

INTRODUCTION

Performing LatCrit

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Borrowing from Eric Yamamoto's definition of *race praxis*, we understand *LatCrit praxis* to be "a critical pragmatic process of race theory generation and translation, practical engagement, material change, and reflection . . . [which] integrate[s] conceptual inquiries into power and representation with frontline struggles for racial justice,"¹ especially with regard to Latina/o communities.² The four articles in this cluster can be seen as case studies that explore different aspects of LatCrit praxis. Pedro Malavet examines the role literature and the arts can play as a form of antistatist practice.³ Nicholas Gunia focuses on Jamaican music as a particular site of antistatist practice, showing us that resistance comes in many forms and that LatCrit practitioners must have a broad theory for social change that is not limited to legislatures, courtrooms, classrooms, and law reviews.⁴ Alfredo Mirandé González employs personal narrative to tell us how he used narra-

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¹ ERIC K. YAMAMOTO, *INTERRACIAL JUSTICE: CONFLICT & RECONCILIATION IN POST-CIVIL RIGHTS AMERICA* 10 (1999).

² This definition is consistent with what Professor Francisco Valdes, one of the chief architects of LatCrit, identifies as four functions of LatCrit theory: (1) the production of knowledge; (2) the advancement of transformation; (3) the expansion and connection of struggle(s), and; the cultivation of community and coalition. See Francisco Valdes, *Foreword: Under Construction — LatCrit Consciousness, Community, and Theory*, 85 CAL. L. REV. 1087, 1093-94 (1997), 10 LA RAZA L.J. 1, 7-8 (1998).

³ See Pedro A. 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 (2000).

⁴ See Nicholas A. Gunia, *Half the Story Has Never Been Told: Popular Jamaican Music as Antistatist Praxis*, 33 U.C. DAVIS L. REV. 1333 (2000).

tives in his classroom to better prepare students to work with subordinated groups.⁵ In doing so, he presents, obliquely, a pedagogical model for training law students. Sumi Cho and Robert Westley present a case study of U.C. Berkeley's Boalt Coalition for a Diversified Faculty to make the important point that LatCrit praxis must go beyond theory and progressive lawyering to include a third dimension, political organizing.⁶ They argue that if we pay sufficient attention to this third dimension and its submerged histories it will reveal that student movements were central to the development of CRT and will expose the limitations of anti-essentialist theorizing.

Together, these four articles present a vibrant picture of LatCrit praxis, a project that, as Francisco Valdes notes, is by its very nature "perpetually under construction."⁷ They also present important questions about narrative responsibility that can help guide future work that employs narrative methodology. We turn now to examine the way each article constructs or performs LatCrit.⁸

CASE STUDY I

LITERATURE AND THE ARTS AS ANTISUBORDINATIONIST PRACTICE

Professor Pedro Malavet confesses to being an "accidental crit."⁹ His contribution to this symposium can be described as his intellectual journey as his involvement with LatCrit transforms him, especially as a member of the planning committee for LatCrit IV.¹⁰ Along the way, he challenges what he perceives to be the (ab)use of language in postmodern discourse, contrasting this with the way "popular cultural narratives[] may sometimes be spoken in plain and simple language, and . . . still [be] perfectly able to transmit complex ideas that constitute antisubordination praxis."¹¹ Some of these popular cultural narratives are the subject of the plenary ses-

⁵ See Alfredo Mirandé González, *Alfredo's Jungle Cruise: Chronicles on Law, Lawyering, and Love*, 33 U.C. DAVIS L. REV. 1347 (2000).

⁶ See Sumi Cho & Robert Westley, *Critical Race Coalitions: Key Movements that Performed the Theory*, 33 U.C. DAVIS L. REV. 1377 (2000).

⁷ Valdes, *supra* note 2, 85 CAL. L. REV. at 1096, 10 LA RAZA L.J. at 10.

⁸ This discussion does not necessarily track the order in which these articles appear.

⁹ Malavet, *supra* note 3.

¹⁰ In addition to attending a few of the earlier gatherings, he served as a member of the planning committee for LatCrit IV. This symposium can be understood as the documentary record of that conference.

