

# AFTERWORD: COLLECTIVE KNOWLEDGE PRODUCTION TOWARD TRANSFORMATIVE SOCIAL CHANGE: A COMMUNITY- GROUNDED MODEL

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*LatCrit theory self-consciously recognizes that theory without praxis severely constrains the purpose and utility of theory; praxis is constitutional to LatCrit theory because social transformation is a key function of legal theory.*

—Francisco Valdes<sup>1</sup>

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## I. INTRODUCTION

This year, the 2019 LatCrit Biennial Conference showcased a community-grounded and cultivated textbook—*Critical Justice: Systemic Advocacy in Law and Society*<sup>2</sup>—on the cusp of its release. As the most significant LatCrit output of knowledge production—because it builds, as all LatCrit projects do, on the shoulders of the work that came before it—the *Critical Justice* textbook presents an occasion on its publication to review the interrelated functions of LatCrit, as well as the scholarly norms that have emerged

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<sup>1</sup> See Francisco Valdes, *Under Construction: LatCrit Consciousness, Community, and Theory*, 85 CAL. L. REV. 1087, 1093 (1997), 10 LA RAZA L.J. 1, 7 (1998).

<sup>2</sup> Forthcoming from West Academic in 2020 [hereinafter CRITICAL JUSTICE] (manuscript on file with Harvard Latinx Law Review). The editors have referred to this book as a textbook rather than the more familiar law school resource of a casebook because the *Critical Justice* book is dominated by editor written text and excerpts of law review and other articles, and light on excerpts of reported court decisions.

in the LatCrit community's more than two decades of collective knowledge production. Described variously as "under construction,"<sup>3</sup> "rebellious,"<sup>4</sup> and "critical,"<sup>5</sup> LatCrit knowledge production has been a core function of the LatCrit "experiment in outsider democracy"<sup>6</sup> since its inception. In addition to serving and honoring the functions and norms that have emerged during the decades-long history of the LatCrit community-building project, this textbook introduces a new, sustainable dimension that can travel as far as the community carries it—the possibility of future revenues to support the still-evolving portfolio of LatCrit projects. As a forward-looking and thinking project, this textbook is a hopeful respite from the otherwise gloomy (but nonetheless rebellious) mood among both critical scholars and their communities and groups, as reflected in the 2019 LatCrit conference theme of "The Dispossessed Majority: Resisting the Second Redemption in *América Posfascista* (Postfascist America)."<sup>7</sup>

## II. LATCRITICAL FUNCTIONS AND SCHOLARLY NORMS

Near the inception of the LatCrit project, while informed by the early years of that experience, Frank Valdes articulated the four "functions" of LatCrit as: (1) the production of knowledge, (2) the advancement of transformation (defined as "the creation of material social change that improves the lives of . . . subordinated groups"), (3) the expansion and connection to struggle(s), and (4) the cultivation of community and coalition.<sup>8</sup> These still-controlling goals have always been interconnected, so that LatCrit should never be judged on its success or failure in meeting one goal as somehow distinct or disconnected from the others.<sup>9</sup>

In the spirit of most every LatCrit project since that articulation, which collectively seek to further these four interconnected goals, the *Critical Justice* textbook was conceived and developed with these aims in mind. First, with reference to the production of knowledge, the book incorporates and

<sup>3</sup> Valdes, *supra* note 1, at 85 CAL. L. REV. 1087, 1096, 10 LA RAZA L.J. 1, 10.

<sup>4</sup> See Francisco Valdes, *Rebellious Knowledge Production, Academic Activism, & Outsider Democracy: From Principles to Practices in LatCrit Theory, 1995 to 2008*, 8 SEATTLE J. SOC. JUST. 131 (2010) (describing the early anchors and practices of our programmatic work, and assessing some of our gains and shortcomings).

<sup>5</sup> Steven W. Bender & Francisco Valdes, *At and Beyond Fifteen: Mapping LatCrit Theory, Community, and Praxis*, 1 U. MIAMI RACE & SOC. JUST. L. REV. 177, 183 (2011), 22 BERKELEY LA RAZA L.J. 301 (2012); 14 HARV. LATINO L. REV. 397 (2011) [hereinafter pin cites are only to the latter volume].

<sup>6</sup> *Id.* at 405.

<sup>7</sup> <http://latcrit.org/content/conferences/latcrit-biennial-conferences/2019-latcrit-biennial-conference-cfp/> [archived at <https://perma.cc/9JDF-WQ9V>].

