

In our view, the principal purpose of Latina/o legal studies must be to elucidate and disseminate suppressed knowledges that can help to facilitate this sort of social justice action. From our perspective, the point of situating Latinas/os at the epicenter of contemporary legal discourses must be to nudge along this intergenerational, international, and interdisciplinary struggle against historic supremacies and present hierarchies. As a matter of substance and principle, the LatCrit example, we hope, will help to nudge Latina/o studies and actions in law and policy away from just another iteration of assimilationist self-interest politics-as-usual, and toward something new, something better, something more reasonably calculated to promote social justice through knowledge production and principled action. First, however, we provide a note of clarification regarding our understanding of the three key terms that frame the theme of this Symposium.

We understand “Latinas/os” to be a multiply diverse collection of individuals, with commonalities and differences based on the usual categories of identity made salient in North American law and policy: race, color, class, ethnicity, national origin, immigration status, religion, gender, sexual orientation, dis/ability, ideology, and others.¹⁰ Many “Latinas/os” are Hispanic, many not; many Roman Catholic, many not; many use Spanish as a “native” tongue and many not. This mix is, in great part, a product of Spanish colonization, as well as a telling measure of its still-colonizing present effects. Without overlooking the salience of Spanish colonialism on the creation of “Latinas/os,” we reject discursive mis/conceptions of the “Latina/o” condition in the United States today that flatten group identity into familiar but misleading stereotypes, and that additionally project neocolonial oppressions into everyday life today.¹¹ Instead, we embrace and emphasize multidimensional

progress. See, e.g., Cynthia Lee, *Cultural Convergence: Interest Convergence Theory Meets the Cultural Defense*, 49 ARIZ. L. REV. 911 (2007) (exploring identity-inflected issues in criminal law contexts).

10. One example making this point, published in the annual LatCrit symposia, is Gerald P. López, *Learning about Latinos*, 19 CHICANO-LATINO L. REV. 363 (1998). See also Luz Guerra, *LatCrit y La Des-Colonización Nuestra: Taking Colón Out*, 19 CHICANO-LATINO L. REV. 351 (1998); Berta Esperanza Hernández-Truyol, *Building Bridges V—Cubans without Borders: Mujeres Unidas Por Su Historia*, 55 FLA. L. REV. 225 (2003); Kevin R. Johnson, “Melting Pot” or “Ring of Fire”? : *Assimilation and the Mexican-American Experience*, 85 CAL. L. REV. 1259 (1997); Victor C. Romero, “Aren’t You Latino? ”: *Building Bridges upon Common Misperceptions*, 33 U.C. DAVIS L. REV. 837 (2000); Gloria Sandrino-Glasser, *Los Confundidos: De-Conflating Latinos/as’ Race and Ethnicity*, 19 CHICANO-LATINO L. REV. 69 (1998); Yvonne A. Tamayo, *Cubans Without Borders: Finding Home*, 55 FLA. L. REV. 215 (2003). For an analysis of the use of narrative formats in critical theory, see Margaret E. Montoya, *Celebrating Racialized Legal Narratives*, in CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY 243 (Francisco Valdes, Jerome McCristal Culp & Angela P. Harris eds., 2002) [hereinafter CROSSROADS].

11. See generally Francisco Valdes, *Race, Ethnicity, and Hispanismo in a Triangular Perspective: The “Essential Latina/o” and LatCrit Theory*, 48 UCLA L. REV. 305 (2000) (discussing Hispanismo in relationship to Latina/o identity and LatCrit theory as an antsubordination discourse).

understandings of Latina/o diversities that can better help to foster the consciousness of critical coalitions necessary for effective and principled social change.

Because the notion of an “epicenter” entails the notion of a periphery, we aim to clarify our understanding of this second key term framing the Symposium theme. In our view, the rich and messy diversities of Latinas/os in the United States (not to mention beyond) make the notion of an epicenter difficult to conceptualize or maintain. In addition, any permanent attempt to privilege a particular identity or social group in contemporary legal discourses would contribute very little—and perhaps subtract quite a bit—from the coalitional knowledge production necessary to effective antistatist action. In other words, we see much value in Latinas/os stepping into the epicenter of contemporary legal discourses, in a provisional and temporary fashion to analyze and be analyzed, to give expression to our narratives and histories, and generally to contribute to a growing body of antistatist knowledge—and then to rotate the epicenter to other groups. Thus, while we would dissent from any permanent privileging of “Latinas/os” in legal scholarship generally—especially if done so in essentialized terms—we re-affirm our LatCritical commitment to “rotating” centers (or epicenters) as part and parcel of democratic knowledge production, and approach this Article in this vein.¹²

Finally, we understand the theme’s focus on “contemporary legal discourses” as an invitation to consider different possibilities and methodologies in the act of situating “Latinas/os” at the epicenter of them. More specifically, we focus on jurisprudential experiments associated with different types of “outsiders” to legal academia, or to North American society at large, and on the OutCrits’ combination of traditional and nontraditional approaches to knowledge production. In so doing, we seek to identify basic approaches or “models” available to present and future scholars, activists and decision-makers interested in the project of social justice in part through Latina/o legal studies: from our perspective, only with the landscape mapped, and a sense of context in place, can we consider seriously the best paths or approaches toward situating “Latinas/os” at the epicenter of “contemporary legal discourses” for the ultimate purpose of catalyzing, informing, and sustaining antistatist collaborations capable of delivering, in due time, material social change.

The first Part of this Article briefly responds to a self-positioned internal criticism of the LatCrit record after the first decade, which appears in this Symposium. Entitled “Identity Assassination,”¹³ this critique by Professors Keith Aoki and Kevin Johnson

12. The practice of rotating centers has been a key democratic practice of LatCrit theorists from the earliest days of this experiment. With this practice we seek to acquire the intellectual peripheral vision required to keep both locations, the core and the borders, within our analytical field of focus. See, e.g., Francisco Valdes, *Theorizing “OutCrit” Theories: Coalitional Method and Comparative Jurisprudential Experience—RaceCrits, QueerCrits and LatCrits*, 53 U. MIAMI L. REV. 1265 (1999) [hereinafter Valdes, *Theorizing “OutCrit”*] (outlining varying outsider approaches to theory-making, and detailing LatCrit practices as a synthesis).

13. Keith Aoki & Kevin R. Johnson, *Identity Assassination: An Assessment of LatCrit Theory Ten Years After*, 83 IND. L.J. [PAGE] (2008). As LatCrits, we do not engage in the creation or proliferation of “insider” and “outsider” circles, and thus do not question the critics’ self-positioning either way. It is relevant to note, however, that while Professors Aoki and Johnson have participated in various LatCrit programs and have published a number of texts in the LatCrit symposia, neither has served in any sustained institutional capacity (despite

concludes that the scholarship published in the ten LatCrit Annual Symposia and written by some 144 scholars,¹⁴ overwhelmingly scholars of color, is so lacking in “quality” as to risk “assassinating” the LatCrit identity.¹⁵ According to them, “LatCrit” risks a violent, public, well-deserved demise caused by the democratic and egalitarian choices, and related scholarly practices, of scholars active in this experiment.¹⁶ For the reasons outlined below, we reject this hyperbole, and to the extent that we engage Professor Aoki’s and Professor Johnson’s critique substantively, we do so mainly by illustrating the positive (if imperfect) example that the LatCrit record sets for the development of contemporary legal discourse in general, and for Latina/o legal studies specifically.¹⁷

In the spirit of open yet principled exchange, we suggest respectfully that any effort to treat an entire body of published works in lump-sum fashion is intellectually irresponsible.¹⁸ Resting on factual errors, analytical lapses, overbroad categorizations,

invitations to serve on the Board or various Project Teams) that may have made them percipient to the key facts they now assert as the basis for their sweeping claims and conclusions. *See infra* notes 18, 19, 26 (summarizing factual and conceptual claims and errors).

14. *See* Appendix A.

15. Aoki & Johnson, *supra* note 13, at [PINCITE].

16. *Id.* at [PINCITE].

17. “LatCrit” (like the Law and Society Association (LSA) and the Society of American Law Teachers (SALT)) is a legal fiction, a general subject position, a vehicle for programmatic opportunities that individual scholars may and do use in various, self-selected ways. Whatever else “LatCrit” might be, “it” (like LSA or SALT) does not “write” anything. Only people do. At the end of the day, conflating “LatCrit” writ large with individual scholars in this internal criticism to condemn *their* writings does little to disguise that human targets necessarily are the objects of this attack. *See infra* note 24 and accompanying text (on similar criticisms of “nontraditional scholarship” that necessarily makes individual scholars the targets of attack). Moreover, differentiating LatCrit *annual* symposia articles (based on the annual conferences) from *other* LatCrit symposia (based on smaller academic events or published as stand-alone publications), as Professors Aoki and Johnson do, creates distinctions of little significance because most of the seventeen LatCrit symposia, published by the time LatCrit’s tenth year had passed (and therefore within the time being considered by Professors Aoki and Johnson) are organized and published in the same basic manner. A listing of the scholars included in the two groups. *See infra* Appendices A and B (providing a glimpse at whose work is included in Professor Aoki’s and Professor Johnson’s negative evaluation). *See also infra* note 66 (listing the various LatCrit symposia chronologically.) Having recently conducted the Twelfth Annual LatCrit Conference (in October 2007), LatCrit scholars have now published twenty-one symposia, still using the same basic methods described below. *See infra* notes 65–71 and accompanying text (providing more background on the organization and function of the LatCrit symposia).

18. Professors Aoki and Johnson paint their claims in broad strokes, without any attempt at specificity, which effectively invites readers to “throw the baby out with the bathwater” as they consider the contributions of LatCrit practices and scholarship to knowledge production. Ultimately, however, any piece of writing—perhaps especially scholarship—must stand or fall on its own, regardless of the model under which it was produced. In making their “Harry Edwards move,” Professors Aoki and Johnson do a disservice to outsider scholars and “democratic” scholarship because they make it easy (or easier) for those inclined (as has been the case with critical legal studies and critical race theory) to assert rejection of the genre wholesale, rather than letting individual texts stand or fall on their own. *See infra* note 24 (on similar “Harry Edwards moves” against “non-traditional” scholarship generally, and in

and conceptual blunders, as we briefly outline below, this criticism is incoherent.¹⁹ While within LatCrit practice we invite, engage, and model self-criticality, we find the

particular against critical outsider scholarship); *see also infra* note 19 (on the abstraction and opacity of this criticism).

19. Factual errors include, for example, the twin central allegations: that “LatCrit” (writ large) controls editorial decisions regarding the annual symposia, and routinely ensures near-automatic acceptance of all submissions without any meaningful review or editing—which in turn causes the symposia to be “uneven” (and worse) in “quality.” Aoki & Johnson, *supra* note 13, at [PINCITE]. The related allegations of editorial control and near-automatic acceptance are flat-out wrong, and we note that Professors Aoki and Johnson proffer only a solitary, personal anecdote from eight years ago for these sweeping assertions. *Id.* at [PINCITE]. Of course, we also note that this sort of allegation is oftentimes leveled at all kinds of symposia. *See infra* notes 24, 26. For these reasons, we find these factual allegations unhelpful and the conclusions extrapolated from them unsound.

Professor Aoki’s and Professor Johnson’s main conceptual errors include: (1) the attempt to break apart the four aims or “functions” of critical antisubordination theory offered at the beginning of the LatCrit enterprise, *see infra* note 58, as basic anchors for our collaborative efforts, seemingly completely unaware of the proposition that these four goals are understood to operate synergistically, and to be approached or pursued thusly; (2) the reductionist move in defining “knowledge production” and “scholarship” along the narrowest of “imperialist” lines, for example, limiting their evaluation of LatCrit scholarship only to the “annual” symposia and then under the most traditionalist of frameworks or expectations (length, placement, numerosity), which works to skew the parameters of knowledge production and unhinge LatCrit projects from their democratic and antisubordination commitments; (3) the apparently complete misconception of the LatCrit approach to antisubordination and antiessentialism as twin and inter-related substantive values of this jurisprudential experiment, which in our view make sense not as abstract intonations but, instead, only in concrete, contextual applications; (4) the artificial bifurcation of race and politics in law, policy and society, a bifurcation that flies in the face of basic jurisprudential insights from a decade or more ago and threatens to yank OutCrits back to pre-postmodern times—in particular, Professor Aoki’s and Professor Johnson’s usage of “Latina/o” identity in their text appears to imply that “LatCrit” should be a biologically determined formation, defined and oriented as such: in practice we see that “Latina/o” means “Hispanic” and apparently brings with it the entire bundle of essentialized cultural associations that attach to that colonial construction, *see supra* notes 10 and 11 (on colonized and colonizing constructions of contemporary Latina/o identities); and (5) their use of curiously constructed categories, such as “senior” scholars, which works to set up a laudatory discussion in their text for some (mostly male) scholars while largely confining examples of (female) scholarship to footnote status; *see also infra* note 20 (detailing a prior engagement of similar gender skews in LatCrit texts). In addition to these examples, *see infra* notes 23–26 and accompanying text (noting other kinds of errors).