¹¹ Malavet, *supra* note 3, at 1296. Malavet qualifies this statement, saying that he does "not mean to imply that popular culture is always 'plain and simple' in language." *Id.* at 1295 n.11.

sion — Literature and the Arts as Antisubordination Praxis: LatCrit Theory and Cultural Production — which plays an important role in Professor Malavet's intellectual transformation.¹²

Before providing an account of that session, Professor Malavet encourages the use of narrative within CRT.¹³ While we agree with the basic contours of his defense of narrative,¹⁴ there is one important point that invites elaboration. Malavet states that "LatCrit scholarship must and does include storytelling"¹⁵ in order to challenge current norms and essentialist constructions of Latinas/os. He equates current norms and essentialism with the current structures of oppression, and storytelling is presented as an oppositional methodology. But storytelling is not the sole province of the left or counterhegemonic social formations. Storytelling is a neutral technique that can perhaps be used more easily to maintain the status quo than to attack it.¹⁶ One example comes from the 1990 United States Senate race in North Carolina between Jesse Helms, the white incumbent, and Harvey Gantt, the African American challenger. A commercial for the Helms campaign featured "a white working class man tearing up a rejection letter while the voice-over said, 'You needed that job and you were the best qualified. . . . But it had to go to a minority because of a racial quota.'"¹⁷

¹² Kevin Johnson provides a Faustian twist to Malavet's intellectual transformation, describing it as an "'accidental' descent into LatCrit theory." Kevin R. Johnson, *Foreword — Celebrating LatCrit Theory: What Do We Do When the Music Stops?* 33 U.C. DAVIS L. REV. 775 n.136 (2000) (emphasis added). We reserve comment on where LatCrit is properly located in jurisprudential cosmology.

¹³ See Malavet, *supra* note 3, at 1298-1303 (responding to critiques by Tushnet, Posner, and Farber and Sherry).

¹⁴ See Robert S. Chang, *Toward an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space*, 81 CAL. L. REV. 1241, 1268-86 (1993). Other persuasive accounts include Kathryn Abrams, *Hearing the Call of Stories*, 79 CAL. L. REV. 971 (1991), and Jane B. Baron, *Resistance to Stories*, 67 S. CAL. L. REV. 255 (1994).

¹⁵ Malavet, *supra* note 3, at 1302.

¹⁶ See Richard Delgado, *Rodrigo's Eleventh Chronicle: Empathy and False Empathy*, 84 CAL. L. REV. 61, 66-69 (1996) (discussing cognitive and narrative theory barriers that prevent dominant groups from empathizing with outsider groups).

¹⁷ Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707, 1767 n.261 (1993) (citing ANDREW HACKER, TWO NATIONS: BLACK AND WHITE, SEPARATE, HOSTILE, UNEQUAL 202 (1992)). Another example, although only partially successful, is the reverse discrimination story often told by Tom Wood, one of the named authors of California Proposition 209, which ended affirmative action in public education, government contracting, and public employment. When *Dateline* investigated his account, they found that of the five possible philosophy teaching jobs he might have applied for in the Bay Area, four of the jobs went to white men. The fifth went to a woman who was by all accounts better qualified than Wood, who in the first 15 years following his Ph.D. degree had published nothing and who in the

This story is both normative and essentialist. It pushes the norm of an unexamined colorblind meritocracy; it is essentialist in the way that it reinforces stereotypes about un(der)qualified minorities. It is a powerful story that helped Jesse Helms win the election.

If storytelling is understood as a neutral technique, how should it be employed in LatCrit discourse? While LatCrit storytelling should be careful to avoid the pitfalls of essentialism,¹⁸ we understand the best LatCrit stories to be differently normative from those that maintain oppressive structures. These 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. Professor Malavet makes precisely this point when he says that “[s]torytelling can be used to fill historical gaps,” and “[s]torytelling, particularly by outsiders, provides a balanced historical view, ensuring that the particular stories about minority communities are not suppressed.”¹⁹ But if LatCrit scholars are to deploy stories as a LatCrit praxis methodology, the goal of storytelling must go beyond descriptive “accuracy”; the “is” must be connected to an explicit or implicit “ought.” We will describe this as the narrative responsibility of a LatCrit storyteller.²⁰

LatCrit storytellers already fulfill this responsibility. For example, stories about the Bracero Program that brought Mexican workers into the United States and their wholesale deportation through Operation “Wetback”²¹ operate far beyond the descriptive realm to provide some normative “oughts”: (1) we ought not to have treated Mexican immigrants and American citizens of Mexican ancestry in this manner; (2) we ought to remember this history when we consider the current treatment of agricultural workers who are subject to terrible abuses whether or not they are documented; (3) we ought not to have allowed the Immigration and

20 years after his degree had held only two one-year university positions. See *Dateline NBC*, (NBC television broadcast, Jan. 23, 1996) (transcript on file with author).

¹⁸ See generally Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990).