<sup>8</sup> Valdes, *supra* note 1, at 85 CAL. L. REV. 1087, 1093-1094, 10 LA RAZA L.J. 1, 7-8.

<sup>9</sup> See Margaret E. Montoya and Francisco Valdes, "*Latinas/os*" and the Politics of Knowledge Production: LatCrit Scholarship and Academic Activism as Social Justice Action, 83 IND. L.J. 1197, 1204 n.19 (2008) (discussing the conceptual errors in a critique of LatCrit to include the attempt to "break apart" these functions into separate goals, rather than as these goals were intended and have been carried out by the LatCrit community—as operating "synergistically, and to be approached or pursued thusly").

encapsulates a vast wealth of knowledge from the critical schools of legal knowledge, or “outsider jurisprudence.”<sup>10</sup> Although the book is meant to organize and curate a variety of critical pieces already in the literature, including a broad sampling of texts derived from LatCrit annual and biennial conferences, as well as from LatCrit study spaces and other scholarly engagements, the book independently contributes to the production of knowledge. It does so, among other means, by a number of unique contributions to the literature of social change. These include the gathering, organizing, and presentation of a variety of insights braided together from both the deep wells of existing critical literature as well as from the advocacy approaches of social change lawyering. The book’s contributions also include the introduction of a variety of interdisciplinary and comparative insights into the traditional law school classroom, which is transformed thereby into a critical classroom.<sup>11</sup> Among the contributions are its immersion of students in a variety of critical knowledges, values, skills, and attitudes that transcend that traditional law school classroom,<sup>12</sup> as well as the book’s overarching framing of the contradiction for advocates between the formal, paper promises of U.S. law (and law in many other places) toward equality and the reality of the role played by law in maintaining inequality. In other words, how can one use law to overcome law?

As editors, we crafted the *Critical Justice* textbook with the second LatCrit function in mind of transformation that improves the lived, material reality of groups “at the bottom” in law and society.<sup>13</sup> This intentional marriage of critical theory to practice, or praxis, prompted the braiding of lessons and experience from the critical schools with social justice advocacy approaches, and influenced the audience and aims of the book early on. Originally conceived more than a decade ago as a sort of primer to introduce the teachings of LatCrit theory to interested readers, particularly new members to the community as well as law students, the project soon evolved into one designed primarily to serve the classroom, and one relying on critical knowledges drawn from bodies of outsider scholarship beyond LatCrit. This evolution and expansion stemmed from the realization, coming during the

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<sup>10</sup> See Mari J. Matsuda, *Public Response to Racist Speech: Considering the Victim’s Story*, 87 MICH. L. REV. 2320, 2323 (1989) (noted by Valdes, *supra* note 1, 85 CAL. L. REV. 1087, 1089, n.3, 10 LA RAZA L.J. 1, 3 n.3, as the first reference to the term “outsider jurisprudence”).

<sup>11</sup> For discussions of the pedagogical and cultural components of the critical classroom, see e.g., Sheila I. Vélez Martínez, *Towards an Outcrit Pedagogy of Anti-subordination in the Classroom*, 90 CHI.-KENT L. REV. 585 (2015); Aníbal Rosario-Lebrón, *If These Blackboards Could Talk: The Crit Classroom, A Battlefield*, 9 CHARLESTON L. REV. 305, 312-314, 322 (2015); SpearIt, *Priorities of Pedagogy: Classroom Justice in the Law School Setting*, 48 CAL. WEST. L. REV. 467 (2012); Margaret E. Montoya, *Silence and Silencing: Their Centripetal and Centrifugal Forces in Legal Communication, Pedagogy and Discourse*, 5 MICH. J. L. & RACE 847, 883-884 (2000), 33 U. MICH. J. OF L. REF. 263 (2000).

<sup>12</sup> For a discussion of the nature and functions of the traditional law school classroom, and legal education more generally, see CRITICAL JUSTICE, *supra* note 2, at ch. 8.

<sup>13</sup> For the foundational discussion of the “bottom” for purposes of racial caste, see DERICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* (1992).

austerity climate in legal education that prevailed after 2011 during the early phases of developing the book, that law students, rather than law faculty, offered the best chance to further the transformative and antisubordination goals of the book. Even when taught as a small seminar, the numbers don't lie—twenty or so young students taking a class on social change lawyering, which the book terms systemic advocacy, and committing and steeling themselves toward a lifetime of such advocacy, stand a far greater chance to be part of transformative social change than aging law professors stretching to bridge the divide between theory and practice.<sup>14</sup> Because elites have emplaced and maintained inequality over the decades, advocacy toward transformation must aim too for resilience and inter- and multi-generational education and praxis.

