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TALKING ABOUT POWER AND PEDAGOGY, INTRODUCTION FOR CLUSTER: “LATCRIT THEORY IN NEW CONTEXTS”

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I. PRIMERAS IMPRESIONES

LatCrit conferences always make me feel like I've come home. I wrote of this sentiment in my foreword to the Second Annual Symposium for LatCrit—on that feeling of “familia” that was generated by my witnessing a multi-racial/ethnic and gendered spectrum of people having the conversations that would become “LatCrit I.” I also reflected on how un-alone I felt in that setting, unlike so many other conferences I had been in during my career as a law professor. Like brothers and sisters in a family, however, we can and are very different, not just in personalities but in looks, and not just in physical identity but in approaches we take with the meaning of “LatCrit theory and praxis.”

We Latina/os know well that our indigenous, African and white European roots may produce all within the same family variegated skin tones, phenotype and hair textures that bear witness to our origins in conquest, slavery, colonialism, genocide and *mestizaje*, the physical and metaphoric blending of race and culture. Depending how far or close we are from our “roots,” whether physical, emotional or spiritual, the experience of migration, diaspora or exile may also play either a negligible or prominent role in our professional commitments to social justice theory and practice. And as the LatCrit conferences constantly demonstrate, the wide diversity of who we are based on our class, race, language, sex, gender, religion, citizenship, culture and education makes it very challenging to centralize the concept of Latina/os into a body of scholarship and thought and convince others that in fact we do unite strongly around some experiences (e.g., Spanish language), even while we diverge far from each other in others (e.g., the Mexican migrant's constant dream of going home versus the Cuban exile's sense of homelessness versus the Puerto Rican's sense of colonialism).

What better illustration of our differences than how we engage in the meaning of LatCrit theory and praxis. Some of the articles within grapple with the issue by exploring the connections we have to Critical race theory, others join both in a joint venture for application—LatCrit theory and Critical race theory—to the discipline of education theory and practice, or pedagogy. Yet others only pay lip service to the need for an

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“intersectional” perspective, mentioning the need for an analysis that uses gender, race and class, while never really examining how the differences between the sexes and gender can be used as a category for examining the conditions of the indigent, working poor (immigrant) and working class members of our communities. Others focus on the relationship between a presumed “body” of LatCrit theory to a presumed “body” of text in critical race theory (CRT) that appears to make race salient over gender or class, ironically for a conference that was themed around a more intense focus on class analysis. Nor is there any article that really presses any new analysis or context for examining the conditions of our Latina/o brothers and sisters who are oppressed for being *machotas, jotos, patos, gays y transgéneros*, although one contributor mentions the supposed ample space we have given to the subject at LatCrit conferences. We are obviously still struggling to define the meaning of LatCrit theory and praxis.

I hardly mean to minimize the contributions of these articles to the project of advancing a LatCrit theory and praxis. I only mean to convey first impressions—overall it is a collection of very insightful pieces that struggles to define what it means to use a LatCrit perspective, but largely seeks to find that meaning in the ways in which LatCrit embraces and moves beyond CRT. Unfortunately that focus often comes across as “LatCrit” being only about racial analysis, which it is not.¹ Even though the earliest of the CRT writings were those of women of color² who argued that it is impossible to examine gender without a race and class perspective or any of the latter without the former.

It is interesting that this cluster of articles is titled exploring LatCrit Theory “in New Contexts” because a number of them flow directly from the panel at Breckenridge that initiated a conversation about the contributions made by Chicana/o scholarship and activism to the project known as LatCrit. Also, a number of the authors appear influenced by their exposure to Chicana/o Studies in the Southwest. But new contexts are offered herein for both Chicano studies and for LatCrit generally. One essay especially seeks to bridge the foundations of Chicano/a Studies with those of LatCrit, while a Cuban scholar encourages us to reach beyond the discourse of oppression into the world of money and tax.