¹⁹ Malavet, *supra* note 3, at 1303.

²⁰ This is not meant to downplay the importance of personal narrative. Placing an emphasis on the “ought” helps to strengthen the narrative’s relevance and impact.

²¹ See, e.g., Gilbert P. Carrasco, *Latinos in the United States: Invitation and Exile, in IMMIGRANTS OUT! THE NEW NATIVISM AND THE ANTI-IMMIGRANT IMPULSE IN THE UNITED STATES* 190 (Juan F. Perea ed., 1997); Michael A. Olivas, *My Grandfather’s Stories and Immigration Law: The Slave Traders’ Chronical as Racial History*, 34 ST. LOUIS U. L.J. 425 (1990).

Naturalization Service to defy court orders so that by the 1990s, hundreds of alien children fleeing the violence in Central America were held in squalid refugee camps in Arizona, California, and Texas with little access to healthcare, formal education, or legal services;²² we ought to reconsider the way Latinas/os are essentialized as perpetually foreign which creates easy targets for nativism during times of cultural or military or economic uncertainty.²³ The list of normative propositions can go on and on. One of the tasks for LatCrit is to challenge settled, exclusionary norms through "counterstories"²⁴ in order to create more inclusive justice norms.

This is in fact how Professor Malavet employs narrative in his article. We read the story of his intellectual transformation as an allegorical tale. Malavet spent his formative years in Puerto Rico where he occupied a relatively privileged position based on his class and racial features. He was seduced by the liberal myth of meritocracy to believe that equality of opportunity existed such that one was limited only by one's reach and efforts.²⁵ Paradise is lost, though, when he moves to the States and learns that he is a person of color, an appellation he resists at first because:

"[P]ersonas de color," the literal Spanish translation . . . was a very offensive reference to blackness and to *mulatez* (mulatto-ness) that was used in my community on the *isla*. What I had not learned until recently, is that when a White American looks at me, he or she sees a *persona de color* [H]ow will I break it to *mamita* (mommy) that I am colored?²⁶

This realization of his newfound place in the racial economy of the United States mainland spurs his disenchantment with the liberal myth of meritocracy and his eventual engagement with LatCrit.

In addition to telling a personal odyssey, this story can elicit empathy from those able to relate to his experiences,²⁷ and may create

²² See Michael A. Olivas, *Unaccompanied Refugee Children: Detention, Due Process, and Disgrace*, 2 STAN. L. & POL'Y REV. 159 (1990).

²³ See Kevin R. Johnson, *Racial Hierarchy, Asian Americans and Latinos as "Foreigners," and Social Change: Is Law the Way to Go?*, 76 OR. L. REV. 347, 354 (1997).

²⁴ Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2414 (1989) ("[S]tories build consensus, a common culture of shared understandings, and deeper, more vital ethics. Counterstories, which challenge the received wisdom, do that as well.").

²⁵ See Malavet, *supra* note 3, at 1325.

²⁶ *Id.* at 1327.

²⁷ See Lynne N. Henderson, *Legality and Empathy*, 85 MICH. L. REV. 1574 (1987).

connections with other communities.²⁸ Professor Malavet's story echoes the story of racial realization told by James Weldon Johnson in *The Autobiography of an Ex-Coloured Man*.²⁹ Weldon is very light-skinned and did not learn of his "real" race until the second term of school. The principal of his school walked into his classroom:

"I wish all of the white scholars to stand for a moment." I rose with the others. The teacher looked at me and, calling my name, said: "You sit down for the present, and rise with the others." I did not quite understand her, and questioned: "Ma'm?" She repeated, with a softer tone in her voice: "You sit down now, and rise with the others." I sat down dazed. I saw and heard nothing. When the others were asked to rise, I did not know it. . . .

. . . [After school, he runs home to his room and his looking-glass.] For an instant I was afraid to look, but when I did, I looked long and earnestly. . . . How long I stood there gazing at my image I do not know. When I came out and reached the head of the stairs, I heard the lady who had been with my mother going out. I ran downstairs and rushed to where my mother was sitting I buried my head in her lap and blurted out: "Mother, mother, tell me, am I a nigger?"³⁰

Malavet's and Johnson's stories, side by side, tell a similar story about the racial economy of the United States and challenge the norm of ahistorical colorblindness as the solution to this country's race problem. Narrative can be very powerful.