Expanding the aims of the book as it transformed from a LatCrit primer to a critical classroom textbook also aligned with the third LatCrit function of connecting to antisubordination struggles beyond just the Latina/o community. Recognizing the interconnectedness of struggles for equality waged by a variety of social groups at the bottom, whether in far flung locations or in the same geography, the textbook relies on critical coalitions to connect these struggles and to help build group power for transformative social change. This attention in the textbook to the skills and value of collaboration invokes the fourth function of LatCrit to cultivate community and coalition toward antisubordination ends. At the same time the book teaches the need for collaboration with affected communities and to forge coalition with those engaged in kindred struggle, the book project relies on the cultivation of the LatCrit community to implement, teach, and update the book.

Stemming from the interrelatedness of knowledge production and the other core functions of LatCrit detailed above are a variety of scholarly norms<sup>15</sup> I have observed (and tried to honor in my own LatCrit writings) that define LatCritical knowledge production.<sup>16</sup> These norms include:

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<sup>14</sup> See Steven W. Bender, *An Instrument at the Forefront of Social Change: The Legacy of Joaquin G. Avila*, \_\_ SEATTLE J. SOC. JUST. \_\_ (forthcoming 2020) (discussing the divide and disconnects of theory and practice for social change).

<sup>15</sup> By articulating these “norms,” I do not mean to replicate the standards of quality that traditional legal scholarship has imposed as a means of gate-keeping on what “counts” and what does not. See Bender and Valdes, *supra* note 5, at 406 (noting that outsider democracy in knowledge production “resists imposing any fixed or universalized ‘standards’ that have characterized the most traditional forms of scholarly production, at least within the legal academy of the United States, in the name of ‘quality’”).

<sup>16</sup> Equally, the textbook project serves what we have called “guideposts” for LatCrit projects, articulated as (1) recognizing and accepting the “inevitable political nature” of U.S. legal scholarship, Bender and Valdes, *supra* note 5, at 403; (2) recognizing that outsider scholars must engage in praxis as teachers, scholars, and social change actors; (3) committing to building intra-Latina/o communities and inter-group coalitions; (4) finding commonalities while respecting difference; (5) appreciating and incorporating the work of past critical outsider scholars into one’s own work; (6) a continual commitment to self-critique; and (7) recognizing both specificity and diversity in constructing LatCrit theory, praxis and community. See generally *id.* at 403-405. Situating LatCrit within the broader framework of outsider jurisprudence, Frank Valdes has identified ten “key hallmarks . . . in the body of work produced by critical scholars of color in the US both before and since [LatCrit’s inception].” Francisco

- A culture of democratic, rather than imperial scholarship, that surrounds knowledge production;
- Scholarship meant to further the community aims rather than the individualized goals—careerism—of individual professors;<sup>17</sup>
- Theory that builds on the shoulders of those who struggled before, and that honors their contributions rather than seeming to present “original” ideas divorced from struggles, lessons, and accounts from the past;<sup>18</sup>
- Writing and insight that draw whenever relevant to a social problem on historical origins of laws, societal practices, systems, and struggles;<sup>19</sup>
- Expertise that values the insights from other disciplines outside of law, as well as scholarship that is globally aware while locally grounded;

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Valdes, *LatCrit 2013 Conference Symposium Afterword: Theorizing and Building Critical Coalitions: Outsider Society and Academic Praxis in Local/Global Struggles*, 12 SEATTLE J. SOC. JUST. 983, 1012 (2014). These are (1) the “normative bottom line” of antisubordination “values, principles, and commitments;” (2) aiming “not only to be socially relevant, but also to be transformative;” (3) “shifting the starting point of critical inquiry in ways that scramble and juxtapose mainstream or familiar categories of analysis to reveal fresh anti-subordination insights and discourses;” (4) examining “issues of law or policy ‘from the bottom up’ of the relevant socio-legal hierarchies;” (5) deploying “doctrinal realism,” that aims to expose “legal fictions that ‘blind’ social and legal actors;” (6) a “commitment to counter-disciplinarity in multidimensional terms;” (7) a commitment to critical historicism; (8) a commitment to critical empiricism; (9) a commitment to globalized contextualism; and (10) a “consistent embrace of ‘non-traditional’ (in mainstream US legal culture) methods and means for the production of legal knowledge,” such as legal storytelling. *Id.* at 1013-1021. Many of the themes of these “hallmarks” infuse the LatCrit scholarly norms I detail in this afterword.