In our view, acceptance of these (and related or similar) misconceptions effectively would transmute LatCrit theory from a “democratic” to an “imperialist” enterprise in knowledge production. With respect to the issues Professors Aoki and Johnson raise about Latina/o identity, we also see a potentially regressive nationalism of the sort that Professor Stephanie Phillips has warned us years ago, and which we have rejected over the years in favor of diversity and democracy. *See* Stephanie L. Phillips, *The Convergence of the Critical Race Theory Workshop with LatCrit Theory: A History*, 53 U. MIAMI L. REV. 1247 (1999) (linking “closed” or stratified formations with regressive nationalisms). As we noted in the opening part of this Article, we think Latina/o progress toward social justice in the United States depends on collaborative, coalitional knowledge and action. *See supra* notes 8–11 and accompanying text.

tone, content, and citation practices of Professors Aoki and Johnson to be unsupported and unsupportable.²⁰

In the second and third Parts of this short Article we explain that LatCrit scholarly projects, practices, and norms reflect the “democratic” (“big tent”) model of knowledge production. We compare and contrast this model, first, to the “imperial” (or “traditional”) model and, then, to the “vanguardist” (or “safe space”) model of knowledge production.²¹ In our view, this brief exercise helps to bring into relief the

20. Self-criticality is a long-standing feature of LatCrit theorizing. *See, e.g.*, Margaret E. Montoya, *LatCrit Theory: Mapping Its Intellectual and Political Foundations and Future Self-Critical Directions*, 53 U. MIAMI L. REV. 1119 (1999) (this introduction to a cluster of symposium essays contains an extended colloquy with Professors Kevin Johnson and George Martinez about incorporating into LatCrit the anti-sexist and anti-homophobic lessons learned by Chicana/o scholars); Margaret E. Montoya & Francisco Valdes, *Latinas/os and Latina/o Legal Studies: A Critical and Self-Critical Review of LatCrit Theory and Legal Models of Knowledge Production*, FLA. J. INT’L L. (forthcoming 2008) (providing further discussion of criticality and self-criticality as democratic method in LatCrit discourse).

21. Due to time and space limitations for this Article, we present a more detailed descriptive elaboration and comparative analysis of these three basic models in another article. *See* Montoya & Valdes, *supra* note 20. For the moment, we refer to the models only to situate our contribution to this Symposium against a knowledge-production backdrop; in this short Article, we sketch and describe the contours of each only to contextualize our argument regarding the development of Latina/o legal studies. To do so, we must settle on some names, even if provisionally. In naming these models for reference in this Article, we again rely on our predecessors and contemporaries, aiming to build on their thoughts and words. In this provisional naming, we echo the work of other outsider critical scholars: Professors Richard Delgado, Angela Harris, and Sylvia Lazos Vargas. *See infra* notes 29, 36, 52.

It bears emphasis that, in using their terms below, we are invoking their uses and analyses as a convenient shorthand, and an existing foundation, for our descriptive, non-normative nomenclature. In particular, our use of Professor Harris’s term (“vanguard”) does not refer to political, philosophical, or ideological debates outside of the legal academy; echoing Professor Harris, we use it only to describe particular conditions of, or approaches to, the production of contemporary legal texts among North American academics. *See infra* note 36. Even if we cannot do so at every step, we acknowledge again, here at the outset, that LatCrit work has much in common with other politically progressive groups and movements, especially critical race theory and feminism: “LatCrit theory is supplementary, complementary, to Critical Race Theory. LatCrit theory, at its best, should operate as a close cousin—related to critical race theory in real and lasting ways . . .” Valdes, *Practices to Possibilities*, *supra* note 3, at 26–27 (introducing the Colloquium papers which occasioned the invention of the “LatCrit” moniker). Thus, in drawing distinctions with others based on models of knowledge production—and specifically with those who labor alongside us in the legal academy—we do so to explain our collective choices in democratic experimentation, which we think and hope build positively on the efforts of other critical outsider scholars, and to respond to charges that distort and devalue our history and our objectives. *See* Aoki & Johnson, *supra* note 13.

It also bears emphasis that, in comparing and contrasting these models we do so in full recognition that the models are fluid constructs, which sometimes converge and overlap and other times diverge and differ. We understand as well that the different versions of each model—whether SALT, critical legal studies, LatCrit, or LSA—themselves are fluid and complex, changing constantly over time, experimenting with elements of each model in differing ways at different times. Despite this multi-leveled fluidity and complexity, we think and hope that the summary descriptive capsules presented here will resonate with our readers, at least

influence of imperial standards and exclusionary imperatives underlying the assertions proffered by Professors Aoki and Johnson. This clarity, we hope, will help all scholars make (and remake) their own choices and practices, perhaps in more self-critical and self-conscious ways.

We do not doubt that this descriptive account could be told in other ways, and we invite other scholars to fill in the details we have missed here, or to tell a different story altogether. We likewise do not doubt or dispute that scholars can and do mix and match different aspects of each model tailored to particular moments or projects. Indeed, we have learned much from the efforts of scholars to do so, as we discuss below. One might even observe that our participation in this “traditional” Symposium illustrates our LatCritical willingness to combine elements of different models synergistically in different situations, but always in the service of Latina/o legal studies as a vehicle for social justice. Though we therefore find that each general model of legal knowledge production may have benefits as well as drawbacks, we conclude that the LatCrit effort thus far is best positioned, among the various extant models, to undertake the centering envisioned by this Symposium’s theme within the particular context of contemporary North American law and society.

Thus, here we aim only to outline the basic contours and priorities of the three basic knowledge-production frameworks for contemporary legal discourses so that diversely situated scholars interested in the continuing development of Latina/o legal scholars and scholarship can consider the landscape of current structures as they pursue their individual and collective knowledge-producing activities. With this preliminary mapping exercise, we intend at least to make plainer the politics of knowledge production reflected and advanced in particular choices or practices. Even more specifically, we hope in the space allowed to outline how and why the LatCrit experiment in democratic knowledge production serves as a helpful model for future generations in the ongoing development of Latina/o legal studies in the service of social justice activism, both within and beyond the legal academy of the United States.

We recognize that this account and analysis of the LatCrit experiment—like our sketch of the three “models”—is inevitably our own. But we also think the points and emphases presented below about the LatCrit project reflect broadly accepted understandings among LatCrit-identified scholars. To underscore our effort to be representative, we include quotes throughout this Article from a diverse group of LatCrit scholars interviewed in October 2007, during the Twelfth Annual LatCrit Conference (“LatCrit XII”). Those interviews inaugurated an Oral Histories Project, undertaken in response to repeated queries for information about organizational history, theoretical development, jurisprudential lineage, and the like. Though Professor Aoki’s and Professor Johnson’s critique came to us after these interviews took place, the scholars who spoke then help us now to illustrate democratic knowledge production in action. Their eloquence underscores that the theoretical points we unfold below are not really our own—or certainly not only our own. Their eloquence affirms that our collective and individual commitments to the choices and practices that Professors Aoki and Johnson criticize are not inadvertent; rather they emerge out of a synergistic, trial-and-error process we have undertaken during the past

those familiar with the ways and means of the North American legal academy, enough to understand the position we take with respect to Latina/o legal studies. Due to time and space limitations here, we attend to nuance and detail elsewhere. *See* Montoya & Valdes, *supra* note 20.

dozen years in pursuit of the four interactive goals or functions of theory that early LatCrits proposed at the outset of this experiment.²² This multivocal format, we hope and intend, will reflect and give expression to the principled openness that characterizes the LatCrit project in democratic knowledge production.

I. CONTEXT AND PERSPECTIVE: A HISTORICAL CAPSULE

To situate this moment in the larger field of contemporary legal “scholarship on scholarship” we begin with the observation that today’s charges are nothing new to outsider or critical scholars. On the contrary, Professor Aoki’s and Professor Johnson’s script has been replayed time and again in various moments and settings within legal academia in its processes of knowledge production. Indeed, “a developing cottage industry built on trashing the outsiders” has emerged from efforts akin to the one we consider today.²³ As is our customary LatCritical practice, we thus try to make sense of this moment by understanding better some similar jurisprudential moments preceding us.

In this task, we are inspired by the responses of several critical and outsider pioneers to similar moments. First, we are guided by the response from Professor Derrick Bell to Judge Harry Edwards, as follows:

I know it was not your intention to undermine these commitments, but the fact is that, at many law schools, a strong and quite vocal majority of tenured law professors are opposed to all writing that fails to adhere to traditional standards of scholarly writing. These protectors of scholarly orthodoxy are not able to define with any degree of specificity what they deem worthy. Perhaps for this reason, many law teachers—tenure safely earned years ago—perform a strange obeisance to their scholarly ideals by writing little or nothing at all. But it is not this unhappy truth that motivates this rebuttal.

Rather, I want to diminish the effects of those traditional-minded faculty who are circulating your piece with great glee. They read it as both a condemnation of nontraditional scholarship and as the perfect weapon with which to oppose hiring or tenuring teachers attracted to any of the “law and” fields. Although you are far from the first person to criticize nontraditional writing, conservatives get special mileage when they are able to quote a black man whose views can be contorted into support for their opposition to nontraditional scholarship in general and, in particular, *any* such writing by minority law teachers.

You certainly did not intend your article to make life harder for the next generation of Harry Edwards and Derrick Bells. . . . But this fact does not lessen the potential for serious harm your piece can and, I fear, will prove to be to the careers of many young law teachers who are meeting resistance and rejection as

22. To view the Oral Histories Project interviews of October 2007, see www.latcrit.org. See generally Francisco Valdes, *Under Construction*, *supra* note 6, at 1093–94 (providing an early discussion of these four jurisprudential functions); see also *infra* note 58 and accompanying text (elaborating further on this theme).

23. J. Cunyon Gordon, *A Response from the Visitor from Another Planet*, 91 MICH. L. REV. 1953, 1967 n.68 (1993) (responding to the criticism of Harry Edwards).

they attempt to address current legal issues with what you damn with faint praise as “law and” writing.

I doubt that anything I can say in rebuttal can dissuade the status quo forces on law faculties from citing your article to justify their opposition to anything nontraditional—regardless of quality and worth. I write because my commitment to critical race theory scholars requires a response to your charges which, as applied to them, are inaccurate and misdirected.²⁴

Like Professor Bell (and others before us), we consider Professor Aoki’s and Professor Johnson’s interjection of “standards” to fail on substantive terms—including their failure to provide any sense of what counts as “quality” in their worldview, other than some vague notions of length, placement and numerosity. In addition to these substantive flaws, we also find Professor Aoki’s and Professor Johnson’s claim of solidarity with democratic scholarship to be—in the words of Professor Richard Delgado—“misguided” and “odd” in light of the very foreseeable consequences of their conclusory yet colorful assertions on vulnerable members of the professoriate, which they so cavalierly discount.²⁵ Even if their key factual premises were correct, they would not carry any serious analysis the long distance that Professors Aoki and Johnson attempt.²⁶

24. Derrick Bell & Erin Edmonds, *Students as Teachers, Teachers as Learners*, 91 MICH. L. REV. 2025, 2026–27 (1993). In similar fashion, we take to heart the response of another OutCrit pioneer, Professor Richard Delgado, to another similar moment:

Calling for evaluative standards in the case of a young movement, when legal scholarship generally is in a state of flux, is misguided. It comes too early, is an odd thing to be concerned about, and could stunt the movement’s growth. There is also the serious risk that readers less sympathetic than [Professors Aoki and Johnson] will read [their] call and say: “See? Even one of them is calling for standards. I’ve thought all along that the Crits were getting away with something, writing sloppy, impressionistic work. Finally, here is one that agrees. Now on this tenure matter we have before us”

Richard Delgado, *Legal Scholarship: Insiders, Outsiders, Editors*, 63 U. COLO. L. REV. 717, 723 (1992). For a third similar example, see Randall L. Kennedy, *Racial Critiques of Legal Academia*, 102 HARV. L. REV. 1745 (1989) (criticizing the methodologies and texts of critical race and feminist theorists). For responses to Kennedy, see Milner S. Ball, *The Legal Academy and Minority Scholars*, 103 HARV. L. REV. 1855 (1990); Robin D. Barnes, *Race Consciousness: The Thematic Content of Racial Distinctiveness in Critical Race Scholarship*, 103 HARV. L. REV. 1864 (1990); Scott Brewer, *Introduction: Choosing Sides in the Racial Critiques Debate*, 103 HARV. L. REV. 1844 (1990); Richard Delgado, *Mindset and Metaphor*, 103 HARV. L. REV. 1872 (1990); Leslie G. Espinoza, *Masks and Other Disguises: Exposing Legal Academia*, 103 HARV. L. REV. 1878 (1990). Today, both the criticisms and our “response” echo these prior exchanges. See *supra* notes 13–21 and accompanying text (amplifying these points).