1. Some LatCrit scholars have questioned whether the LatCrit perspective is even about race at all.

2. See e.g., PATRICIA WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* (1991); Paulette M. Caldwell, *A Hair Piece: Perspectives on the Intersection of Race and Gender*, in *CRITICAL RACE THEORY THE CUTTING EDGE* 267 (Richard Delgado, ed., Temple University Press, 1995); Margaret Montoya, *Máscaras, Trenzadas y Greñas: Un/masking the Self While Un/braiding Latina Stories and Legal Discourse*, in *CRITICAL RACE THEORY THE CUTTING EDGE* 529 (Richard Delgado, ed., Temple University Press, 1995); Leslie Espinoza, *Masks and Other Disguises: Exposing Legal Academia*, in *CRITICAL RACE THEORY THE CUTTING EDGE* 451 (Richard Delgado, ed., Temple University Press, 1995); Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 *HARV. C.R.-C.L. REV.* 323 (1987).

How one views whether the cluster of essays is to innovate, extend or reaffirm the need for LatCrit theory, may depend on the order in which the articles are read. The writings that either explore the connections between LatCrit theory and Chicano Studies, or were written by Chicano Studies folks, whether professors or grad students (who might have been attending their first LatCrit conference at Breckenridge), seem to continue a conversation from the conference. That conversation was initiated by a set of speakers who were exclusively of Mexican descent. Ideally they were those who either knew enough about or were involved with Chicano Studies as to be able to connect its foundations to the origins of a "LatCrit" project in the legal academy. Rumor had it that the configuration of speakers for the panel posed a thorny problem for the conference organizers. This is because LatCrit organizers have tried to maintain the outward identity of an inclusive scholarship movement. Therefore the "mono-racial/ethnic character" (i.e., no Asians, no Blacks, no Queers) of the panel seemed at odds with one of LatCrit's formative organizing principles—that each year's organizers assemble panels for every plenary and concurrent session that is racially and sexually diverse. In the end the panel was staffed by Chicanas and Chicanos and did interrogate the relationship between LatCrit and Chicano scholars, some of whom have made important contributions to the growing body of LatCrit scholarship.

II. LOS ENSAYOS

I read Guadalupe Luna's "*La Causa Chicana*" and *Communicative Praxis*³ as an effort to enhance knowledge of Chicanas/os and to introduce to the LatCrit community the issues posed by those who seek to centralize the Chicana/o in their scholarly inquiry. An example is the scholars who have organized regionally and nationally in the National Association of Chicana/o Studies Scholars (NACCS). Dating back almost thirty years, NACCS has a mission that is compatible with that of LatCrit scholars—to advance critical theory through transformative knowledge. That is the kind of thinking that is critically-based, that is about solving the social, economic, political and legal problems of our (Latina/o) communities. Thus Luna asserts, while LatCrit scholars are producing transformative knowledge, she cautions that we must commit ourselves to an engagement with the text of critical theory. We must also engage in self-critique that produces critically based practice (praxis). This, she argues, is "communicative praxis," the construction of meaning, projects, visions, values, styles, strategies and identities through interaction with and against one another."⁴ To illustrate some of those roots of the Chicano movement Luna provides a short historical monograph on the very place where Lat Crit V was held, in the state of Colorado. This

3. Guadalupe T. Luna, "La Causa Chicana" and *Communicative Praxis*, 78 DENV. U. L. REV. 553 (2001).

4. *Id.* at fn 5.

history is especially helpful to people like me who in my youth bore no active connections to Chicanismo because of circumstances beyond my control—I had lived in Mexico during my high school years, returned to live briefly in a predominately white suburb, married an Anglo and worked full time while I attended college at night. I often wonder whether I might have become a Chicana identified scholar if my parents had not moved out of central Los Angeles when I was eleven years old and into a then predominately white suburb (which ironically a generation later is now almost exclusively Mexican-American/Chicano). Back then what I knew of “Chicano politics” I associated with the privilege of full-time students, and I wasn’t one of them. So it was enlightening for me to read Luna’s portrayal of a lived history for certain Chicano/a community activists, academic, students, union members and community folk challenging, *inter alia*, racialized segregation, police brutality, poverty and land theft during a period when I was coming into my politicized consciousness by rebelling against my strict Catholic upbringing in a boarding school and hanging out with white middle class “hippie” college students protesting the Vietnam War. But in the end I especially find Luna’s message to LatCrit scholars of the need for a criticism of the law that is engaged *with* the struggles of our communities as vital to any goal of LatCrit to be truly connected to our communities. In the world of social justice activists, we progressive scholars are unfortunately stigmatized by the well-earned reputation of being talking heads that work in ivory towers, climb the social ladders of success and disconnect from the communities we in theory represent through our lofty “radical ideals.” So, the more we can expose in a practical way the connections between LatCrit and Chicanismo—as having the common goal of challenging the notions of “neutrality” in Western thought, politics, economics and legal systems that have betrayed our communities, the better. It’s a good message from Luna’s essay.