<sup>17</sup> At the same time, the cultivation of community and the culture of democratic scholarship demand the support and mentoring of junior scholars to ensure their survival in the academy, usually by their acquisition of tenure. In turn, these junior scholars, aided by the opportunities and mentoring offered within the LatCrit community, should ensure that rather than using LatCrit temporarily and only while it serves their individual interest, they remain connected and participate to ensure the next generation of young scholars makes it through. This is one fundamental way in which individual and community interests are reconciled toward the longevity and betterment of community.

<sup>18</sup> In particular, this scholarly norm echoes the fifth guidepost mentioned above of appreciating and incorporating the work of past critical outsider scholars into one’s own work. See *supra* note 16. Toward this aim, Frank Valdes and I developed the scholarly research toolkit, available on the LatCrit website, to serve as a resource for scholars to identify existing LatCrit scholarly works that connect to the themes of their own work or to key terms. See <http://latcrit.org/content/research-toolkit/> [archived at <https://perma.cc/28M4-9JQV>]. The expectation is that scholars writing for LatCrit-related publications, such as the symposium centered around the biennial conference, will use that resource to honor and engage the contributions of past scholars in the LatCrit community. We hope to update and revamp that toolkit as part of an upcoming and more comprehensive scholarly project that details the scholarly (and related) contributions of LatCrit to critical theory and praxis.

<sup>19</sup> See CRITICAL JUSTICE, *supra* note 2, at §13.2; see generally Marc-Tizoc González, *Critical Ethnic Legal Histories: Unearthing the Interracial Justice of Filipino American Agricultural Labor Organizing*, 3 UC IRVINE L. REV. 991 (2013).

- Scholarship that connects theory to practice, to invite scholars to perform the theory in a way that helps bridge the so-called theory-practice divide;<sup>20</sup>
- Study that crosses and connects identities and cultures;<sup>21</sup>
- Scholarship that draws on and respects the value of storytelling and narrative toward antistatist and antiessentialist aims,<sup>22</sup> particularly analytical narrative, and which connects the micro to the macro systemic and group caste structures that underlie most social problems;<sup>23</sup>
- Scholarly work that whenever possible aims for the advancement of transformation to improve the lived, material reality subordinated groups; and
- Criticality as a value and norm in LatCrit scholarship that connects to the critical schools of outsider jurisprudence and challenges the law to do better while exposing its role in the maintenance of societal and legal caste.

The *Critical Justice* textbook honors each of these scholarly norms. As an example, in excerpting foundational pieces in the study of racial and other identity-bound inequalities, the textbook is alert to the phenomenon of impe-

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<sup>20</sup> See, e.g., Will Rhee, *Law and Practice*, 9 LEGAL COMM. & RHETORIC: JALWD 273, 275-276 (2012) (although detailing how through lack of definition the so-called theory-practice divide is “amorphous and unhelpful” and an oversimplification, recognizing that anecdotal evidence exists that legal scholars and practitioners “do appear to be talking past one another,” and supplying the oft-quoted remarks of Chief Justice John Roberts that a “great disconnect” exists between legal practitioners, on the one hand, and legal scholars who “deal with the legal issues at a particularly abstract and philosophical level”); see also David Hricik and Victoria S. Salzmann, *Why There Should Be Fewer Articles Like This One: Law Professors Should Write for More for Legal Decision-Makers and Less For Themselves*, 38 SUFFOLK L. REV. 761 (2005). For the LatCrit rejoinder to the disconnect, see this afterword’s opening quote from Valdes, *supra* note 1.

<sup>21</sup> As such, this norm honors and implements in the context of knowledge production the third LatCrit function of connecting to antistatist struggles beyond just the Latina/o community.

<sup>22</sup> See, e.g., Pedro Malavet, *Literature and the Arts as Antistatist Praxis: LatCrit Theory and Cultural Production: The Confessions of an Accidental Crit*, 33 U.C. DAVIS L. REV. 1293, 1302 (2000) (stating that LatCrit scholarship “must and does include storytelling”); Robert S. Chang and Natasha Fuller, *Introduction*, 33 U.C. DAVIS L. REV. 1277, 1280 (2000) (describing the “narrative responsibility of a LatCrit storyteller” as being “differently normative from those [storytellers] that maintain oppressive structures. These [LatCrit scholar] stories resist hegemonic constructions of Latinas/os and other subordinated communities, and they offer an enriched notion of justice through the inclusion of previously excluded stories.”). For an example of backlash against the tool of narrative as a scholarly technique in the hands of critical scholars, see DANIEL A. FARBER AND SUZANNA SHERRY, *BEYOND ALL REASON: THE RADICAL ASSAULT ON TRUTH IN AMERICAN LAW* 78 (1997).