25. See *supra* notes 23–24 (on prior similar episodes and responses). Nonetheless, today Professors Aoki and Johnson brush aside these sorts of concerns with a single gesture: “We confess to being extremely reluctant to criticize the quality of the LatCrit symposia because of the fear that some scholars might wrench out of context our words in future debates over academic personnel (tenure and appointments) decisions.” Aoki & Johnson, *supra* note 13, at [PINCITE] n.40.

26. In other words, even if the claim that all LatCrit symposia submissions are accepted

In sum, given this historical moment, and in light of the urgent material injustices growing around us all, we find Professor Aoki's and Professor Johnson's critique to be a damaging diversion of their intellectual energy and LatCrit's organizational time. Considering the current sociolegal context, we are surprised that they have chosen to dedicate their contribution to this important Symposium to the alleged shortcomings of LatCrit scholars and their writing, a small academic insurgency battling in "hard times" against the bastion of hegemonic privilege that is the legal academy. Therefore, to the extent we refer to illustrative examples of their critique's most serious flaws, we do so with great reluctance, *y con mucha tristeza*.

II. KNOWLEDGE PRODUCTION MODELS: A BRIEF OVERVIEW

The mainstream or "imperial" tradition is as old as the establishment of formal legal education in the United States under the still-dominant structure of today.²⁷ Under the influence of Langdellian formalism and scientism, this tradition is riveted on legal doctrine as woven by appellate judges. But this original version of this model—like all other versions under the other models—has been in constant flux, even as it has become entrenched in its near-hegemonic form. Thus, during the first half of the last century, "realists" who sought to elevate the importance of social reality in the understanding and crafting of legal rules challenged the early premises and purist Langdellian practices of the mainstream, or traditional, model.²⁸ They succeeded, making empiricism part of the modern imperial tradition as practiced today.

were true, *see supra* notes 18–19, it would not follow that therefore the symposia are dismissible as serious or legitimate "scholarship" in the context of contemporary legal discourses. For example, we wonder how many of the submissions to this very Symposium were rejected. We would bet none. We would bet that, instead, the law review editors worked with individual scholars through various drafts to address weaknesses and improve the final text—as is the case in the LatCrit symposia. *See infra* notes 65–71 and accompanying text (discussing the structure, organization and function of the LatCrit annual symposia). Yet, at the end of this editorial process, we would not be surprised to find that the contents of this Symposium remain describable as "uneven" in their quality. *See Aoki & Johnson, supra* note 13, at [PINCITE] (describing the LatCrit symposia as "uneven"). Thus, in many ways, this very Symposium illustrates both the LatCrit practice of working with authors to improve submissions rather than reject them out of hand, as well as the fact that the results remain always describable as "uneven." More fundamentally, this Symposium also illustrates that, nevertheless, serious and legitimate scholarship emerges from these efforts. Finally, we cannot overlook the irony that Professors Aoki and Johnson urge upon us all a more direct focus on material conditions (rather than discursive practices or conditions)—even as they turn their extended gaze on LatCrit scholarship rather than on the sorts of material conditions of injustice they demand be centered in contemporary legal discourses. *See Aoki & Johnson, supra* note 13, at [PINCITE]. This writing about writing of course invites more writing about writing—an Orwellian irony that does not escape us.

27. For a historical overview of the institutionalization of formal legal education in the United States, see ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* (1983).

28. *See* David P. Bryden, *Scholarship about Scholarship*, 63 U. COLO. L. REV. 641 (1992); Stephen M. Feldman, *The Transformation of an Academic Discipline: Law Professors in the Past and Future (or Toy Story Too)*, 54 J. LEGAL EDUC. 471 (2004); Robert W. Gordon, *Lawyers, Scholars, and the Middle Ground*, 91 MICH. L. REV. 2075 (1993); Frank Munger, *Mapping Law and Society*, in *CROSSING BOUNDARIES: TRADITIONS AND TRANSFORMATIONS IN*

In a groundbreaking 1984 study of mainstream legal scholarship, Professor Richard Delgado set out to “explain the tradition” of what he termed “imperial scholarship”—a term we adopt here to name this dominant model. Analyzing in detail the “exclusionary scholarship” of elite mainstream traditions and networks, Professor Delgado mapped “an inner circle of about a dozen white, male writers who comment on, take polite issue with, extol, criticize, and expand on each others ideas.” Non-traditional scholarship, especially if authored by outsiders or critics, he observed “seems to have been consigned to oblivion. Courts rarely cite to it, and the legal scholars whose work *really* count almost never do. The important work is published in eight or ten law reviews, and is written by a small group of professors, who teach in the major law schools.”²⁹ Though his study was focused on a sub-part of traditional or mainstream legal literature focused on constitutional rights, this “elaborate minuet” captures the refined essence of the imperial model in operation then and today.³⁰

Continuing to elucidate this dominant or mainstream tradition, contemporary scholars have mapped the contours of “safe” and “dissent” forms of legal scholarship to unpack the causes and dynamics of historical skews that affect present-day practices and perceptions:³¹

Legal scholarship is shaped by the socially dominant members of society. In the United States, this means that, at least until the 1970s and 1980s, when women and people of color entered the academy (in significant numbers), legal scholarship was shaped by white men. This means that the ideologies and

LAW AND SOCIETY RESEARCH 21 (Austin Sarat, Marianne Constable, David Engel, Valerie Hans & Susan Lawrence eds., 1998); Richard A. Posner, *The Deprofessionalization of Legal Teaching and Scholarship*, 91 MICH. L. REV. 1921 (1993); Robert Post, *Legal Scholarship and the Practice of Law*, 63 U. COLO. L. REV. 615 (1992); George L. Priest, *The Growth of Interdisciplinary Research and the Industrial Structure of the Production of Legal Ideas: A Reply to Judge Edwards*, 91 MICH. L. REV. 1929 (1993); George L. Priest, *Triumphs or Failings of Modern Legal Scholarship and the Conditions of Its Production*, 63 U. COLO. L. REV. 725 (1992); John Henry Schlegel, *A Certain Narcissism; A Slight Unseemliness*, 63 U. COLO. L. REV. 595 (1992); James Boyd White, *Law Teachers' Writing*, 91 MICH. L. REV. 1970 (1993). See generally Garth & Sterling, *supra* note 4.

29. Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PA. L. REV. 561, 562–63 (1984) [hereinafter Delgado, *Imperial Scholar*] (emphasis in original). For a follow-up on this study, see Richard Delgado, *The Imperial Scholar Revisited: How to Marginalize Outsider Writing, Ten Years Later*, 140 U. PA. L. REV. 1349 (1992).

30. Delgado, *Imperial Scholar*, *supra* note 29, at 563.

31. “Safe scholarship is defined as scholarship that conforms to the ideologies, methodologies and standards shared by the evaluator or the ‘mainstream’ legal academy during a specific time period. For example, prior to 1950, one form, and arguably the predominant form, of safe scholarship was doctrinal scholarship . . . historically developed based on the values and norms of the predominantly male, middle- or upper-middle class members of the legal academy. One might even take this to signify the ideologies and methodologies of ‘mainstream’ scholarship up until circa the 1970s and 1980s, when feminist and critical race theorists emerged.” Rachel J Anderson, *Revisiting the Imperial Scholar: Market Failure on Law Review?* (unpublished manuscript on file with authors). In contrast, “dissent scholarship is defined as scholarship that uses ideologies, methodologies, perspectives, viewpoints and voices or other standards that are competing with the evaluator’s or the ‘mainstream’ ideologies and methodologies of the legal academy.” *Id.*

methodologies of “traditional doctrinal scholarship” are informed by the decades in which the legal academy consisted of white, upper-middle class men. In light of this historical bias, it seems appropriate to question whether safe scholarship is the dominant standard for legal scholarship solely because of fair competition and merit, or due to other factors.³²

These decades-long and still-recent histories of de jure exclusion and de facto marginalization in legal knowledge-production generate “a bias toward safe scholarship” that, in turn, “skews the legal discourse” because dissenting scholars “that do not conform to the norms and standards of safe scholarship are more likely to be systematically excluded from the status and reputation-bearing discourse located in the pages of law reviews.” Equally important, “Whether this is willful or unintended, it results in a lack of a level playing field in the evaluation of legal scholarship.”³³

These traditional and continuing skews combine to produce a consistent and systematic effect even today: “the perpetuation of a bias for the historically dominant, upper-middle class thinking patterns and writing styles” that Professor Delgado denominated “imperial” when considering the practices and patterns of mainstream, or safe, scholarship in the pages of the nation’s leading law reviews, aiming precisely to discern whether those skewed patterns are the product of “merit” or bias. Moreover, this inequality survives the ephemeral fads with which the mainstream takes note of an emergent dissenting voice from time to time, like a child with a new toy. “For example, at one time critical race scholarship was ‘hot’ and therefore a case could be made that it was safe scholarship during that time. One also might argue that critical race scholarship has gone out of fashion again and, thus, has returned to the status of dissent scholarship.”³⁴ This out-in-out dynamic may help propel some particular texts or individual authors into relatively safe positions within the imperial hierarchy, which can secure helpful outsider gains within the legal academy, but experience shows that this fleeting kind of interest leaves intact the power and structure of the hierarchy itself, along with its biases, skews, and unlevel playing fields.³⁵

In the second half of the past century, the realists were succeeded by “critical” scholars who took that challenge several steps further. These critical scholars, through their innovative efforts, eventually gave rise to a “vanguardist” model for the production of legal knowledge, which emphasized conditions of production focused on small “safe” spaces of critical inquiry and exchange. Within the general category of “contemporary legal discourses,” we think that critical legal studies (CLS) and critical

32. *Id.* From our perspective, this questioning is well-taken, and we think it well directed to Professors Aoki and Johnson, whose lengthy text in this Symposium somehow manages to omit any consideration of these historical exclusions and continuing skews in the elaboration and evaluation of contemporary dissenting scholarship. *See* Aoki & Johnson, *supra* note 13.

33. Anderson, *supra* note 31. Importantly, Professor Anderson draws on her personal experience as an editor at three different law journals at Boalt Hall School of Law, one of the nation’s highest-ranked schools.

34. *Id.*

35. *Id.* This specific dynamic also helps to clarify some blind spots underlying the questions that Professors Aoki and Johnson pose from time to time in their text, including those that ask why contemporary outsider scholarship has not received the attention it received briefly (in the *New York Times* and other mainstream bastions) during its earliest years. *See* Aoki & Johnson, *supra* note 13, at [PINCITE].

race theory (CRT) aptly illustrate this model. These vanguard experiments aimed to create venues safe for the production of dissenting scholarship in the same ways that the mainstream institutions of the legal academy, including law reviews, are supportive of safe scholarship. Indeed, we borrow the “vanguard” concept to name this second model from Professor Angela Harris, a scholar prominently associated with race, feminist and critical scholarship, who employs this term to describe the structure and operation specifically of critical race theory during the 1980s and 1990s.³⁶

In this body of scholarship, social identities are oftentimes central, though admittedly always constructed. Consequently, this scholarship accepts different perspectives or subjectivities, as well as non-traditional methodologies, including analyses influenced by developments in the natural sciences. This heightened interdisciplinarity, typically coupled to a critical analytical stance, aimed to create new understandings of legal doctrine to help generate substantive legal reform and social justice change.

Unlike the atomized knowledge production conditions of mainstream scholarship situated within the core, “elite” institutions of the legal academy, the vanguardist model depended on the construction of alternative fora to incubate oppositional theory sharply critical of the status quo. This need for structural alternatives led to a search for venues literally and metaphorically “outside” of the mainstream law school environment and its imperial imperatives. This search eventually led to the adoption of the “safe space” concept, in which the small cell of similarly situated scholars meeting periodically at various physical locations operated as the principal unit of knowledge production.³⁷

This cadre-based approach featured small groups of like-minded scholars gathering annually (or periodically) for intense discussions in alternative conferences or workshops.³⁸ These relatively small “cells” of scholars produced and refined their individual texts in the context of these focused discussions. This practice was designed to forge piercingly critical texts, based in great part on common reading lists, shared

36. See Angela P. Harris, *Remarks*, LatCrit-SALT Faculty Development Workshop, Twelfth Annual LatCrit Conference, Miami, Florida (Oct. 5, 2007), www.latcrit.org. See generally Berta Hernández-Truyol, Angela P. Harris & Francisco Valdes, *Beyond the First Decade: A Forward-Looking History of LatCrit Theory, Community and Praxis*, 26 CHICANO-LATINO L. REV. 237 (2006) (providing a jurisprudential history from a LatCritical perspective).