As noted above, I have never identified myself as a Chicana scholar, nor one who even knew what it meant to be involved in Chicana/o politics. And yet I comfortably understand myself to be Chicana when I reflect on Ana Castillo’s definition of a Chicana as a Mexic-Amerindian woman who is an activist, and as a “Xicana,” that is, someone who is Chicana and feminist.⁵ During my post law school graduate studies in history I managed to run into important pathbreaking works by Chicano scholars like Alfredo Mirandé. In the 1980s, Mirandé’s book *La Chicana*⁶, helped me make sense of the social, political, educational, legal and economic conditions of the woman of Mexican descent in the U.S. In that work I first encountered the pieces of history that connected

5. ANA CASTILLO, MASSACRE OF THE DREAMERS: ESSAYS ON XICANISMA 11 (Plume, 1995).

6. ALFREDO MIRANDE, EVANGELINA ENRIQUEZ, LA CHICANA: THE MEXICAN-AMERICAN WOMAN (University of Chicago Press, 1981).

me to my own roots, to the stories of my Abuelita and my mother, to my travels to villages in Mexico whose residents bore remnants of the history of the Mexican revolution or to the continual flow of migrants from the interior to the northern borders of Old Mexico. It was a true pleasure to find out what in fact had happened to the sociologist who left that field in order to enter law school and who is now a law professor. Mirandé's "*Mountain Adventure*",⁷ the second in a series called *Alfredo's Chronicles*⁸, intended to mimic the narrative mode and titles of Richard Delgado's *Rodrigo's Chronicles*⁹, provides a delightful and candid portrayal of the goings-on at a LatCrit conference, which I imagine to be amusing and confusing to the first-time attendee. I had to laugh at the comments in Mirandé's "field reports" that observed the energy, contradictions, and sometimes frustrating experiences that depict a LatCrit conference, in this case the one held at the Breckenridge conference center:

The Preliminary Program is interesting, but I, frankly, think you learn more about an organization through the informal networks, the one-on-one *pláticas*, or chats at lunch, dinner, or the various after-hours receptions and informal get-togethers. It is clear that gender and sexual preference are overarching issues for the group.¹⁰

I found this comment interesting and somewhat annoying. For I wonder what it means to have gender and sexual preference turned into "overarching issues." Is it that so many attendees are really out and really queer as well as being Latina/o, or that the substance of the programming is heavily focused on queer legal theory from a Latina/o perspective? Or to do that is a novelty in critical thought? Hmmm. Mirandé doesn't go further with the comment, for his project is one of sharing his ruminations with a fictional character, Fermina, who is a friend, a sounding board, maybe an alter feminine self, or a combination of all of his really smart and strong Chicana friends, colleagues and relatives. His purpose is to note it all--from the absurdities of how the term "Hispanic" just doesn't capture the heterogeneity of the Latina/o experience, to the major differences that make one ask, what is it that "binds us together as Latinos"?

I sit and listen attentively to the speakers, trying to connect with them, despite our differences. I begin to think about Latino identity; about the dualities, and wonder what I have in common with the speakers. [The speaker on this panel] is a woman, I am a man. She is

7. Alfredo Mirandé, *Alfredo's Mountain Adventure: The Second Chronicle on Law, Lawyering, and Love*, 78 DENV. U. L. REV. 517 (2001).

8. See Alfredo Mirandé, *Alfredo's Jungle Cruise: Chronicles on Law, Lawyering and Love*, 33 U.C. DAVIS L. REV. 1347 (2000).