<sup>23</sup> Some of the dictates captured in this norm are embodied in four “postulates” earlier identified by Frank Valdes from the vantage point of the first sixteen years of LatCrit theory, community, and praxis: “(1) our shared goal is a postsubordination society; (2) requiring transformative change at both micro and macro levels; (3) produced by critical antistatist coalitions; (4) through shared principles and principled practices.” Francisco Valdes, *Coming Up: New Foundations in LatCrit Theory, Community, and Praxis*, 48 CAL. WEST. L. REV. 505, 526 n.72 (2011).

rial scholars that Richard Delgado notably critiqued.<sup>24</sup> Imperial scholars in this context referred to the primarily white, male legal scholars at elite schools writing on civil rights, while citing each other and failing to acknowledge the evocative work of minority scholars. The *Critical Justice* textbook editors took care to feature the foundational works from a rich variety of scholars, beyond white, beyond male, and beyond the gender binary. We also purposefully included a variety of voices that cross other divides of what “counts” as legal scholarship, by drawing on the work of legal writing scholars, clinicians, law librarians, and practitioners, all of whose work can be marginalized in elite academic circles akin to the realm of the imperial scholars that Delgado called out.<sup>25</sup> Further, in the spirit of democracy that pervades LatCrit scholarly projects,<sup>26</sup> several authors of excerpted pieces in the textbook are “new” or “emerging” scholars, or were at the time they wrote the excerpted pieces. In some instances, we chose to feature the work of these scholars for significant article excerpts over more established and senior scholars, while invoking the latter’s body of work in brief introductory chapter quotes. This is akin to the model of LatCrit symposia where oftentimes senior members of the community cede the space and forum to junior members, while contributing a framing of and for their work.<sup>27</sup>

As additional examples of the *Critical Justice* text’s attention to LatCrit scholarly norms, the book editors chose to include a number of excerpts drawn from scholars in disciplines outside the law, such as sociology,<sup>28</sup> psychology,<sup>29</sup> philosophy,<sup>30</sup> and political science.<sup>31</sup> We also featured a number of

<sup>24</sup> Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PENN. L. REV. 561 (1984).

<sup>25</sup> As examples from the CRITICAL JUSTICE textbook, see Teri A. McMurtry-Chubb, *Still Writing at the Master’s Table: Decolonizing Rhetoric in Legal Writing For a “Woke” Legal Academy*, 21 SCHOLAR 255 (2019) (legal writing scholar); Lucille A. Jewel, *Bourdieu and American Legal Education: How Law Schools Reproduce Social Stratification and Class Hierarchy*, 56 BUFF. L. REV. 1155 (2008) (legal writing scholar); Janie A. Chaung, *Using Global Migration Law to Prevent Human Trafficking*, 111 AJIL UNBOUND 147 (2017) (clinician); Nicholas F. Stump, *Following New Lights: Critical Legal Research Strategies as a Spark for Law Reform in Appalachia*, 23 AM. U. J. GENDER SOC. POL’Y & L. 573 (2014) (a law librarian); and Gary Bellow, *Steady Work: A Practitioner’s Reflections on Political Lawyering*, 31 HARV. C.R.-C.L. L. REV. 297 (1996) (a longtime practitioner who founded Harvard Law School’s clinical program after working with, among other clients, the United Farm Workers and the Black Panther Party).

<sup>26</sup> See Montoya and Valdes, *supra* note 9, at 1205, 1216 (stating that “LatCrit scholarly projects, practices, and norms reflect the ‘democratic’ (‘big tent’) model of knowledge production”).

<sup>27</sup> See Margaret E. Montoya and Francisco Valdes, *“Latinas/os” and Latina/o Legal Studies: A Critical and Self-Critical Review of LatCrit Theory and Legal Models of Knowledge Production*, 4 FIU L. REV. 187, 241-245 (2008) (detailing the LatCrit choices to avoid an elitist “star system”).