37. See Charles R. Lawrence III, *Foreword: Who Are We? And Why Are We Here? Doing Critical Race Theory in Hard Times*, in *CROSSROADS*, *supra* note 10, at xi, xvii (providing an explication of the safe space context).

38. Thus, critical legal studies (CLS) had its “summer camps” and critical race theory (CRT) had its “summer workshops”—each to help incubate the ideas of “critical” theory, and then to help sharpen the edges of particular texts being carefully prepared for eventual publication. In these intensive small-group crucibles, CLS generated its (mostly male and white) constellation of stars, while CRT produced its own (mostly of color) counterpart. In relatively short order, these constellations and vanguards effectively became the points of pivot for the unfolding of these critical and outsider discourses. See Phillips, *supra* note 19 (providing accounts of the original series of critical race theory workshops, published in the LatCrit symposia); Valdes, *Theorizing “OutCrit,” supra* note 12 (describing the original critical race theory workshops); Athena D. Mutua, *The Rise, Development and Future Directions of Critical Race Theory and Related Scholarship*, 84 DENV. U. L. REV. 329 (2006) (outlining a comparative and joint history of RaceCrit and LatCrit experiments).

vocabularies, and intensive small-group discussion. This model produced fundamental challenges to the status quo capable of withstanding imperial scrutiny on imperial terms.

Yet this focus on text production, while spectacularly successful, was not matched with an equal attention to continuity or community building. Neither of these vanguardist experiments survived in regular programmatic events or sustained structural forms beyond a decade.³⁹ Nonetheless, as with the realists of the last century, the substantive and methodological triumphs of these vanguard experiments have become solid—if still controversial—fixtures of the contemporary legal scholarship landscape.

The third model is perhaps best represented by the examples of the Law and Society Association (LSA) and LatCrit, Inc. We also include the Society of American Law Teachers (SALT), in this third model, recognizing that its mission identifies teaching rather than publishing as its core knowledge-production activity.⁴⁰ Of these three democratic experiments, LatCrit is the youngest; it also is the only one born of color. While all three have seen institutional twists and turns throughout their respective histories—and will continue to do so, no doubt—these two differences, in chronology and demographics of origin, have continuing relevance.⁴¹

Both LSA and SALT emerged as predominantly white male organizations,⁴² and over the years faced internal challenges about their lack of racial and gender diversity,

39. See Angela P. Harris, *Building Theory, Building Community*, 8 SOC. & LEGAL STUD. 313 (1999) (discussing community building and the vanguardist model of the original critical race theory summer workshops); *supra* note 3 (enumerating numerous sources that discuss the campaign against criticality in legal education and scholarship).

40. Another structure within the legal academy that promotes the development of legal scholarship in an open and democratic fashion is the People of Color Legal Scholarship Conferences (POCs). Currently organized into Mid-Western, Northeastern, Western, and Southeastern/Southwestern regions, the POCs are open to participation by faculty of color and occasionally attended by White faculty with affinity for the purposes of the conferences. In addition, these regional conferences meet jointly on a national basis every five years. These varied POCs have facilitated the production of scholarly writings, especially by untenured faculty or those seeking to enter the academy. However, and unlike the three democratic examples we cite to illustrate this model, the POCs do not identify as a critical or progressive organization. For one conference that is representative of the POC's work, see <http://www.bu.edu/law/nepoc/>.

41. Other differences between LSA and LatCrit exist, which we discuss in more detail elsewhere. For example, LSA was organized more than thirty years ago compared to LatCrit's twelve years; LSA is a fee-membership organization while LatCrit collects no fees and accepts all comers, affirmatively reaching out to new constituencies including those in Latin America and in related disciplines; LSA has a paid executive staff with four full time employees while LatCrit is staffed exclusively by overly busy but enthusiastic volunteers. SALT also requires a membership fee and, as its activities have diversified, has recently hired an executive director. In 2007 it was awarded a capacity-building grant by the Open Society Institute, which allowed it to add professional staff and expand its social justice agenda. See Society of American Law Teachers, About Us, <http://www.saltlaw.org/about-us>.

42. An early history of the Law and Society Association identifies Laura Nader as one of the few women involved in the early years of the emerging field. See Garth & Sterling, *supra* note 4, at 446.

particularly in their core ranks.⁴³ However, organized at about the same time (SALT in 1973 and LSA in 1975), both sought to make non-traditional interventions in the business-as-usual status quo of legal academia. The socio-historical events of the 1960's, specifically President Lyndon Johnson's War on Poverty, the Civil Rights movement, and "what was happening in the streets," created both an opening for social science to vie with law as the appropriate expertise to analyze state power and an opportunity for a handful of individuals at four universities to conceive of and establish LSA⁴⁴ as the academic home for a scholarly field that consisted of "empirical critique of institutional processes."⁴⁵ Other explanations for LSA's founding emphasized the need for collegiality—a drawing together of scholars with shared interests, especially those who sought respect for the perspectives of social scientists in legal policy debates, "as well as for the 'facts' (in the positivist sense) that their research produced and that lawyers sometimes expropriated."⁴⁶ Similarly the Nixon Watergate debacle is the social context in which SALT was organized by Professor Norman Dorsen and other progressive law professors, who recognized the need to impact public policy while also responding to the teaching opportunities created by the increasing numbers of non-traditional students—of color, women, Vietnam veterans, gays and lesbians, and from low income families—with innovative law school curricula and pedagogy.⁴⁷ While LSA emphasized policy and interdisciplinarity, and SALT emphasized teaching and social justice, both sought to use legal knowledge for democratic social change by linking academic scholarship and activism to policy issues. They sought to wedge open the imperial traditions of their day so that alternative actors and approaches could enter the world of Law, and of legal knowledge production; in particular, both were committed to using Law as a tool against such social evils as poverty, low wages, war, and segregation. Like critical legal scholars and critical race theorists (and ourselves), the originators of these two democratic experiments drew inspiration from the legal realists to challenge the substantive and structural limitations of imperial traditions.

Though LSA and SALT over time have exhibited elements of the other models to varying degrees, we deem them part of this democratic or "big tent" category because their scholarly activities, such as their main conferences, are characterized by marked, conscious, collective departures from imperial traditions—for example, their emphasis on rupturing imperial borders that demarcate law from other disciplines, or teaching from scholarship, or academic life from activist involvements. They approach

43. By way of disclosure, both of us were involved in a 1994 SALT election that added several people of color to the Board of Governors. Also, one of us (Margaret) served on the LSA Board of Trustees in the class of 2001, chaired the 1999 Graduate Student Workshop (the theme was "Race and the Law" and attracted several young scholars who are now active in LatCrit and LSA) and chaired its Diversity Committee from 2003 to 2005. The other one (Frank) served on the LSA Conference Planning Committee in the mid-1990's. For insights into the role of scholars of color in LSA, see Munger, *supra* note 28, at 60. For further analysis on the links between LSA and CRT, see Laura E. Gómez, *A Tale of Two Genres: On the Real and Ideal Links Between Law and Society and Critical Race Theory*, in *THE BLACKWELL COMPANION TO LAW AND SOCIETY* 453 (Austin Sarat ed., 2004).

44. See Garth & Sterling, *supra* note 4, at 409, 412.

45. See Munger, *supra* note 28, at 30.

46. *Id.* at 26–27.

47. See SALT's History, <http://www.saltlaw.org/salt/039s-history>.

knowledge production as more than a matter of intellect, an activity solely of the mind; they instead seek to integrate word with deed, idea with action—law on the books with law in the streets. These levels and parameters of collaboration generate growth that, in turn, necessarily challenges the cohesion of democratic scholarly communities, a challenge that becomes perennial with time and success. For example, almost ten years ago, LSA President Frank Munger acknowledged that a sense of marginalization had come to some members of the LSA community with the growth in the reach of the scholarship, in the size of the membership, in the number of disciplines represented, and in the racial and cultural diversity of the scholars within LSA. In response, he encouraged all LSA members to resist breaking into different theoretical or disciplinary camps.⁴⁸ Professor Munger’s description of LSA, consistent with our “big tent” metaphor, is even more true today, as LSA has continued its steady growth: “The field has always been a loose and permeable set of networks. The Law and Society Association is the least exclusive of professional associations. The association has no subsections.”⁴⁹ Thus, SALT and LSA, like LatCrit, go about their non-traditional business by prioritizing, in systematized ways, inter-generational community building through serious institution building. In these three experiments, building a scholarly community and autonomous institutional structures go hand-in-hand to make democratic knowledge production self-sustainable. The original and expanded events of all three democratic experiments are characterized by openness, and a wide participation of differently situated scholars, in various coordinated activities throughout the year, all integral to the production of diverse kinds of individual texts or other work products.⁵⁰

As we have noted, these democratic experiments are fluid and distinct, and vary in terms of origins, demographics and priorities, but all have created venues of presentation and exchange with flexible contours and low costs of entry. All three have created autonomous institutional structures to plan, conduct, and sponsor numerous projects and publications, each of them affording programmatic opportunities for individual scholars to present and publish papers, or to undertake alternative knowledge-production initiatives featuring collaboration and boundary crossings of various types—disciplinary, methodological, multilingual, etc. Despite their fluidities and differences, each of these efforts produced democratic versions of the “safe space” concept early on in their histories—in retrospect, as a starting point for their unfolding activities. Professor Robert Westley describes the LatCrit version in this way:

The idea of LatCrit as a safe space People who feel alienated within the legal academy or home school environment can come together and form real friendships, real human relationships and be supported in things that otherwise they would not. That’s meant a lot to me, and it shows in ways that people remain involved year after year . . . it’s a safe space [for example and] in particular in that you can talk about issues of sexuality . . . LatCrit has never been seen as so narrow that it only focuses on issues affecting the “Latina/o” community. It is really an open environment but committed to a critical engagement of multiple categories of difference, and so issues of sexuality, issues of class, issues of race, issues of

48. See Munger *supra* note 28, at 65.

49. *Id.* at 64.

50. See *infra* notes 53–57 and accompanying text (elaborating on these common hallmarks).

gender, all these things that are hot-button issues in our society, you can come to LatCrit and you can talk about these things openly and critically . . . it's not a safe space in the sense that no one gets criticized. But it's a safe space in that no topic is taboo.⁵¹

While the democratic examples scramble and synthesize in varied ways differing aspects of the other two models, democratic experiments do not aim or tend to create or “control” the artificial scarcities of professional recognition, intellectual legitimacy, or space in the pages of (elite) law reviews that are necessary specifically to imperial stratification of scholars and scholarship. They aim, instead, to create diverse, programmatic, recurring opportunities for exchange and collaboration on multiple levels so that individual scholars can build alliances and networks as they develop their scholarly agendas and work, collectively, in the service of social justice. These three democratic experiments aim self-consciously to commingle newcomers and veterans as knowledge-producing, community-building, and institution-sustaining actors. Because of these features, we adopt “democratic” as the name of this third model from the work of a long-time LatCrit scholar, Professor Sylvia R. Lazos Vargas, in a text published in the LatCrit IX symposium.⁵²

The democratic (“big tent”) approach, though practiced differently in different versions, therefore positively embraces difference and diversity across multiple categories, including technocratic definitions of “scholarship” as a form of knowledge production. Nonetheless, democracy resists imposing “standards” in the name of “quality” that, in fact, simply or mostly reflect or reinforce imperial projections of a meritocracy. Indeed, this linkage of democratic practices with oppositional stances calls for deep, continual and proactive, critical re-assessments of “quality” as constructed in a structurally racist, sexist, and homophobic culture. Given the structural dis/incentives in favor of imperialism, and its cultural hegemony in legal academia, we remind ourselves that many of us—certainly the two of us—work in “home” institutions that are products and instruments of colonization. We employ democratic knowledge production, and its linkage to oppositional practice in the form of collaborative and individual practices, as an antidote toward imperial drift.