CASE STUDY 2

JAMAICAN MUSIC AS A PARTICULAR SITE OF ANTISUBORDINATIONIST PRACTICE

In *Half the Story Has Never Been Told*, Nicholas Gunia attempts to tell the untold half, a gap left because of the way reggae music "has been devalued and underrepresented by scholars that privilege the knowledge and views of the establishment over those of the

²⁸ See Berta E. Hernández-Truyol, *Building Bridges — Latinas and Latinos at the Crossroads: Realities, Rhetoric and Replacement*, 25 COLUM. HUM. RTS. L. REV. 369 (1994).

²⁹ See JAMES WELDON JOHNSON, *THE AUTOBIOGRAPHY OF AN EX-COLOURED MAN* 13-19 (1989).

³⁰ *Id.* at 16-17.

masses."³¹ In doing so, he is engaging in the kind of storytelling encouraged by Professor Malavet.³²

Through his examination of Jamaican music, Gunia reminds us that social change is not always accomplished by the efforts of progressive lawyers or legal scholars. While not saying that we should now go out and produce music or express ourselves in other art forms, he shows us what the music can teach us if only we "listen." As repositories of cultural memory, music can provide glimpses of history, emotions, and lives that cannot otherwise be accessed. Further, productive alliances may be made with those artists who are engaging in antistatist practices. Each has much to gain.

While Gunia's article teaches about Jamaican race and class politics, and shows how reggae music has served as a powerful antistatist practice in Jamaica,³³ its lessons for LatCrit are less obvious. We might take Gunia's presentation as an invitation to explore the different ways that music has operated in different contexts and communities.³⁴ Or, more crudely, we might ask where Jamaicans map in our racial cosmology and in LatCrit discourse.

Gunia tells us that "roughly eighty percent of all Jamaicans are black, while an additional fifteen percent are mixed, or brown Jamaicans, and also of African descent. The remaining five percent of the population is comprised of Europeans, Chinese, East Indians and Arabs."³⁵ Later, he tells us that "many Jamaicans, who identify themselves as white, emigrate to the United States only to find out that they are black."³⁶ Presumably, persons who identify as black in Jamaica continue to do so upon emigration to the United States, but perhaps not as Black American or African American. Consider the identity formation known as "West Indian Black."³⁷ Gunia's

³¹ Gunia, *supra* note 4, at 1334.

³² See Malavet, *supra* note 3, at 1298-1303.

³³ See Johnson, *supra* note 12, at 775-76.

³⁴ This is not to question the inclusion of Gunia's presentation at the conference or in this symposium. One of the great things about LatCrit has been its inclusiveness and its willingness to explore uncharted territory such as the possible connections between Filipinas/os and Latinas/os. This is indeed the way Pedro Malavet approaches Gunia's presentation. See Malavet, *supra* note 3, at 1308-10.

³⁵ Gunia, *supra* note 4, at 1334.

³⁶ *Id.* Perhaps they undergo the same kind of racial dislocation described above. See *supra* notes 25-30 and accompanying text.

³⁷ Cf. Tanya K. Hernández, *The Construction of Race and Class Buffers in the Structure of Immigration Controls and Laws*, 76 OR. L. REV. 731, 764 n.93 (1997) (noting "the occasional

article implicitly raises the question about the impact that immigration from the Caribbean will have on the racial taxonomy/logic of the United States. As one commentator, Dennis Conway, observed:

[N]ew immigration from such non-traditional source regions as Africa, the Caribbean, and South Asia is bringing multicultural plurality to the Black- or African-American community. Not only is Latin American and Caribbean immigration contributing to Hispanic-American diversity, but also to an emerging pan-American heterogeneity. Accordingly, conventional, ascriptive distinctions of U.S. racial and ethnic minorities into "black" and "hispanic" are likely to face challenge, or at least undergo reconceptualization under the dawning (political) reality of non-white, cultural heterogeneity and diversity.³⁸

It seems obvious that language, colonialism and postcoloniality, religion, and culture will play important roles in this reconceptualization of nonwhite identities. Gunia's work reminds us of the importance of culture if we are to understand who "we" are and who "we" will become. The way we experience culture and the way we participate in the production of culture strongly informs who we are. Gunia discussed music as a form of antsubordinationist practice. An avenue of further inquiry is the way antsubordinationist practices, like music, construct individual and group identities.³⁹ Antsubordinationist practices may help to produce political (as opposed to essential) identities. Understanding how this operates may help with the difficult work of building and maintaining coalitions.

middle-tier treatment of West Indian Blacks in the African American community"). What of Jamaicans (of any hue) whose intergenerational emigration pathway to the United States might have included extended stays in Caribbean countries or Central America?