<sup>28</sup> E.g., Davis Paternotte, *Global Times, Global Debates? Same-Sex Marriage Worldwide*, 22 SOC. POLITICS 653 (2015); Jennifer Jihye Chun, *The Affective Politics of the Precariat: Reconsidering Alternative Histories of Grassroots Worker Organising*, 7 GLOBAL LABOUR J. 136 (2016).

<sup>29</sup> E.g., Ruth Fassinger and Susan Morrow, *Toward Best Practices in Quantitative, Qualitative, and Mixed-Method Research: A Social Justice Perspective*, 5 J. FOR SOC. ACTION IN COUNSELING AND PSYCH. 69 (2013).

struggles around social problems drawn from around the globe that connect to local, U.S.-based problems, such as materials that connect water quality struggles in Monrovia, Liberia to those in Detroit, Michigan,<sup>32</sup> and those connecting subordinations in educating Roma children in Europe to the U.S. experience for black children, pre-and post-*Brown v. Board of Education*.<sup>33</sup> Similarly, the book connects global struggles to U.S.-based elite actors, such as the struggles of indigenous community members in Guatemala contesting extractions of their resources by a U.S.-based multinational mining company.<sup>34</sup> As well, the text attempts to bridge the theory-practice divide by recognizing and including important contributions toward social change lawyering that come from both the critical schools of legal knowledge and the various advocacy techniques and approaches born “in the trenches,” as well as through coalition and collaboration with affected communities.<sup>35</sup>

The text introduces students to the power of narrative, particularly to analytical narratives which are situated as “a purposeful kind of narration geared to group struggle”<sup>36</sup> toward antisubordination ends:

Progressive lawyers can become politically engaged narrativists who tell analytically illuminating stories of how the law has impeded or impelled struggles for justice and freedom. Like the best rap artists, progressive lawyers can energize a demoralized citizenry with insights on the historical origins and present causes of social misery . . . [to] educate citizens on the operations of economic and political power in the courts . . . [and] empower society’s victims to transform society.<sup>37</sup>

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<sup>30</sup> E.g., Cornel West, *The Role of Law in Progressive Politics*, 43 VAND. L. REV. 1797 (1990).

<sup>31</sup> E.g., Martin Gilens and Benjamin I. Page, *Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens*, 12 PERSPECTIVES ON POLITICS 564 (Sept. 2014); Natasha Behl, *Understanding Difference Blindness: Minimization of Casteism in the Sikh Community*, APSA 2011 Annual Meeting Paper.

<sup>32</sup> See Elizabeth A. Mosley, Cortney K. Bouse, and Kelli Stidham Hall, *Water, Human Rights, and Reproductive Justice: Implications for Women in Detroit and Monrovia*, 8 ENVIRONMENTAL JUST. 78 (2015).

<sup>33</sup> Antonia Eliason, *With No Deliberate Speed: The Segregation of Roma Children in Europe*, 27 DUKE J. COMP. & INT’L L. 191(2017).

<sup>34</sup> Raquel Aldana, *The Indispensable Ones: A Story of Mining Resistance from La Puya*, rewritten from EXTRACTION TO EMANCIPATION: DEVELOPMENT REIMAGINED (Raquel Aldana and Steven W. Bender eds. 2018) (this edited volume arose out of the LatCrit Guatemala Study Space in summer 2015).

<sup>35</sup> As just one example, the book includes an excerpt from a report by the legal organizer and the legal director of the New Orleans Worker Center for Racial Justice. See Jacinta Gonzalez and Jennifer J. Rosenbaum, *Deporting the Evidence: Migrant Workers in the South Expose How U.S. Immigration Enforcement Against Human Rights Defenders Violates the International Covenant on Civil and Political Rights* (2013), [http://www.guestworkeralliance.org/wp-content/uploads/2014/02/DeportingtheEvidence\\_web.pdf](http://www.guestworkeralliance.org/wp-content/uploads/2014/02/DeportingtheEvidence_web.pdf) [archived at <https://perma.cc/T7QG-6LLG>].

<sup>36</sup> CRITICAL JUSTICE, *supra* note 2, at §4.4.

<sup>37</sup> West, *supra* note 30, at 1802.



The *Critical Justice* book includes, for example, former LatCrit board member Margaret Montoya's foundational work that engages in self-reflection using the vehicle of analytical narrative.<sup>38</sup> Consistent with the aims of analytical narrative and the second function of LatCrit, the *Critical Justice* text situates and critiques the dominant role of mere ameliorative (legal band-aid) relief, such as through access to justice reforms, while pointing students toward transformative, system-changing goals. In this way, and in contrast to the focus in traditional legal education, ameliorative relief is presented as only a potential step, or "layer," toward transformative change, rather than as the end goal.