9. RICHARD DELGADO, *THE RODRIGO CHRONICLES: CONVERSATIONS ABOUT AMERICA AND RACE* (NYU Press, 1995).

10. Mirandé, *supra* note 7 at 523.

Cuban, I am Mexican. She is gay, I am not.... [She] appears to come from an elite background.¹¹

And in these ruminations I find the comfort of the LatCrit narrative form of analysis and also its frustrations. For sometimes the narratives are just that—streams of thought that are going somewhere, or nowhere, except into the venue of reflecting on how one's identity as a Latina/o is an experience of world-traveling in and out of the planes of class, culture, gender, sexuality, and race or ethnicity.

But is that what LatCrit theory is about? Is it just a vehicle for ruminating into intersections of identity? Or like Chicano studies, is it a search for frameworks of analysis that are grounded in the struggle for social justice for brown and black peoples whose history has been denied or distorted in a white dominant society where we “exist . . . *en ausencia*, and surface rarely, usually in stereotype.”¹² Alejandro Covarrubias' essay *Language, Race and Social Justice: Employing LatCrit to Examine the Graduate School Experience of a Chicano*¹³ certainly asserts that a Lat-Crit framework offers insights into institutional power relations that can stand in the way of brown, working-class Chicanos. Relying on the critical tool of counter-storytelling he examines the “microaggressions” in academia that targeted a young Chicano student trying to maneuver his way through a doctoral candidacy. I loved this piece. It is honest and it is painful. I could visualize the lone Chicano grad student sitting in the seminar with his classmates, feeling targeted as he tried to convince them that their assigned readings contained alienating theory language, meanwhile experiencing his own social construction into the non-collegial “troublemaker.” All because he took the critical challenge at its word by criticizing the “saints” of critical thought (e.g., Freire). The experience sadly reveals how, once conscientized¹⁴, the oppressed see their oppression, while the dominant don't see it at all. And particularly don't see the hypocrisy of defending the use of elitist language and discourse to articulate emancipatory thinking on behalf of the oppressed.

The last three articles venture into new areas where LatCrit theory might apply or where it should apply. Because I read first the articles that seemed focused on Chicana/o Studies I was first puzzled by the inclusion of Alicia Abreu's piece *Tax Counts*¹⁵. I thought, she is Cuban and this is not about Chicano Studies and why is it here? Yet her message to Lat-

11. *Id.* at 524

12. CASTILLO, *supra* note 5, at 5.

13. Alejandro Covarrubias, *Language, Race and Social Justice: Employing LatCrit to Examine the Graduate School Experience of a Chicano*

14. I am borrowing from the adaptation of Freire's term for consciousness-raising. In Latin America it has been translated as conscientizacion, and in English, the state of having one's consciousness awakened. See CASTILLO, *supra* note 5, at 9.

15. Alice G. Abreu, *Tax Counts: Including the Money Areas of the Law*, 78 DENV. U. L. REV. 575 (2000).

Crits, whose mission is compatible with that of Chicana/o Studies, as one concerned with the “mechanisms of legal and political oppression . . .,”¹⁶ needs to be included in a set of articles that are grappling with the commonalities and differences of critical theory that seeks to reform the conditions of Latina/os everywhere. The critical theory can only get us so far. As Luna admonishes earlier, we need engagement with the theory, or praxis,¹⁷ and what better venue within which to use our talents for deconstruction, literally for taking apart the structures of power, than to expose the sources of much raw power in this country and in the global economy—the law that benefits those who are wealthy. After all, it is they whom with their money, and a legal system that supports their staying rich, are closing factories that are creating third world black and brown “countries” within the U.S. border, or sending the manufacturing and assembling processes to even poorer countries throughout the world, where as “maquilas” in Mexico or sweatshops in East Asia they will have assembled cheap goods for export back into the U.S. economy, with the cheaply paid labor of mostly Brown, Black and Asian people who will be dehumanized and turned into machine parts that sustain the global economy. Such “benefits” from the expansion of corporate and shareholder wealth flow from the laws and regulations that are part of the intricate tax system that we *need to understand*, engage with and criticize, argues Professor Abreu. She urges Lat Crit scholars that the analysis of the tax laws, and how or whom they empower in a society where the distribution of resources disfavors Latina/os, is for everyone in Lat-Crit. I found especially compelling the figures in her essay that dramatically illustrate how the tax laws skew the distribution of the tax burden, so that the rich pay so much less in proportion to those who earn less. The visible sources of poverty in historic patterns of discrimination and segregation are bad enough to deal with. What is shocking is the exposure of the hidden sources of perpetuated poverty in tax laws that indeed illustrate how “the rich get richer while the poor get poorer.”