³⁸ See Dennis Conway, *Are There New Complexities in Global Migration Systems of Consequence for the United States "Nation-State"?*, 2 IND. J. GLOBAL LEGAL STUD. 31, 33 (1994).

³⁹ Lessons may be learned from the examination of white minstrelsy in the construction of white identities. See generally ERIC LOTT, *LOVE & THEFT: BLACKFACE MINSTRELSY AND THE AMERICAN WORKING CLASS* (1995).

CASE STUDY 3

USING NARRATIVE TO TEACH STUDENTS HOW TO SERVE
SUBORDINATED COMMUNITIES

Professor Mirandé sets out “to illustrate how narratives and storytelling can be used in teaching . . . as a pedagogical tool for preparing students to work with subordinated groups.”⁴⁰ While the actual case study he reports on is from an undergraduate course,⁴¹ it is also potentially relevant for clinical law teaching and for civil rights litigation courses. Mirandé required the students in his class to produce field reports of their experiences working with certain groups.⁴² In many ways, Mirandé modeled his class after his own experience as a student in Stanford Law School’s Lawyering for Social Change Program.⁴³ One important difference is that in the class he taught, Mirandé began writing field reports of his own, reflecting on the class and the issues raised in it.⁴⁴ He wrote these field reports to a fictional character, Fermina Gabriel, but his students were the intended audience.

This raises an audience question. Written originally for his students, Mirandé’s field reports contain lessons that he felt unable to convey in the conventional classroom setting. But what does he hope to convey to a law review audience by reproducing them here, especially when he himself admits in his introduction that the field reports “may appear on the surface to be anecdotal, unfocused, and lacking obvious transitions from one section to the next”?⁴⁵ Is this a guidebook or model for teachers? If his article is meant to be a guidebook or model, some more explicit instructions would have been helpful. If meant for students, are they supposed to model their field reports after his? It would have been interesting to see, or at least have descriptions of, what the student field reports were like and how, through their exposure to Mirandé’s field reports, they learned to work with subordinated

⁴⁰ Mirandé, *supra* note 5, at 1348.

⁴¹ *See id.* at 1352.

⁴² The students received field placements in four groups, “the homeless, day laborers, at-risk youth of color, and an after school tutoring program for low income, mostly Latina/o children at the *Centro de Aztlán*.” *Id.* at 1352.

⁴³ *See id.* at 1351.

⁴⁴ Apparently, the impetus to write his own field reports grew out of his frustration over not having “an outlet for venting or expressing [his] response to issues that were emerging in the class.” *Id.* at 1348.

⁴⁵ *Id.* at 1354.

communities. Without more explicit instructions, we were uncertain what teachers, students, judges, and/or lawyers were to make of the often deeply personal material contained in the field reports.

This raises the question of narrative responsibility that we raised earlier.⁴⁶ Is there a strong connection between the “is” and an implied or explicit “ought.” In his concluding thoughts to his last field report, Mirandé discusses the common themes and issues that emerged as the class progressed, along with the implications for progressive lawyering and advocacy:

- (1) how one relates to the “Other”;
- (2) bereavement;
- (3) centrality of family and biography in shaping our conceptions of law and subordination;
- (4) “voice,” representation, and authenticity as it relates to advocacy on behalf of subordinated groups; and
- (5) internal diversity within subordinated groups

Themes (1), (4), and (5) contain important lessons for progressive lawyering. Many of these themes can be found in his strongest field report, the one that provides his title. It is a funny, allegorical tale that warns of the pitfalls of objectifying and commodifying those “unfortunates” whom progressive lawyers serve.

Although Mirandé exhaustively discussed themes (2) and (3) in his field reports, we were uncertain how they related to his class or to progressive lawyering, unless they contribute to themes (1), (4), and (5). Mirandé had his students read Renato Rosaldo’s account of Ilongot headhunting.⁴⁷ Rosaldo was unable to relate to the practice until, fourteen years later, he experienced the grief/rage

⁴⁶ See *supra* note 20 and accompanying text.

⁴⁷ Rosaldo began his book with the following account of Ilongot headhunting:

If you ask an older Ilongot man of northern Luzon, Philippines, why he cuts off human heads, his answer is brief, and one on which no anthropologist can readily elaborate: He says that rage, born of grief, impels him to kill his fellow human beings. He claims that he needs a place “to carry his anger.” The act of severing and tossing away the victim’s head enables him, he says, to vent and, he hopes, throw away the anger of his bereavement.