### III. CRITICAL JUSTICE: AN OVERVIEW

The *Critical Justice* textbook conveys the richness and complexity of its themes in its full title—*Critical Justice: Systemic Advocacy in Law and Society*. "Critical Justice," as the opening phrase, is meant to reflect the aspiration for "the bottoms" of an actual, lived material equality, as opposed to mere unrealized promises on paper of equal justice for all. The term also connotes the application of insights from the critical schools of legal knowledge to interrogate the shortcomings of law, and its complicity, in the realization of such equality in fact. The term "systemic" implicates the role of a variety of systems that maintain the status quo, with law at the center, or as the enabler, of the other related systems. Law, even its absence, as when it purports to give way to the morals and dictates of the "free" economic marketplace, is nonetheless marching in systemic rhythm with these other systems that enforce and maintain caste.

The second half of the term "Systemic Advocacy" connotes the imperative for lawyers, informed by the caste bottoms, to act in concert and collaboration with organizers and community, both within and more often beyond the courtroom. Finally, the closing title reference to law and society reflects that often the public (law) and private (contracts and actions) are intertwined to produce and maintain social problems that are identity-laden. At the same time, the reference suggests an opportunity for advocates who through critical coalitions might confront inequality in both legal and "private" spaces, such as by working to change the culture underlying castes or their consequences, or by building power through organizing and other techniques outside of legal venues in order, ultimately, to carry influence in those lawmaking or law enforcing venues.

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<sup>38</sup> See Margaret E. Montoya, *Mascaras, Trenzas, y Grenas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse*, 17 HARV. WOMEN'S L.J. 185 (1994). Other examples of analytical narrative in the textbook include Robert A. Williams, Jr., *Vampires Anonymous and Critical Race Practice*, 95 MICH. L. REV. 741 (1997); and Deleso Alfred Washington, *Critical Race Feminist Bioethics: Telling Stories in Law School and Medical School in Pursuit of "Cultural Competency"*, 72 ALB. L. REV. 961 (2009).

## IV. A LATCRIT COMMUNITY OBLIGATION

In the last LatCrit symposium afterword, Frank Valdes and I challenged both the LatCrit board and our community members to honor their community obligations:

Oftentimes in LatCrit board or steering committee discussions, reminders are voiced that each board member owes a fiduciary duty to support the community/organization in every way feasible, whether monetarily, through devotion of time, through commitments and support from their home institutions, and through their creativity and skillsets. Although an organizational board member's duties of care and loyalty are sourced in law, for LatCrit they are more importantly sourced in ethics and responsibility. The latter sources reflect both the compelling global need for an antistubordination future, as well as the reality of how many board members benefitted individually, both the current and past boards, from their engagement with LatCrit—professionally, personally, and in their teaching, their scholarship, and their praxis. . . .

. . . The LatCrit community, presumptively, should operate from the same baseline expectation that its community members are duty bound, as its board members are, to the fiscal, programmatic, creative, theoretical, coalitional, and mental health of the organization.<sup>39</sup>

With the release of the *Critical Justice* book, these community obligations can align with personal goals to further the interests of both the community and the teacher. From our collective experience as editors in teaching the book at the University of Miami and Seattle University during its multi-year development, students will populate courses based on the book, and evaluate them favorably. For example, in 2018, sixty-three first-year students at the University of Miami School of Law opted for the systemic advocacy elective course among their spring semester elective choices. Curriculum committees will value the practical skills-based nature of the materials, which connect to the social justice mission (at least as words on paper) of many U.S. law schools, and which facilitate student acquisition of a variety of salaried post-graduate fellowships centered in social change lawyering. With the anticipated teacher's manual and on-line materials supporting those teaching the textbook, as well as syllabus development workshops planned for a variety of strategic locations, including AALS 2021 and the LatCrit Biennial Conference in 2021, new and existing courses using the book should be rewarding for all involved.

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<sup>39</sup> Steven W. Bender and Francisco Valdes et al., *What's Next? Into a Third Decade of LatCrit Theory, Community, and Praxis*, 16 SEATTLE J. SOC. JUST. 823, 864-865 (2018).