While LSA, SALT, and LatCrit continue to this day with their original annual gathering as their anchor and signature events, all three have created a portfolio of related activities to reinforce and diversify this programmatic anchor.⁵³ Perhaps more importantly, all three have used the early collective act of institution-building to create

51. See LatCrit Oral Histories Project, www.latcrit.org.

52. See Sylvia R. Lazos Vargas, “*Kulturkampf[s]*” or “*fit[s] of spite*”? : *Taking the Academic Culture Wars Seriously*, 35 SETON HALL L. REV. 1309, 1310–11 (2005) (describing the diversification and concomitant democratization of the legal academy). The data on the American Association of Law Schools (AALS) website show that in 2007–08, 222 law professors self-identified as Latinas/os and, of those, 86 were female. The data for all law faculty, both tenure-stream and non-tenure stream, additionally show a total of 411 women of color in law teaching and a total number of professors of color, including those marking “other” as their preferred identity, equal to 928. AALS, 2006–2007 AALS STATISTICAL REPORT ON LAW FACULTY, <http://www.aals.org/statistics/0607/DLT-spss/gender.html>.

53. For detailed information on these three groups or institutions, see their respective websites at <http://www.lawandsociety.org>, <http://www.saltlaw.org>, and <http://www.latcrit.org>.

conditions of continuity for inter-generational production of knowledge in both traditional and non-traditional terms. Professor Mario Barnes has commented about LatCrit's particular approach:

My first LatCrit was the one they said was in Philadelphia but was actually in Malvern, PA You had to shuttle if you wanted to go to the city You go to conferences and lots of panels are hit or miss, either the subject matter or the performance of panelists. It was so excellent to go to a place where I wanted to go to every panel and where every person who was a speaker did such an amazing job. Secondly was this whole notion of building in, intentionally, social time in the conference. The whole notion of the hospitality suite, which I had never experienced at any other Law and Society or AALS or other large conference I had gone to. Not just in the social way where I got to meet and talk to so many people whose work that I admire At Malvern, I met for the first time a person who it turned out was writing on things similar to what I was writing on. In the hospitality suite, we said 'you know what? we should write together' and that has been going on since Malvern and we've just completed our second article together and we've already published our first article. But for LatCrit, it wouldn't have happened.⁵⁴

In particular, all three—LSA, SALT and LatCrit—have branched out beyond the original annual anchor events to sponsor mentoring programs for junior scholars.⁵⁵ This common emphasis, though carried out in varied ways, over time yields a common attention to the production of diverse scholars as well as diverse scholarship. This community building helps to create the conditions of knowledge production for diversely situated *individual* scholars with a common interest in promoting antisubordination consciousness and action. This combination of proactive institution building and community building has taken the “safe space” concept beyond the momentary fragments of time and exchange created through a small annual gathering; these democratic experiments, each in their own ways, have expanded the safe “space” into a safe “zone” that ranges across multiple activities throughout the year. The move from “space” to “zone” thus signifies, and helps to create, a broader and deeper location for varied knowledge production activities—both individuated and collective—throughout the entire span of each year.⁵⁶

54. See LatCrit Oral Histories Project, www.latcrit.org.

55. In the instance of LatCrit and SALT, for example, the two have combined their efforts to conduct a joint Faculty Development Workshop, which presents events both during the Annual LatCrit Conference each fall as well as during the Annual Meeting of the AALS each spring. Similarly, the LSA sponsors its Graduate Student Workshop, which like that of LatCrit-SALT, is designed to mentor developing scholars in programmatic ways. In addition, all three conduct a number of programs and projects that create diverse opportunities for “junior” and “senior” scholars to interact, collaborate, and learn from each other. See *supra* note 53.

56. This safe zone notion creates a bulwark against the pressures of academic employment and the tensions and micro-aggressions associated with life in the hostile environments of elite law schools. Upon receiving the Clyde Ferguson Award from the Minority Groups Law Section of the AALS at the 2008 AALS conference, Professor Angela Harris commented on the hurt and craziness that we are all exposed to, and sometimes contaminated by, in the seductive imperial fog of the competitive, high status, atomized silos called law schools.

These dual commitments to antistatist institution-building and intergenerational community-building as practices integral to knowledge production in turn place a special premium on long-term planning and continuity of participation. All three versions of the democratic model are therefore characterized both by highly developed planning processes and high levels of continuous, if varying, participation among various categories or generations of scholars. In the institutional and intellectual histories of these three democratic experiments, we find that longtime veterans, as well as relative newcomers, continually mix and collaborate on the various projects of the respective communities: in the case of the LatCrit community, for example, long-term planning and continuity of participation have been recognized as original practices for democratic knowledge production.⁵⁷ Not (too) surprisingly, therefore, about two-thirds of authors published in the first LatCrit annual symposium twelve years ago were still present at the Twelfth Annual LatCrit Conference in 2007, while during that time conference participation also expanded from about 65 to nearly 200 participants, as Appendix C illustrates vividly. This combination of continuity and expansion creates a fluid and rich mix of participants that ensures the vitality, flexibility, and progression of our conversations and programs from year to year.

Although in varied ways, this trio of democratic formations, *viz.*, LSA, SALT and LatCrit, manages the basic business of knowledge production, in our capacities as legal academics, in consciously programmatic terms. This self-aware approach combines vision, collaboration, and interaction to delineate and sustain the trajectory of collective actions as academic activism. Their long-term planning processes, accessibility, continuity of involvement, and collective institution-building are designed to produce, over time, a relatively diverse and democratic “tent” (or “zone”)

57. Since the beginning, as we have already noted, LatCrit theorists have emphasized community-building as an aspect of institution-building under the democratic model. *See supra* notes 50–56 and accompanying text. More specifically, we have emphasized the importance of long-term planning to discursive progress; we have linked the construction and continuity of community to the progression of knowledge-production. *See* Valdes, *supra* note 6, at 1299–1311. Our aim, as we have explained, has not been to ensure that everyone is present at every moment—an unrealistic goal in any event. Instead, our aim has been to ensure a critical mass of veterans to help ensure a mix at every event likely to facilitate continuity and progression of critical inquiry. The idea is simple: at the typical conference, programs sometimes repeat prior advances simply because today’s participants may not have been present in yesterday’s discussion; by promoting a fluid critical mass at every event, we have tried to ameliorate this all-too-frequent dynamic. *Id.* at 1305. Measured against this goal, which we set for ourselves a dozen years ago, we think LatCrits have done quite well, though not perfectly so, as we detail in Appendix C (showing that 62% of the LatCrit scholars listed by Professors Aoki and Johnson, Aoki & Johnson, *supra* note 13, at [PINCITE], are still listed as participants in the LatCrit XII conference, demonstrating a substantial continuity in participation). In fact, the levels of continuity *and* diversity—from the mid-1990s to the present—attest to the hard work of principled yet open community-building that has become a hallmark of LatCrit theory, and as a means of producing knowledge in democratic rather than imperial or vanguardist terms. The high percentage of continual participation and work in varied capacities a dozen years after inception of this movement honors the long-term original commitments we made to ourselves and this project. Moreover, this level of continuity and diversity compares very positively to the kinds of discontinuity we have seen under imperial or vanguardist models. *See supra* notes 27–39 and accompanying text (describing these models).

for interactive and multidimensional knowledge-production. From our perspective, these democratic combinations stand in discernible contrast to imperial (or vanguardist) historical examples. It is this common underlying approach that, in our minds, helps to unite these three otherwise distinctive examples of contemporary legal discourses under the democratic model.

North American legal history thus shows that, while there may be many ways and means to produce knowledge through legal discourse, few examples exist involving significant numbers of Latinas/os, either as producers of knowledge or objects of study. Indeed, as we noted at the outset of this Article, this very point was at the heart of LatCrit's origins. Because LatCrit theory has been the single body of contemporary discourses that to date has most attempted to center "Latinas/os" (and our multiple diversities and needs) in legal scholarship—and keeping with the focus of this Symposium—we now turn our attention to that body of scholarship, on its practices, and on those that it opposes.

III. OUTSIDER DEMOCRACY: A SKETCH OF THE LATCRIT EXPERIMENT

From its inception, the LatCrit project exhibited a multifaceted focus, as reflected in the four inter-related "functions" or goals of LatCrit work proposed at the very outset of this jurisprudential experiment—a focus aimed to integrate (1) "theory" with (2) "community" expressed or performed as (3) "praxis."⁵⁸ This conscious integration flowed from a collective recognition that the legal academy of the United States is itself a site of struggle and contestation. It is a site that forms the macro-crucible for the production of legal knowledge in this country, knowledge deployed to tranquilize society into controlled discontent, or to confirm the stirring of social justice consciousness. It is a site for the identification and cultivation of inter-generational leaders trained to serve power, privilege, and hierarchy—or, alternatively, emboldened to bring Law incrementally closer to Justice.

This synthesis in turn prompted a continuing search for means of combining theory and action on personal as well as collective levels. Although the annual conferences and related symposia were the original expression of this enterprise, this tripartite emphasis on theory, community and praxis with inter-related functions soon yielded a "portfolio" of projects designed to incubate theory and inform action. These projects and programs are designed as a set of practices that are oppositional to the mainstream traditions of the legal academy, and specifically to the atomized traditions of imperial scholarship. These activities and programs are designed to develop innovative approaches to the production of knowledge from within the legal academy of the United States as well as to contest the entrenchment of interlocking hierarchies within the professoriate inconsistent with antistatist aspirations. Professor Carmen Gonzalez describes her view of LatCrit as an academic innovation:

58. The four inter-related functions are: (1) the production of knowledge; (2) the advancement of social transformation; (3) the expansion and connection of antistatist struggles; and (4) the cultivation of community and coalition, both within and beyond the confines of legal academia in the United States. See Valdes, *Under Construction*, *supra* note 6; Valdes, *Theorizing "OutCrit," supra* note 12 (describing LatCrit origins, principles, purposes, and practices). To review the programs of each LatCrit conference, see www.latcrit.org.

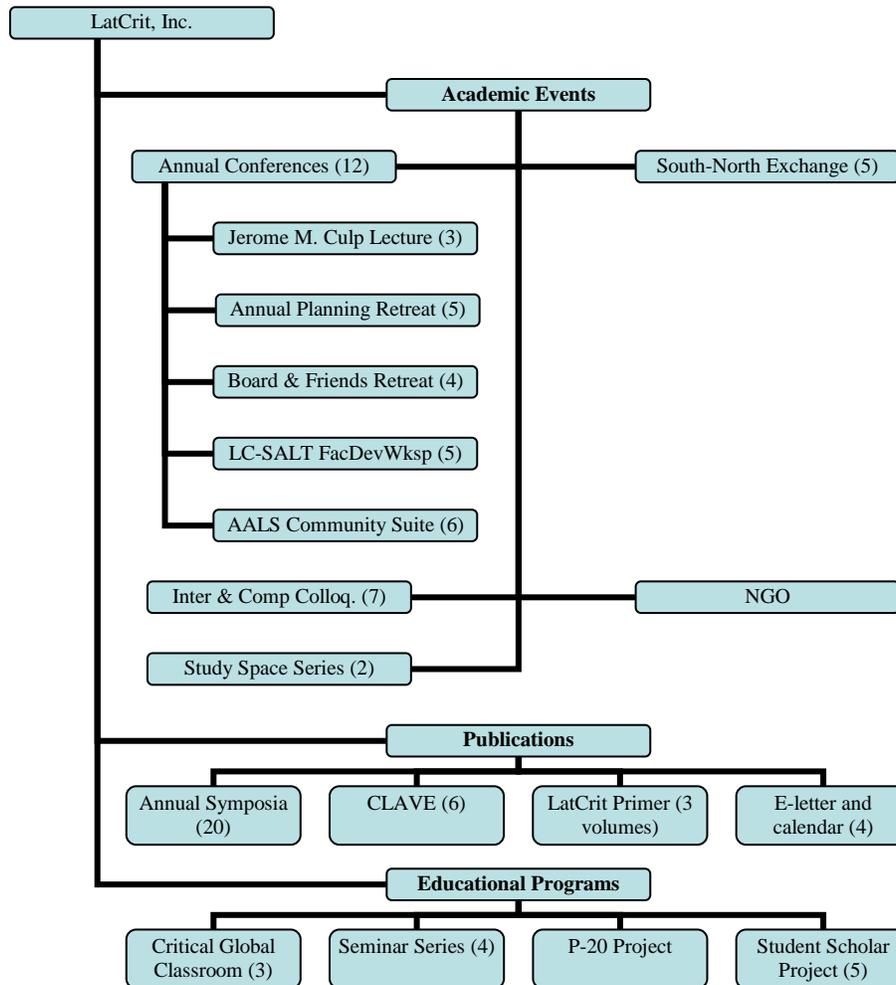
My first LatCrit conference is unforgettable. It was in Denver, in the mountains outside of Denver It was after my first year of teaching. For me it was a community that I never dreamed was possible, what I knew I would need to survive . . . what [LatCrit] did for me is it connected me to a group of people who shared some of my own passions and motivations for being in legal academy. It was a broad antisubordination agenda, not one strictly limited to race or strictly limited to gender or only class or only sexual orientation but an ability to perceive problems in much more holistic manner. That's what I wanted because it was a place where everyone was welcome regardless of what particular focus their own scholarly projects took. It was that inclusiveness, openness to variety of perspectives that to me was so significant. It created a home for me.⁵⁹

The original LatCrit annual conference has since expanded into a “portfolio” of projects designed to broaden and deepen this democratic experiment in self-sustaining terms.