RENATO ROSALDO, *CULTURE & TRUTH: THE REMAKING OF SOCIAL ANALYSIS* 1 (1993).

brought on by the death of his wife.⁴⁸ Mirandé writes that he “relates to [Rosaldo’s] piece in a very personal, visceral way.”⁴⁹ We were not sure how his ability to relate to Rosaldo’s experience translated into better classroom practice or progressive lawyering methodology, unless by talking about his bereavement he was inviting his students to explore their own grief in the student reports.⁵⁰ Personal narrative may free the narrator from the false voice of objectivity, but without further elaboration, personal narrative may collapse into self-absorption.⁵¹ This highlights one of the pitfalls of using personal narrative and the care required to use it effectively.⁵²

There is one point that requires further comment. Professor Kevin Johnson in his *Foreword* notes that Mirandé may be interpreted as lacking gender sensitivity in his depiction of Fermina, who, among other things, “looks great in her black *Charra* outfit.”⁵³ To be fair to Mirandé, this description comes at the end of a long paragraph spinning out an extraordinary fictional life:

Fermina was born in the barrio of South Colton. Her father was an orange picker and later worked at the cement plant in Colton. After graduating second in her class at Colton High School she attended Valley Community College for two years and then went on a scholarship to the University of California at Santa Cruz. After working for the farm workers in Delano she entered the joint J.D. and Ph.D. Program in sociology at Stanford. After graduating from Stanford she worked for the Milagro Immigration Clinic in Watsonville. She teaches part time at U.C. Santa Cruz in the History of Consciousness Program. Oddly enough, her real passion is literature. She just published her first novel and is working on a collection of poems and short stories. On the week-

⁴⁸ Rosaldo was making an important point about anthropological method through the “use of personal experience serves as a vehicle for making the quality and intensity of the rage in Ilongot grief more readily accessible to readers than certain more detached modes of composition.” *Id.* at 11.

⁴⁹ Mirandé, *supra* note 5, at 1358.

⁵⁰ Mirandé did not report whether students engaged with his field reports in this way.

⁵¹ Rosaldo himself cautions, “If classic ethnography’s vice was the slippage from the ideal of detachment to actual indifference, that of present-day reflexivity is the tendency for the self-absorbed Self to lose sight altogether of the culturally different Other.” ROSALDO, *supra* note 47, at 7.

⁵² As for theme (3), Mirandé says that “[m]y conceptions of equality, subordination, and social justice were shaped at an early age.” Mirandé, *supra* note 5, at 1370. We were not sure what lessons teachers or students could draw from his many family narratives.

⁵³ Johnson, *supra* note 12, at 776 (citation omitted).

ends, Fermina participates in a *folklorico* group and she occasionally sings at *El Sombrero* Restaurant in Watsonville. . . .

Fermina loves to ride horses and is a charter member of the *Lienso Charro del Nortel*, and was on the Olympic Equestrian Team in Atlanta.⁵⁴

And, she looks great in her black *Charra* outfit. She really is a "Super Chicana."⁵⁵ But what does this description do for his narrative? After all, the field reports are about the author, not her. She has no voice, no real presence in the field reports. As only a foil, despite her extraordinary life, she cannot be said to serve meaningfully as a role model for his male or female students.

The description of Fermina leads us to wonder about some of his other narrative choices. In the text, he talks about how his brothers and he "were forced to grow up very rapidly."⁵⁶ The supporting footnote states: "I recall for example, that I started 'dating' at age eight, and that I would actually go to the movies by myself with a girl at this age. It seems pretty amazing as I look back on it."⁵⁷ Growing up is equated with having, or at least emulating, mature heteronormative relations. And now, he has a Super Chicana as his epistolary companion. Mirandé's narrative choices reflect problematic constructions of Chicana/o femininity and masculinity.

The need for (more than) gender sensitivity when critiquing racism and other forms of subordination is highlighted in Bernice Zamora's poem, *Notes from a Chicana "Coed"*:

To cry that the *gabacho* [derogatory term for Anglos]
is our oppressor is to shout
in abstraction, *carnal*. [brother]
He no more oppresses us
than you do now as you tell me
"It's the gringo who oppresses you, Babe."
. . .
you're quick to shout,
"Don't give me that
Women's Lib trip, *mujer*, [woman]"

⁵⁴ Mirandé, *supra* note 5, at 1355 n.10.

⁵⁵ *See id.*

⁵⁶ *Id.* at 1350.