The last two essays both address whether LatCrit theory has anything to offer to the critical scholar concerned with pedagogy. I find it interesting that in the same cluster of articles where one writer found himself castigated for “criticizing” Freire, we have at least one more piece that actively seeks to apply Freirean critical theory to the possibilities for LatCrit pedagogy. The last two essays in this cluster however, join not only theme as they examine the theory of learning and education, but also in adapting the LatCrit/CRT tool of counter-story-telling to accomplish their goals of:

1) envisioning a social justice theory that speaks to the conditions of their lives as either graduate students or professors, while

16. Luna, *supra* note 3, at 569.

17. *See id.*

2) recognizing the tensions in the academy, where educational institutions operate in “contradictory ways with their potential to oppress and marginalize [even as they have the] potential to emancipate and empower.”¹⁸

Daniel Solórzano and Tara Yosso’s essay, *Maintaining Social Justice Hopes Within Academic Realities*,¹⁹ employ a framework adapted from critical race theory to introduce the concept of critical race pedagogy—as basic insights that

- a) centralize race and its intersections with other forms of subordination;
- b) challenge dominant ideology;
- c) are committed to social justice;
- d) highlight the importance of experiential knowledge and
- e) use an inter-disciplinary perspective.

Solórzano and Yosso’s dialogue is between an older professor meeting up with a former student/new professor at an education conference, who share a meal and chat over the possibilities for doing “radical pedagogy” in non-radical, and sometimes elite settings (large universities). The latter ultimately appears as a matter of personal commitment by an instructor to encourage learning from the bottom up. As in Freirean pedagogy, it is a framework that calls upon the teacher constantly to affirm the strengths of the students (against all egotistical urges) while s/he facilitates the strengthening of their insights into how this world oppresses them as the key to self-empowerment. Which of course, isn’t always easy in certain academic settings; the community college teacher may have the best population of students on which to practice Freirean methodology, but is too overwhelmed with the course load. The professor in the larger, usually more elite settings, is often challenged by the make-up of the classes, as more white, more elite and less connected to the communities that need empowerment. In some ways, the part of this first dialogue where the one professor tells the other—it’s easier when a critical mass of students of color is present in the classroom,²⁰ helps to prove the point made by the grad student in the next essay by Anita Revilla, who evaluates in a conversation between two fictional classmates the strengths and weaknesses of either a race or class perspective for engaging in critical pedagogy.²¹ Race is extremely important, argues the

18. Daniel G. Solórzano and Tara J. Yosso, *Maintaining Social Justice Hopes within Academic Realities: A Freirean Approach to Critical Race/LatCrit Pedagogy*, 78 DENV. U. L. REV. 595 (2000).

19. *Id.*

20. *Id.* at 618.

21. Anita Revilla, *A Theoretical dialogue Between Two Friends: Critical Race Theory, Critical Pedagogy and the Move Toward LatCrit*, 78 DENV. U. L. REV. 623 (2000).

friend Apolinar. Yet the obvious differences in the ability to engage effectively in critical pedagogy in a university versus a community college setting, observed in the two professors' dialogue, also proves the counterpoint of Revilla's hypothetical friend, Delia, who favors the class analysis because it focuses on the empowerment of those most exploited and subordinated (e.g., laborers). While Apolinar, in Revilla's *A Theoretical Dialogue Between Two Friends*,²² wants race to be the most important focus in the work of the radical teacher, "because it's "idealistic" to think that a capitalist system that would rather "close down a bank than lay off a worker,"²³ Delia fiercely defends her vision of a world in which peaceful revolution takes place through a socialist-feminist multiculturalism that challenges...historically sedimented processes through which race, class and gender identities are produced within a capitalist society."²⁴