The following chart arrays the ongoing projects, and shows the number of times each project has occurred, as part of the multifaceted approaches to knowledge production that LatCrit scholars have organized under this democratic model:⁶⁰

59. See LatCrit Oral Histories Project, www.latcrit.org.

60. All of the projects in the LatCrit portfolio are fully described in the LatCrit website at www.latcrit.org.



Thus, today the LatCrit Portfolio of Projects, as a whole, is integral to our practice of knowledge production in democratic, rather than imperial (or vanguardist) terms. This portfolio engages LatCrit scholars in knowledge production both through traditional means and non-traditional vehicles. This portfolio approaches the basic aims or functions of knowledge production in the form of various specific initiatives, each with its particular contours and emphases, though all with synergistic connections to the rest, and geared as a whole toward academic activism as social justice action.

As the chart shows, the LatCrit Portfolio of Projects consistently integrates knowledge production and academic activism as a core LatCritical practice. As LatCrit theorists have explained, this approach represents a form of personal collective action that combines democratic knowledge production grounded in the anticolonial principle and related practices: in a LatCritical understanding, any attempt to sever these programmatic undertakings from other knowledge-production activities amounts

to an imperial vivisection of “knowledge production” as we know and practice it.⁶¹ From our perspective, this integration is a foundational and indispensable element of LatCrit theorizing regarding democratic knowledge production in the service of antistatist consciousness and action.

Our democratic approaches and antistatist aims necessarily affect even the more traditional aspects or activities that we undertake as legal academics. For example, from inception LatCrit pioneers made a firm commitment to the publication of the proceedings of the annual conferences and, later, of the smaller conferences that now also take place regularly as part of our Portfolio of Projects. Recognizing fully that law review symposia historically have been structured in various ways in light of different circumstances or objectives—and that sometimes they foster a “community of meaning” while other times they amount to a “re-inscription of hierarchy”⁶²—LatCrit scholars opted decisively, from the beginning, in favor of the former.

From the outset, the symposium structure created for this scholarly experiment was designed consciously (if imperfectly) to promote democratic values of access and participation, to encourage experimentation with formats, bibliographic sources, multilinguality, and forms of expression, as well as to expand the dissemination of knowledge produced or presented during the conference programs, or “inspired” by it. We have worked consistently not only to foster communities of meaning through these symposia, but also have worked affirmatively to avoid re-inscription of *any* hierarchies. Thus, in pursuit of those threshold decisions, by choice and on principle, we have opted, from inception, to work with alternative law journals devoted to issues of difference (for example, race, ethnicity, gender, and other axes of identity used in law and society to generate both privilege and oppression); as with the shift from videotaping to pre-written texts that we discuss below, the growth of our annual conferences (and other academic programs) led us to work with mainstream journals as well, but our original and continuing commitment to work with alternative journals as a matter of praxis remains an important marker of our collective choices in favor of a democratic intellectual identity.⁶³ Rather than pursue the individuated status-generating

61. See Hernández-Truyol et al., *supra* note 36 (explaining the LatCrit experiment). We therefore must reject the severing of the LatCrit annual symposia from all the rest of the LatCrit symposia, as Professors Aoki and Johnson have done. Aoki & Johnson, *supra* note 13, at [PINCITE]; see *infra* Appendices A & C. A brief description of the types of symposia published by LatCrit scholars during the past dozen years is helpful. See *infra* note 66. For similar reasons, we also reject their attempt to artificially break up the four goals or “functions” of LatCrit theory, community and praxis. See *supra* notes 18, 19, 25 and 26 (listing conceptual errors, including this one). They perform this break-up by casting the LatCrit record as successful regarding some of these goals or functions, but not others; in fact, these four goals or functions are inter-related, inter-active, inter-dependent. For an elaboration of this viewpoint, see Berta Esperanza Hernández-Truyol, *The Gender Bend: Culture, Sex, and Sexuality—LatCritical Human Rights Map of Latina/o Border Crossings*, 83 IND. L.J. [pincite] (2008). In our view, one simply cannot sever one function from the others and assign different “grades” of performance for each, in isolation from the others—especially if relying on imperial assumptions to assign these grades.

62. See generally Jean Stefancic, *The Law Review Symposium Issue: Community of Meaning or Re-Inscription of Hierarchy?*, 63 U. COLO. L. REV. 651 (1992).

63. See Valdes, *Theorizing “OutCrit,” supra* note 12, at 1305 (“This feature of the LatCrit enterprise seeks to support, and build coalition with, law reviews (especially those of color)

approaches of traditional or mainstream scholarship, we have chosen consistently to honor the values and principles that bind us together as a community and jurisprudential movement: a focus on the view from the “shifting bottoms.”⁶⁴

To begin this early knowledge-producing activity, in the early years, LatCrit theorists videotaped the proceedings of the annual conferences, transcribing them later and forwarding them to the various presenters for refinement and return. These “oral essays,” representing a collective search to expand the forms of legal expression and the subjects considered worthy of legal analysis, were then included in the law review symposium reflecting the conference program. As the conferences grew in popularity and size, we had to abandon this original practice in favor of texts composed by the authors before or after the conference in order to publish them—but still in the consciously non-traditional form of a short “oral” essay, as the Symposium Submission Guidelines had stipulated from the very beginning.⁶⁵ The twenty-one LatCrit symposia/colloquia published during the past twelve years are best viewed as akin to book anthologies in which the law review volume itself is the book and the short oral essays function as chapters written by individual authors.⁶⁶

while also creating collective projects and opportunities for all participants in LatCrit programs.”).

64. Athena D. Mutua, *Shifting Bottoms and Rotating Centers: Reflections on LatCrit III and the Black/White Paradigm*, 53 U. MIAMI L. REV. 1177 (1999). While we maintain a commitment to the notion, first proposed by Professor Mari Matsuda, that subordination can best be understood if we take the perspective of the person who is “on the bottom,” Professor Mutua contributed the corollary that the group at the “bottom” is not stationary nor static but rather changing depending on the issue, location, time period, etc. See Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323 (1987).

65. The Symposium Submission Guidelines stipulate that conference-based essays should be short and lightly footnoted, and expressly invoke the notion of an “oral essay” as an effort to minimize resort to law-review styles associated with imperial traditions of production. To review the Submission Guidelines, see www.latcrit.org. For further elaboration of the symposium organizational process, see Hernández-Truyol et al., *supra* note 36, at 199–200 (summarizing the move from videotaping to the current practices).

66. These twenty-one symposia (including the LatCrit XI conference papers) have been published both in mainstream journals as well as in specialty journals devoted to difference and social justice. See Colloquium, *Representing Latina/o Communities: Critical Race Theory and Praxis*, 9 LA RAZA L.J. 1 (1996) (publishing the papers of the pre-LatCrit colloquium, held in 1995 in San Juan, Puerto Rico, at which the “LatCrit” name was conceived); Symposium, *LatCrit Theory: Naming and Launching a New Discourse of Critical Legal Scholarship*, 2 HARV. LATINO L. REV. 1 (1997) (LatCrit I); Colloquium, *International Law, Human Rights and LatCrit Theory*, 28 U. MIAMI INTER-AM. L. REV. 177 (1996–1997) (publishing the proceedings of the first LatCrit colloquium focused on international law); Symposium, *Difference, Solidarity and Law: Building Latina/o Communities Through LatCrit Theory*, 19 CHICANO-LATINO L. REV. 1 (1998) (LatCrit II); Symposium, *Comparative Latinas/os: Identity, Law and Policy in LatCrit Theory*, 53 U. MIAMI L. REV. 575 (1999) (LatCrit III); Symposium, *Rotating Centers, Expanding Frontiers: LatCrit Theory and Marginal Intersections*, 33 U.C. DAVIS L. REV. 751 (2000) (LatCrit IV); Colloquium, *Spain, The Americas and Latino/as: International and Comparative Law in Triangular Perspective*, 9 U. MIAMI INT’L. & COMP. L. REV. 1 (2000–01) (publishing the proceedings of the second and third International and Comparative Law Colloquia (ICC), held during 1998 and 1999 in Malaga, Spain); Symposium, *Class in LatCrit: Theory and Praxis in a World of Economic Inequality*, 78 DENV. U. L. REV. 467 (2001) (LatCrit V); Symposium, *Latinas/os and the Americas: Centering North-South Frameworks in LatCrit*

More importantly, the annual LatCrit symposia exist in direct and self-conscious relation to a specific conference experience. The LatCrit symposia typically are understood and meant to memorialize the proceedings of the annual conference or one of our smaller academic events. Think of them—and their contents—as conference group snapshots presented in the form of these book-like anthologies published in law reviews. To expose patterns, similarities, and differences among presentations, these short essays usually are organized into thematic “clusters.” These symposia “clusters” similarly are introduced by a short text, typically authored by relatively veteran scholars,⁶⁷ that is supposed to discuss or situate the essays composing that cluster in the context of the conference theme or program, or of the LatCrit body of literature as a whole. Through this kind of “service scholarship” established scholars endeavor to create a framing wherein the individual texts of particular (and oftentimes relatively

Theory, 55 FLA. L. REV. 1 (2003), 54 RUTGERS L. REV. 803 (2002) (LatCrit VI); Symposium, *Coalitional Theory and Praxis: Social Justice Movements and LatCrit Community*, 13 BERKELEY LA RAZA L.J. 113 (2002), 81 OR. L. REV. 587 (2002) (LatCrit VII); Symposium, *International and Comparative Law in LatCrit Theory: Perspectives from the South*, 38 REV. JUR. U. INTER-AM. P.R. 7 (2003) (publishing the Spanish language papers from the 2003 ICC in Buenos Aires, Argentina); Symposium, *City and the Citizen: Operations of Power, Strategies of Resistance*, 52 CLEVE. ST. L. REV. 1 (2005) (LatCrit VIII); Symposium, *Law, Culture, and Society: LatCrit Theory and Transdisciplinary Approaches*, 16 FLA. J. INT'L L. 539 (2004) (publishing the papers of the first South-North Exchange (SNX), held during 2003 in San Juan, and the fifth ICC, held that same year in Buenos Aires); Symposium, *Countering Kulturkampf Politics Through Critique and Justice Pedagogy*, 50 VILL. L. REV. 749 (2005), 35 SETON HALL L. REV. 1155 (2005) (LatCrit IX); Symposium, *Law, Culture and Indigenous People: Comparative and Critical Perspectives*, 17 FLA. J. INT'L L. 449 (2005) (publishing the papers of the second and third SNXs, held during 2004 and 2005, in San Juan); Symposium, *Constitutionalism and the Global South: Mapping the Politics of Law*, 14 GRIFFITH L. REV. 2 (2005) (publishing the papers of the sixth ICC, held during 2004 in Capetown, South Africa and the third SNX, held in San Juan); Symposium, *LatCrit Theory: Critical Approaches to Economic In/Justice*, 26 UCLA CHICANO-LATINO L. REV. 1 (2006), 17 BERKELEY LA RAZA L.J. 1 (2006) (LatCrit X); Symposium, *Free Market Fundamentalism: A Critical Review of Dogmas and Consequences*, 5 SEATTLE J. SOC. JUST. 497 (2007) (publishing the papers of the fourth SNX, held in 2006 in Bogotá, Colombia); Symposium, *Working and Living in the Global Playground: Frontstage and Backstage*, 7 NV. L.J. 685 (2007). In addition to these, the LatCrit XII conference papers are being published by the Florida International University Law Review, while other journals are publishing papers from various other LatCrit academic events. While nineteen of these twenty-one LatCrit symposia have been based on conferences or other academic programs, two have been stand-alone symposia akin to this one, each published jointly by two journals collaborating on the same texts. See Joint Symposium, *LatCrit: Latinas/os and the Law*, 85 CAL. L. REV. 1087 (1997), 10 LA RAZA L.J. 1 (1998); Joint Symposium, *Culture, Language, Sexuality and Law: LatCrit Theory and the Construction of the Nation*, 5 MICH. J. RACE & L. 787 (2000), 33 U. MICH. J. L. REFORM 203 (2000). Information on LatCrit theory, including the full text of most of the LatCrit symposia based on our Annual Conferences or other academic events (such as the International and Comparative Colloquia and the South-North Exchanges) can be obtained at the LatCrit website, <http://www.latcrit.org>.