⁵⁷ *Id.* at 1350 n.5.

that only divides us,
and we have to work
together for the *movimiento*; [movement]
the *gabacho* is oppressing us!"⁵⁸

This poem highlights the untenable position women of color often find themselves in when they are asked to subsume their gender for the sake of racial solidarity.⁵⁹ It teaches us about the importance of self-reflection and self-critique to protect against inadvertent reenactments of the kinds of subordination we claim to be working against.⁶⁰ Mirandé, writing against subordination, must take care not to repeat the sins that he condemns.

CASE STUDY 4

CRITICAL RACE THEORY (REV. ED.)

Professors Sumi Cho and Robert Westley have written a provocative article that seeks to revise CRT to bring about their vision of its political potential. The first revision involves the history and development of CRT. The second rejects the primacy of anti-essentialist theory underlying the work of a number of critical race theorists.⁶¹ This article is likely to set off a rich discussion.

In the first part of the article, Professors Cho and Westley set out "to retrieve an obscured history that was central to the development of critical race theory."⁶² Although they disclaim the intent to add to the already-existing genesis stories,⁶³ they are essentially cre-

⁵⁸ Bernice Zamora, *Notes from a Chicana "Coed,"* in MAKING FACE, MAKING SOUL (*HACIENDO CARAS*): CREATIVE AND CRITICAL PERSPECTIVES BY FEMINISTS OF COLOR 131-32 (Gloria Anzaldúa ed., 1990). *Gabacho* is also used sometimes in a derogatory manner to refer to assimilated Mexican Americans.

⁵⁹ For excellent, critical examinations of this situation, see THIS BRIDGE CALLED MY BACK: WRITINGS BY RADICAL WOMEN OF COLOR (Cherríe Moraga & Gloria Anzaldúa eds., 1981).

⁶⁰ The text that we criticize plays only a minor role in Mirandé's overall thesis. In this sense, it is gratuitous, which is perhaps why we find its presence so troubling. It is the narrative responsibility of a LatCrit storyteller to choose carefully the stories one tells, especially if they are going to be used as teaching materials. Uncritical, regressive notions of Chicano masculinity and Chicana femininity have little place in LatCrit.

⁶¹ At the outset, we should reveal that we are among those who believe in the anti-essentialist theory that Professors Cho and Westley criticize. Although we are not the direct or named objects of the critique, the reader may want to consider our position in reading this section.

⁶² Cho & Westley, *supra* note 6, at 1377.

⁶³ *Id.* at 1379-80.

ating another genesis story,⁶⁴ one that emphasizes student activism generally and the Boalt Coalition for a Diversified Faculty (BCDF) specifically.⁶⁵ In doing so, they are writing against the grain of standard accounts that “emphasize the agency of individual scholars”⁶⁶ and “obfuscate ongoing power relations in legal academe by perpetuating the notion of self-correcting institutional reform — i.e., that the struggle over physical space for people of color on law school faculties was primarily a matter of prevailing in the ‘free marketplace of ideas.’”⁶⁷ Cho and Westley reject the liberal undertones of the story of individual agency and self-correcting institutions. They criticize that story as a false narrative of inevitable progress that minimizes the role of power politics in bringing about change.

In telling the submerged history, Professors Cho and Westley seek to remind critical race scholars to not forget the political movements that helped create the space in the legal academy for them to do their work. They also argue that recognition of this history “has significant implications for the mutual obligations between radicals in the academy and political communities.”⁶⁸ These obligations become the centerpiece of the second half of their article.

In the second half of their article, Cho and Westley propose a

⁶⁴ According to one originary myth, critical race theory, although it had historical antecedents, began in the late 1980s as a racial intervention in critical legal studies and as a leftist intervention in liberal race discourse. See Kimberlé Crenshaw, Remarks at Opening Plenary, Conference on Critical Race Theory, Yale Law School (Nov. 14, 1997) (transcript on file with author); see also *Introduction to CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* xiii (Kimberlé Crenshaw et al. eds., 1995). By describing it as an originary myth, we are not disputing the veracity of the account; instead, we do so to acknowledge the mythic quality that stories of origin have, remembering that the original Greek *mythos* meant a true story.

⁶⁵ Cho and Westley were active participants and leaders of BCDF in the late 1980s and early 1990s. Throughout their narrative, they adopt the objective voice. Their refusal to interject themselves in the text can be read as being consistent with their rejection of individual agency stories and their conception of BCDF as a collective. We wonder, though, what is lost and gained by assuming the objective voice in recounting a movement in which the authors actively participated. A more personally situated account might have shed more light on how to do the tough political work of organizing across and between groups. Also, we could learn more directly about how their experiences affected and informed their teaching, scholarship, and activism.