Of key importance in preserving the fiscal health of LatCrit as an organization and catalyst of a rich and varied portfolio of antisubordination projects is the textbook's highly unique royalty structure. Unlike most every other textbook in the legal market, the three editors, two of whom are long-time board members of LatCrit, will receive no royalties and all author revenues will be paid to the LatCrit organization.<sup>40</sup> With the spiraling costs for textbooks and legal education generally, instructors can support a community cause with their assignment of the text and, through the ongoing efforts of their students and future generations of LatCrit scholars working toward allied antisubordination goals, allocate scarce resources toward such efforts.

With these community benefits in mind, we encourage all community members to develop new courses around the themes of the book, with the enthusiastic guidance of the textbook editors, or to adopt the book as a supplement to existing courses. For those teaching in institutions with limited flexibility for new courses or such adoptions, there are innumerable ways to contribute. These include helping to develop content for future editions of the book (either as co-editors or by writing articles or developing other materials—such as recording podcast or online content—to fill perceived gaps in coverage), or for the accompanying web materials, as well as working to persuade colleagues with more flexibility in course development to adopt the book. Those teaching in subjects intentionally and traditionally structured by law schools as devoid of critical content connecting to identity-based subordinations might consider how to adopt the textbook or, in partnership with the textbook editors, develop supplementary materials consistent with the textbook themes to enliven and infuse those courses with criticality and advocacy toward transformative social and systemic change.

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<sup>40</sup> This “community chest” aligns with the scholarly norm identified above of furthering community rather than individual, careerist aims. We did not consider the possibility of receiving individual royalties and then making charitable contributions to LatCrit. This approach is akin to the prevailing neoliberal dictates where wealthy elites are taxed at low rates or evade taxation, but then justify their favorable tax treatment because of their philanthropy. Rather than the money ultimately “getting to the right place,” this approach allows for too much private control over what should be a public, community, asset—here the book royalties that are drawn from another community asset—the rich body of critical knowledge. For background on the “nonprofit industrial complex” that results from elite neoliberal priorities of control over distribution of their wealth, see *CRITICAL JUSTICE*, *supra* note 2, at §8.7. We did consider the approach of making the book available “open source” for teachers and students to use free of charge. The drawbacks of such an approach for the longevity of the LatCrit community, however, counsel against such an approach. For example, some of the copyright permissions for excerpts will draw on community financial resources, in turn slotting the book for its own protection within the intellectual property dictates and realm. With the shift toward a biennial rather than annual conference and a variety of other projects that do not produce and in many instances draw on revenues, LatCrit needs a sustained revenue stream that the textbook can supply. Moreover, the affiliation with a distinguished legal publisher such as West Academic serves the goals of the book to expand the social justice curriculum by appealing to curriculum committees and faculties who look toward such formal affiliations to validate the course content. LatCrit envisions ultimately developing its own publishing press for a variety of works both inside and outside of the classroom that may offer it more control over pricing and content, but that flexibility itself will hinge on the availability of hard-gained community resources.

Community members also might identify (or themselves develop) media and other nontraditional resources to help bring the theoretical and advocacy lessons alive.

## V. CONCLUSION

To conclude this afterword, I look ahead to the next LatCrit Biennial Conference with optimism. LatCrit community members, and kindred scholars and teachers, will have available a textbook steeped in antisubordination aims and community values that will enliven and inform the law school classroom. Through the years, LatCrit organizers have worked with intentionality to create a community of scholars who contribute to a variety of LatCrit projects, including ongoing knowledge production built into many of those projects. These organizers have literally built a physical campus for antisubordination teaching and learning—the Campo Sano property in Florida owned by LatCrit. With the release of the textbook, the LatCrit prerogatives and functions centered around antisubordination teaching and praxis now have a text to guide them, and the anchor for a curriculum built around antisubordination praxis. Consistent with our experience detailed above and the maxim of “build it and they will come”, we expect students to embrace this text and the curriculum it delivers. As Frank Valdes informed us while accepting the Society of American Law Teachers (SALT) Great Teacher Award in 2010, students want and welcome a value-laden education and framework within their courses.<sup>41</sup> The *Critical Justice* textbook ably serves this purpose, moving LatCrit into the 2020s with a text imbued with a toolkit of the critical knowledges, values, skills, and attitudes that students need today to be the rebellious antisubordination advocates of tomorrow.

While still “under construction,” LatCrit and its community can readily see the progress of projects “built” and to-be-built, while understanding that until an elusive postsubordination future arrives, LatCrit and the efforts of kindred communities and organizations will remain perennially under construction.

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<sup>41</sup> Although no transcript was made of the award ceremony, which took place in New Orleans on January 9, 2010, I was present as the incoming SALT co-president and recall Frank’s remarks well.