67. Rather than reflect a sense of internal hierarchy within the LatCrit scholarly community, this arrangement reflects the diversities and levels of time and experience in this community. See *supra* note 13. The idea of this practice is to bring to bear the knowledge of more experienced scholars to help elucidate the inter-connections between the essays of a cluster in the form of these brief introductions.

“junior”) scholars can be viewed as part of an interconnected whole, or an interconnected discourse, rather than the oftentimes unconnected texts written in the context of atomized, imperial scholarship that nonetheless passes as open exchange and engaged discourse.⁶⁸

Not surprisingly, a number of LatCrit scholars have used these programmatic opportunities for presentation and publication to nurse along long-term research agendas yielding multiple, and different, publications (essays, articles, books). This basic methodology, over the years, has enabled a number of LatCrit scholars to build their careers and develop their overarching research agendas in incremental yet systematic ways. Generally, these scholars have employed the conferences and the LatCrit symposia to publish short segments of larger works, which later in time appear in book form. Among these, we might include Professors Steven Bender, Pedro Malavet, and Ediberto Román, each of whom began their academic careers in the context of the LatCrit conferences, published regularly short essays in the LatCrit symposia, successfully navigated through the scholarship evaluations connected with faculty tenure procedures at their respective institutions, and eventually produced books on that basis.⁶⁹ Some of these works were quite traditional; others less so. In our

68. Veteran scholars also author the Foreword and Afterword, which typically book-end LatCrit symposia. Each of these texts is devoted to different yet complementary functions within the symposium as a whole. The varying functions of the cluster Introductions, Forewords and Afterwords are spelled out in the Symposium Composition Guidelines, published in the LatCrit Informational CD and on the LatCrit website, www.latcrit.org.

69. Professor Bender’s published texts in the LatCrit symposia include: Steven W. Bender, *Direct Democracy and Distrust: The Relationship between Language Law Rhetoric and the Language Vigilantism Experience*, 2 HARV. LATINO L. REV. 145 (1997); Steven W. Bender, *Will the Wolf Survive?: Latino/a Pop Music in the Cultural Mainstream*, 78 DENV. U.L. REV. 719 (2001); Steven W. Bender, *Sight, Sound, and Stereotype: The War on Terrorism and Its Consequences for Latinas/os*, 81 OR. L. REV. 1153 (2002); Steven W. Bender & Keith Aoki, *Seekin’ the Cause: Social Justice Movements and LatCrit Community*, 81 OR. L. REV. 595 (2002). Professor Malavet’s include: Pedro A. Malavet, *Literature and the Arts as Antisubordination Praxis: LatCrit Theory and Cultural Production: The Confessions of an Accidental Crit*, 33 U.C. DAVIS L. REV. 1293 (2000); Pedro A. Malavet, *The Accidental Crit II: Culture and the Looking Glass of Exile*, 78 DENV. U.L. REV. 753 (2001); Pedro A. Malavet, *Reparations Theory and Postcolonial Puerto Rico: Some Preliminary Thoughts*, 13 BERKELEY LA RAZA L.J. 387 (2002); Pedro A. Malavet, *Latcritical Encounters with Culture, in North-South Frameworks*, 55 FLA. L. REV. 1 (2003); Pedro A. Malavet, *Outsider Citizenships and Multidimensional Borders: The Power and Danger of Not Belonging*, 52 CLEV. ST. L. REV. 321 (2005). Professor Román’s include: Ediberto Román, *Common Ground: Perspectives on Latino-Latina Diversity*, 2 HARV. LATINO L. REV. 483 (1997); Ediberto Román, *Reconstructing Self-Determination: The Role of Critical Theory in the Positivist International Law Paradigm*, 53 U. MIAMI L. REV. 943 (1999); Ediberto Román, *A Race Approach to International Law (RAIL): Is There a Need for Yet Another Critique of International Law?*, 33 U.C. DAVIS L. REV. 1519 (2000); Ediberto Román, *Members and Outsiders: An Examination of the Models of United States Citizenship As Well As Questions Concerning European Union Citizenship*, 9 U. MIAMI INT’L & COMP. L. REV. 81 (2000–2001); Ediberto Román, *LatCrit VI, Outsider Jurisprudence and Looking Beyond Imagined Borders*, 54 RUTGERS L. REV. 1155 (2002); Ediberto Román, *Reparations and the Colonial Dilemma: The Insurmountable Hurdles and Yet Transformative Benefits*, 13 BERKELEY LA RAZA L.J. 369 (2002); Ediberto Román, *Immigration and the Allure of Inclusion*, 35 SETON HALL L. REV. 1349 (2005). Their books include: STEVEN

LatCritical view, however, each of the inter-connected work-product that Professors Bender, Malavet, and Román published at the various stages of their multi-year efforts has a legitimate place in the universe of knowledge production, especially under a democratic regime.

As the conferences grew in popularity and number, as reflected in Appendices A and B, so did the contributions to the law review symposia publishing the proceedings of each conference. Therefore, in keeping with the LatCrit commitment to antisubordination goals and democratic practices, veteran (and sometimes more established) LatCrit scholars further agreed, on principle, to yield program slots in the conferences, as well as essay slots in the symposia, in order to ensure that junior or developing scholars were featured both in the live events, and in the published works memorializing them. Among those we include ourselves.

This collective decision of “senior” scholars to yield space and voice within LatCrit conferences *and* symposia to accommodate developing scholars also reflects the commitment to inter-generational community-building; it represents the aim of establishing a self-sustaining democratic structure for the incubation of antisubordination knowledge and action. During the past dozen years, this practice in the allocation of space in the knowledge-producing activities of the LatCrit community has cultivated layers of scholars with diverse intellectual agendas and personal backgrounds who are commonly committed to the promotion of social justice in multidimensional terms.⁷⁰ This cultivation of understanding and solidarity helps to create a sturdy support structure for the production of scholarship not only throughout the academic year, but perhaps also throughout a lifetime and through changing life circumstances, in ways that transcend the isolated dots of time represented by typical conferences and other similar academic events. Professor Hugo Rojas, a **Chilean legal scholar**, describes the LatCrit environment thusly:

In 2001 I was working on my thesis about multiculturalism here . . . and a friend told me I should get in touch with LatCrit because my thesis was about antiessentialism. Creating inclusion and legal recognition of diversity in South America was very connected to legal theories and frameworks here in the States. I was invited and attended LatCrit VI . . . I love the transparency of the group, the inclusion in all the discussions and the generosity of contributions.

In every LatCrit conference or workshop I feel I can say what I feel and I understand that the opinions I receive are constructive and not destructive. There is no competition. No one wants to be a star . . . in LatCrit you make alliances and there is an open invitation to feel a member of the group [which is] interdisciplinary . . .⁷¹

W. BENDER, *GREASERS AND GRINGOS: LATINOS, LAW, AND THE AMERICAN IMAGINATION* (2003); PEDRO A. MALAVET, *AMERICA’S COLONY: THE POLITICAL AND CULTURAL CONFLICT BETWEEN THE UNITED STATES AND PUERTO RICO* (2004); EDIBERTO ROMÁN, *THE OTHER AMERICAN COLONIES: AN INTERNATIONAL AND CONSTITUTIONAL LAW EXAMINATION OF THE UNITED STATES’ NINETEENTH AND TWENTIETH CENTURY ISLAND CONQUESTS* (2006).

70. We think (and hope) the selected quotations from the Oral Histories Project that appear throughout this Article illustrate this point vividly. The interviews were conducted by Professor Tayyab Mahmud on October 5–7, 2007. To review the LatCrit XII Oral Histories Interviews in their entirety, see www.latcrit.org.

71. See LatCrit Oral Histories Project, www.latcrit.org.

Through self-reflection and critique, the LatCrit community works incrementally to refine these practices in order to advance, as best as we can, our common and basic commitment to antisubordination in multidimensional terms. This process of self-reflection and critique does not yield linear progress, nor tidy solutions that satisfy our aspirations. Yet this practice—with its emphasis on programmatic opportunities for junior scholars to develop and mature—today represents an oppositional or “dissenting” LatCrit norm, which is key to the creation of a vibrant and self-sustaining democratic academic society within the still-mostly-imperial structures and biases of the legal academy of the United States.

To the undiscerning eye, the LatCrit experiment—and other democratic efforts—may appear to be “messy” when compared to the relatively familiar practices of the imperial or the vanguardist models. Rather, democratic unruliness is a reflection of the open intellectual society that the LatCrit community has sought to bring into existence. Professor Catherine Smith expresses what is different about the LatCrit conference experience:

AALS or other conferences can be isolating. . . . [there’s] not an automatic kinship like I feel there is at LatCrit . . . the conference itself—what is being offered, what’s being discussed is so different than at any other conference [Y]ou don’t have to have this long drawn out explanation about where you are coming from. People are there with you . . . You start from a platform for the discussion at an entirely different level, a really different level. You can extend the dialogue in a way you can’t do otherwise.⁷²

To us, this apparent messiness is a sign of vitality and vigor rather than a defect to be quashed. This apparent unruliness is a reflection of the fact that the democratic model tends to generate a more substantively diverse body of discourse even though—or perhaps because—the programmatic structures employed tend to be more institutionalized to foster the personal and intellectual engagement of difference than under either of the two other models. This multidimensional diversity should not be mistaken for inadvertent disarray.

On the contrary, this proactive engagement of difference in multiple ways across multiple axes of identification produces not only knowledge but also solidarity in the service of social justice action.⁷³ These multiple forms and levels of engagement tend to cultivate the openness, understanding, and motivation necessary for antisubordination collaboration across multiple categories of identity—including across intra-“Latina/o” axes of difference; this attention to difference and diversity helps to set the stage for critical coalitions that stand on shared and enduring principles rather than temporarily converging interests.⁷⁴ In our experience, the act and process of collaboration over time deepens levels of mutual understanding and trust that

72. See LatCrit Oral Histories Project, www.latcrit.org.

73. Once again, we think and hope the Oral Histories quotations illustrate this point amply. See *supra* note 22 and accompanying text (describing the Oral Histories Project).

74. See *supra* note 9 and accompanying text (discussing interest convergence and traditional kinds of coalitions). On the other hand, “critical coalitions” signify an alliance based on shared substantive principles and goals. See Julie A. Su & Eric K. Yamamoto, *Critical Coalitions: Theory and Praxis*, in *CROSSROADS*, *supra* note 10, at 379.

progressively enable greater intellectual and discursive risks, which oftentimes yield important epiphanies, and create bonds of mutual respect and engagement that can only enrich any kind of knowledge production activity both in the short and long term. We recall, borrowing from our feminist jurisprudential ancestry, that valuable LatCrit knowledge production occurs at multiple levels, including at micro- and meta-levels, as we learn to notice and alter how power, including academic power, reproduces itself in the most quotidian and habitual details of our work.

This facilitation of community and coalition-building based on the production of shared knowledge, experience, action and understanding—and a mutual recognition of our humanity—is a key feature of the LatCrit experiment, which, in our view, lends itself to the development of Latina/o legal studies as a vehicle for social justice action and transformation. The programmatic and substantive emphases on these kinds and levels of engagement thus lend themselves to the broader project of making multiply diverse “Latinas/os” not only a relevant but also a positive force on the inter/national stages of politics and policy. For these reasons, we offer the methods and lessons of the LatCrit community in democratic knowledge production and legal academic activism as a microcosm of the opportunities and possibilities present in the emergence of “Latinas/os” as a force to be reckoned with in North American society (and beyond). While we recognize that no approach is perfect, we hope our exertions offer helpful lessons to the coming generation/s of scholars, who will continue to work on situating multiply diverse Latinas/os in contemporary legal discourses.

Democratic scholars of different stripes would attest that this project is not easy. But we, at least, think the past dozen years shows it also clearly worth it. And for this reason, we think it also the best bet for fashioning a capacious and rigorous future for Latina/o legal studies in and beyond the United States in light of the structural realities of systemic subordination that encase us: for a minoritized, marginalized social group, neither imperialism nor vanguardism can light the path toward liberation. For a minoritized and marginalized set of social groups, coalitional theory and collaborative action provide the most promising path to a postsubordination society because they are most geared to the establishment of principled relations of solidarity capable of challenging majoritarian control of law and society. Narrow nationalisms and regressive chauvinisms, on the other hand, promise more of the same neocolonial politics that help to maintain the legacies of white supremacy, and related systems of accumulated privilege, in place. Thus, while all three models may have something to offer in the struggle for intellectual decolonization and material transformation, the democratic model, in our experience, is best suited among the three main models of contemporary legal discourses for knowledge production in support of antsubordination insurrections against entrenched majoritarian forces.