Which I think is one of the best quotes in the whole cluster of articles because it speaks to my concerns for a LatCrit theory and praxis that is holistically based, that speaks to a range of problems we must solve for our communities, as kaleidoscopic as the factors that impact upon and/or define a person's identity. It means still coming up with research models that deconstruct the legal and political structures of power²⁵ with the deconstructive and multi-dimensional tools of gender, race and class, neither one ever deemed more relevant or important than the other. In this cluster of articles the reader will face the possibilities for examining what it means to be Latina/o, what it means to adopt the Chicana/o lens, or what it means to teach our students with a radical pedagogy; that is, with the goal of promoting social change by making the student understand her/his own oppression or membership in the oppressor class. That, to me is the heart of the "praxis" of LatCrit, an engagement with the tools of analysis, the terms and concepts we so proudly adopt to identify ourselves, without deluding ourselves that all of the terms and concepts might derive ultimately from systemic oppression, and then being willing to test that knowledge in our communities.²⁶ For example, Luz Guerra once argued at a very early LatCrit conference that the terms "Latina/o" or "Hispanic" or whatever-hyphenated (e.g., Mexican-American) may be construed as an unquestioned acceptance of the construction of our iden-

22. *Id.*

23. *Id.* at 631.

24. *Id.* at 630 (citing CARLOS ALBERTO TORRES, *DEMOCRACY, EDUCATION, AND MULTICULTURALISM: DILEMMAS OF CITIZENSHIP IN A GLOBAL WORLD* (Rowman & Littlefield Publishers, 1998)).

25. See e.g., Elvia R. Arriola, *Voices from the Barbed Wires of Despair, Women in the Maquiladoras, Latina Critical Legal Theory and Gender at the U.S.-Mexico Border*, 49 DEPAUL L. REV. 729 (2000).

26. Here I know I depart from the model of activism for the intellectual that is confined to "radical teaching." Personally, I think that intellectual activism should have a component of teaching among the radicals and serving as a bridge between academia and the community.

tity from the perspective of the oppressor²⁷—the white European/Anglo/White American's notion of identity. By unconsciously using it we ally ourselves with the values of our internalized colonizers.²⁸ We are then constructing false identities, looking through the eyes of the oppressor. In time who we are, or were, vanishes, like a rare bird becomes extinct; because not knowing, or forgetting, we lose the language capable of preserving our identities. This perspective allowed me to understand the autobiography of the indigenous activist woman, Rigoberta Menchú who spoke of "knowing" that her ways of life and beliefs were critical to maintaining her identity as a Quiché, one of the dozens of oppressed indigenous peoples of Guatemala. What she kept secret to her served as the ultimate weapon against the erasure of her identity as *India*. ("I'm still keeping secret what I think no-one should know").²⁹ When everything from dress ("you mustn't change the way you dress, because you're the same person and you're not going to change from now on")³⁰ to spirituality, to community rituals, to language and practices affecting family, gender roles, work, power and sexuality is understood as different from "*ladino* life," knowledge of oneself is the last thing one has to preserve one's ethnic or racial identity.

In the talk of power and pedagogy, LatCrit theorists are moving from the search for self-empowerment in exploring the intricacies of our constructed identities and our self-constructions of identity. It is a refreshing perspective to now be in the mode of taking that knowledge into the possibilities of our theories, dialogues and counter-storytelling methods to create community. And through that immediate social change within the academy to increase the number of "soldiers of that movement"³¹ through our students whom, armed with the critical thought that teaches them about oppression, can learn to safeguard their identities and cultures against those who would only know us in stereotype or otherwise marginalize our existence.

27. Luz Guerra, *Essay: LatCrit Y La Des-Colonizacion Nuestra: Taking Colon Out*, 19 CHICANO-LATINO L. REV. 351, 355 (1998).

28. *Id.* at 355-56; see also PAOLO FREIRE, PEDAGOGY OF THE OPPRESSED (Myra Bergman, trans., NY: Continuum, 1993).

29. RIGOBERTA MENCHU, I RIGOBERTA MENCHU: AN INDIAN WOMAN IN GUATEMALA 247 (Elisabeth Burgos-Debray, ed., Ann Wright, trans., Verso, 1984) ("Not even anthropologists or intellectuals, no matter how many books they have, can find out all our secrets").

30. *Id.* at 211 (the admonishment carried over to hair: "If you cut your hair, people notice and say that that woman is breaking with many of our things, and they won't respect you as they ought to.").

31. Revilla, *supra* note 21.