⁶⁶ Cho & Westley, *supra* note 6, at 1378.

⁶⁷ *Id.* at 1380.

⁶⁸ *Id.* at 1378.

mode of synergistic movement theorizing that contains both substantive and methodological commitments. Synergism represents the contestation with power by racially conscious political movements by “doing” race conscious theory whose “scientism” — data, logic, verifiability, etc. grows organically from political context. As outsider intellectuals, our goal and strategy articulation should become an open process, a dialogue, intersubjective and genealogically wed to the resistant discourses and practices that perform the movement.⁶⁹

They applaud first wave CRT scholarship⁷⁰ but are critical of second wave CRT scholarship, much of which they see as not being grounded in political movements or perhaps arising out of other concerns.⁷¹ In particular, they focus on the postmodern turn, where “[s]cholars retooled race variously as a social construction, a dangerous trope, a performance, in contrast to outdated and discredited notions of race as a biological fact of difference among groups.”⁷² This moment in the development of CRT was characterized by the hope that race and gender essentialism would be overturned and that it was anti-essentialist theory that would provide the analytic tools that would unmask incoherent group classifications “as a stratagem of oppressive power.”⁷³ Cho and Westley argue that this critique misunderstood the way anti-essentialist theory could be co-opted by the existing structures of power to delegitimize race or gender or sexuality-based social movements.⁷⁴ Understood in this way, unbounded anti-essentialist theory can be disabling to community organizing,⁷⁵ and “once set in motion, anti-essentialism *unmodified* has no limiting principles to prevent minority groups from being deconstructed until all that remains are disunited and atomized individuals themselves.”⁷⁶ Cho and

⁶⁹ *Id.* at 1410.

⁷⁰ *See id.* at 1412. (“[M]any CRT founders wrote about movements or with movements in mind, attempting to intervene through their writings to produce new understandings of old problems in order to generate better theory.”).

⁷¹ *See id.* at 1423 (“Second wave race crits benefited from the elevated status and newfound theoretical ascendancy of CRT. Accordingly, they faced pressures and rewards when entering the ‘race for theory,’ not necessarily a race that is conducive to the synergistic ethos we described above.”).

⁷² *Id.* at 1414.

⁷³ *Id.* at 1413-14.

⁷⁴ *Id.* at 1414.

⁷⁵ *Id.* at 1417-19.

⁷⁶ *Id.* at 1416.

Westley criticize the second wave's fascination with anti-essentialism as "[t]he ahistorical pursuit of the 'theoretical' [that] represents an abdication of political engagement and the relinquishment of the full promise of antistatist intellectual production."⁷⁷ Anti-essentialist theory is understood here to be antithetical to effective political organizing. If this is right, those within the field of CRT may be working at cross purposes; perhaps CRT needs to reform itself and embrace what Professor Cho describes elsewhere as "essential politics."⁷⁸

This is a fundamental and powerful critique. It challenges the current conventional wisdom within CRT, in which anti-essentialism is the "dominant theory and culture within CRT."⁷⁹ We see this as challenging, or at least questioning, the theoretical and political commitments of some second-wave critical race scholars. Cho and Westley's article is a friendly, possibly controversial, critique by race crit insiders. Our hope is that the conversation started here can be conducted in a constructive manner,⁸⁰ in the same way that Cho and Westley offer their critique. Whether or not one agrees with their revised account of CRT, one should recognize the point they make about the importance of political organizing, that race theorizing and progressive lawyering are only part of the picture if one is to engage in an effective antistatist praxis.

AN INVITATION IN LIEU OF A CONCLUSION

These brief descriptions reveal the richness of the discourse taking place within CRT and LatCrit. We have tried to identify some important themes and preliminary impressions, but we leave to the readers the task of engaging fully with the authors.

⁷⁷ *Id.* at 1410.

⁷⁸ Sumi K. Cho, *Essential Politics*, 2 HARV. LATINO L. REV. 433 (1997).

⁷⁹ Cho & Westley, *supra* note 6, at 1414.

⁸⁰ For two particularly thoughtful engagements with essentialism/anti-essentialism and its implications for personal identity and political work, see john a. powell, *The Multiple Self: Exploring Between and Beyond Modernity and Postmodernity*, 81 MINN. L. REV. 1481 (1997) and Angela P. Harris, *Foreword: The Jurisprudence of Reconstruction*, 82 CAL. L. REV. 741 (1994).