In sum, the bedrock commitment to synergizing theory, community, *and* action grounded in the antsubordination principle and democratic practice may confuse scholars who mistake the imperial (or vanguardist) model as the best—or the one “true”—approach to scholarly production. In our view, a reductionist move to delegitimize democratic approaches to scholarly production simply misses the entire point of the LatCrit enterprise and other democratic experiments—as well as much of the substantive, theoretical knowledge produced in the form of critical outsider jurisprudence during the past two decades. This reductionism replicates existing patterns of social and intellectual stratification, and thereby risks losing the potential for social justice change of a growing Latina/o influence in North American law and society. Reductionist moves, including those of Professors Aoki and Johnson today,

conflate knowledge production with written texts, and further conflate written texts into the strict traditional form of the long, imperial law review article. In our view, this reification is inconsistent with intellectual democracy, much less social justice action and change.

In our view, legal scholars need not and should not be pushed into an either-or situation, blind to the strengths and weaknesses of different approaches to knowledge production. Instead, as we noted at the outset of this short Article, history teaches that many ways and means exist for the production of legal knowledge including in the specific form of contemporary discourse. Thus, in our view, none of the basic extant models should reign absolute; scholars *should* be free to draw from each, depending on circumstances and goals.

Moreover, recalling that symposia historically have been used for different purposes and presented in different formats, we see no reason to insist on homogenizing this particular kind of knowledge-production activity into a single format or model now, much less one that privileges and perpetuates the near-hegemony of the imperial tradition—that is, a format that serves to re-inscribe traditional or neocolonial hierarchies. While we think that jurisprudential history clearly shows that democratic approaches are most compatible with social justice aspirations, we recognize the continuing relevance of the Stefancic study: that different symposium formats, like the knowledge-production models themselves, may indeed offer utility in particular moments or contexts, and that we should make and keep ourselves critically cognizant of the consequences that attach to the choices we make—in her terms, are we building communities of meaning, or re-inscribing oppressive hierarchies?⁷⁵ However contemporary scholars may choose to mix and match aspects of each format or model in any particular situation, our hope would be that they—we—act always with social justice principles and aspirations uppermost in mind *and* deed.

CONCLUSION

For more than a decade now, and as a matter of principled choice, the LatCrit community has not—and today still does not—aspire to imperial ambitions, nor subscribe to imperial assumptions. On the contrary, we have continuously and consistently rejected them in our ongoing efforts to construct Latina/o legal studies in robust and variegated democratic terms. As we have explained here as well as before, our methodological choices are conscious.

While we have acknowledged that our OutCrit experiment is always under construction, we also have emphasized our continuing efforts to improve and nourish critical outsider jurisprudence along the lines of the democratic model. Among critical and outsider experiments to date, we think the still-young record of the LatCrit community, while very much in progress, has much to offer any project aiming to prioritize antisubordination knowledge in the service of social justice activism. The LatCrit record may not be everything to everyone, but it represents a creative and sustained effort among a diverse group of individuals to rise above self interest in the promotion of social justice through critical theory and academic activism.

75. See Stefancic, *supra* note 62.

Thus, we do not quarrel with the proposition that antisubordination knowledge can and should be pursued along multiple lines or methodologies. We do not quarrel with the related proposition that antisubordination knowledge and action may be served in different ways and times by the selective deployment of different aspects of each model. And we certainly do not quarrel with any suggestion that the LatCrit experiment could be improved in many ways at all times, including (perhaps) through a strategic incorporation of imperialist or vanguardist techniques into a model that remains fundamentally and organically democratic. In this spirit of open exchange and egalitarian coalition, we invite all justice minded scholars to join us in this never-finished effort; we invite all justice minded scholars to join us in developing boundary-breaking coalitions; we invite all justice-minded scholars to join us in the continual development of this democratic approach to theory *and* action—the approach we think most likely to apprehend and create the intellectual, personal and structural conditions necessary for antisubordination transformation in and beyond the United States.



Appendix A

The different font styles and font sizes do not carry any substantive significance. The different sizes and styles in Appendices A and B are used to add visual interest only.

Coloquia Scholars

Create a literature on Latinas/os and the law

Support outsider legal journals

Memorialize annual conferences

Warren E. Rush, Jose Ignacio Nunez Leiva, Dorothy E. Roberts, Anthony V. Alfieri, Mariano Lopez Seoane, Ediberto Roman, Robert S. Chang, Charles R. Venator Santiago, Magdalena M. Martin Martinez, Angel Oquendo, Keith Aoki, David G. Schiller, Carmen G. Gonzalez, Alicia E. C. Ruiz, Silvia Delfino, Carlos Maria Carcova, Adrienne D. Davis, Anthony V. Alfieri, Kevin R. Johnson, Gadelupe Salomon, Tanya K. Hernandez, Steven W. Bender, Enid Truclos-Haynes, Jose E. Alvarez, Pat K. Chew, Francisco Valdes, Elvia R. Arriola, Edén E. Torres, Margaret E. Montoya, Roberto L. Corrada, Christopher David Ruiz, Celina Romany, Lundy R. Langston, Angela P. Harris, Patricia Fernandez Kelly, Juan Perez, Chantal Thomas, Ian F. Haney Lopez, N. Valdez, M. Fitzhorn, C. Matsumoto, T. Eneke, Jose Maria Monzon, Leslie Espinoza, Jean Stefancic, David Seawell, Peter Kwan, Robert S. Chang, Christine Gudaitis, John O. Calmore, Deborah Ramirez, Elizabeth M. Iglesias, Ana Salinas de Frias, Laura M. Padilla, Paula Miguel, Julian Jonker, Enrique R. Carrasco, Natsu Taylor Saito, Raul M. Sanchez, Marc Rosenberg, Berta Esperanza Hernandez Trujol, Viviana Kluger, Adrienne Katherine Wing, Pablo Contreras V., Veronica Spaventa, Roque Martin Saavedra, Devon W. Carbedo, L.C. Aczel, J.E. Pechiri, Hugo Rojas, Ratna Kapur, Tayyab Mahmud, Ileana M. Porras, P. Rodriguez, D. Ferreira, G. Simona, A. Marambio, G. Aguilre, G. Veronelli, D. Urribarrí, F. Winer, Daniel F. Niza, Gema Perez-Sanchez, Sylvia R. Lazos Vargas, Aniella Gonzalez, Rachel Moran, Juan Luis Millan Pereira, George A. Martinez, Maria Alicia Gutierrez, Horacio Federico Sivori, Pedro A. Malavel, Francisco Olsen, Maria Cristina Campagnis, Ismael Rosales, Eduardo A. Russo, Deon Erasmus, Karin van Marle, Shaun McVeigh, Emiliano J. Buis, Fred Evans, Carina J. Miller, Joshua Price, Maria Lugones, Rashida Manjoo, Pierre de Vos, Dominique Legros, Frances Olsen, F.E. Guerra-Pujol, Irene Bellier, Becky L. Jacobs, Irene Bellier

Appendix B

Appendix C

This table compares the scholars who published in the first annual symposium with the scholars listed in the conference program for LatCrit XII. Contrary to Professor Aoki's and Professor Johnson's claim that "there are relatively few senior scholars actively participating in the production of LatCrit scholarship," at least 62% (16/26) of those who published in the first symposium are active twelve years later, based only on this conservative comparison.

LatCrit I

Frank Valdes
***Rachel Moran**
 Kevin Johnson
 Steve Bender
***Leslie Eapinoza**
 Max Castro
 Berta Hernandez-Truyol
 Juan Perea
 Robert Westley
 Keith Aoki
 Adrienne Davis
 Ian Haney Lopez
 Michael Principe
 Stephanie Wildman
 Enrique Carrasco
 George Martinez
 Margaret Montoya
 Laura Padilla
 Elvia Arriola
 Robert Chang
 Sumi Cho
 Mary Coombs
 Lisa Iglesias
 Barbara Cox
****Jerome Culp**
 Ediberto Roman
 Eric Yamamoto

***Also attended LatCrit XII but were not listed on conference program.**

****Deceased (RIP).**

The names that are shown in bold under the LatCrit XII heading are those scholars who are also listed under the LatCrit I heading, showing the continuity of participation over twelve years.

LatCrit XII

Lillian Aponte Miranda
 Christian Halliburton
 Jennifer Chacon
 Catherine Smith
 Reggie Oh
 Jeff Pokorak
 Camille Nelson
Steve Bender
 Emily Houh
 Michael Green
 Holly Maguigan
 Verna Williams
Bob Chang
 Roberto Corrada
 Bryan Adamson
 Michele Anglade
 Tanya Kateri Hernandez
 Tayyab Mahmud
Ediberto Roman
 Marc-Tizoc Gonzalez
 Kevin Maillard
George Martinez
 Rose Cuison Villazor
 Olympia Duhart
 Jonathon Kahn
 Tom Romero, II
Keith Aoki
 Aviva Abramovsky
 Elaine M. Chiu
 Juanita Diaz-Cotto
 Kaaryn Gustafson
 Lily Khadjavi
 Karen Pita Look
 Angela Banks
 Hari Osofsky
 Jelain Stewart
 Lua Kamal Yuille
 Ruhyyih N. Yuille
 Radha Pathak
 Darren Lenard Hutchinson
 Lazaro Lima
 Solangel Maldonado
 Ronald L. Mize
 Charles Venator Santiago
Berta Hernandez Truyol
 Beth Lyon
 Jim Silk
Frank Valdes
 Denise Castaneda
 Valery Poso
 Diana Klein
 Lisa Pruitt
 Mirelsie Velazquez
 Robert Chang
 Anthony Farley
 Timothy A. Canova
 Peter Kwan
 Dominique Legros
 Valerie Patterson
 Alex Stepick

Margaret Montoya

Donna Coker
 Raquel Gabriel
 Natalie Gomez-Velez
 Donna H. Lee
 Shirley Lung
 Andrea McArdle
 David Nadvorney
 Pamela Edwards
 Alejandro Angee
 Cynthia Hernandez
 Robert Koulish
 Margie Zamudio
 Caskey Russell
 Ruben Garcia
 Larry Cata Backer
 John M. Kang
 Athena Mutua
 Len Baynes
 Akilah Folami
 Allen Hammond, IV
 Catherine Sandoval
 Anthony E. Varona
 Robert Ashford
 K.I. Greene
 Orlando Martinez-Garcia
Sumi Cho
 Danielle Boaz
 Jose A. Lammoglia
 Terry Rey
 James H. Sweet
 Laura Gomez
 Ariana de la Luz
 Veronica Vlez
 Lindsay Perez Huber
 Maria C. Malagon
 Corina Benavidez Lopez
 Christopher B. Carbot
 Abel Correa
 Valeria Elliot
 Nancy Ehrenreich
 Anthony Alfieri
 William Bratton
 James Hackney
 Jose Maria Monzon
 Troy Elder
 Marc Poirier
 Jose Gabilondo
 Ruby Andrew
 Cesar Cuahtemoc Garcia Hernandez
 Myra Mendible
 Aurore Victor
 Colin Crawford
 Becky Jacobs
 Jane E. Larson
 Valerie J. Phillips
Guadalupe Luna
 Tanya Golash Boza
 Denise Ferreira da Silva
 Michelle McKinley
 Diana Williams

Karen E. Bravo
 Luis Fuentes-Rohwer
 Gerardo R. Lopez
 Ian S. McIntosh
Kevin R. Johnson
 Rashmi Goel
 Katherine J. Hahn
Robert Westley
Enrique Carrasco
 Carmen G. Gonzalez
 Ernesto Hernandez-Lopez
 Ileana Porras
 Charles Pouncy
 Maurice J. Hew
 Albert Kaufman
 L. Darnell Weeden
 Mary Gundrum
 Maria Rodriguez
 Ann Henderson
 Christina Rodriguez
 Karen Tokarz
 Peggy Maisel
 Marcy Peek
 Elizabeth Trujillo
 Gina Cabarcas
 F.E. Guerra-Pujol
 Sheila I. Velez-Martinez
 Jordan Dollar
 Maria del Carmen Salazar
 Christina P. De Nicolò
 Maria Franquiz
 Mary Ann Case
 Darren Rosenblum
 Sheila Foster
 Jacquelyn Bridgeman
 Adele Morrison
 Jorge Esquirol
 Rachel Anderson
Elvia Arriola
 Aziza Bothway
 Regina F. Burch
 Maxine Burkett
 Charlton Copeland
 Laura Cisneros
 Jessica Dixon
 Zanita E. Fenton
 Mary Dolores Guerra
 Osamudia R. James
 Asmara Tekle Johnson
 Karen Kuo
 D. Alan Lacy
 Cynthia Lee
 Stephen Lee
 Francine Lipman
 Tamara Lawson
 Lydie Nadia Cabrera
 Pierre-Louis
 Rhonda Reaves
 Mary Romero
 Charles Venator Santiago
 Deleso Alford Washington