



THE

CRITICAL GLOBAL CLASSROOM

A JOINT PROJECT OF LATCRIT, INC., THE UNIVERSITY OF BALTIMORE SCHOOL OF LAW &
THE INTERAMERICAN UNIVERSITY OF PUERTO RICO SCHOOL OF LAW

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A Unique Study-Abroad Program in Law, Policy and Social Justice Activism

Critical Jurisprudence: An Introduction

Critical Global Classroom 2006

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INTRODUCTION TO CRITICAL JURISPRUDENCE: CGC 2006

TABLE OF CONTENTS AND COURSE SYLLABUS

PRE-CLASS & ADVANCE READINGS:

OVERVIEW & BACKGROUND

These materials, like the Critical Jurisprudence class sessions, are divided into two parts per class day. The materials assigned under “A” will be the basis of class discussion during the first half of the class period for that day, and the materials assigned under “B” will be our focus during the second half of that day’s class period. These overview and introductory materials are designed to provide you with basic background information on contemporary forms of critical jurisprudence, especially of the “outsider” sort (like LatCrit theory) as well as a sense of the “big picture” regarding critical outsider jurisprudence and, in particular, LatCrit theory. As a set, these Pre-Class and Advance Readings are designed to provide a common basis of knowledge for the class as a starting point for the CGC experience. Please read these materials prior to the first day of class and be prepared to discuss them during our first class session.

A: Critical Outsider Jurisprudence, LatCrit Theory and Legal Education

The two selections presented below are designed to introduce you both to the basic jurisprudential landscape from a LatCrit perspective, as well as to provide you with a sense of your professor’s view on this topic. The first selection situates critical outsider jurisprudence alongside “liberal” and “backlash” jurisprudence, while the second selection focuses specifically on LatCrit theory as one particular genre of critical outsider jurisprudence.

- **0A1** Frank Valdes
Culture, “Kulturkampf” and Beyond: The Antidiscrimination Principle Under the Jurisprudence of Backlash, in THE BLACKWELL COMPANION TO LAW AND SOCIETY (Austin Sarat ed. 2003).
- **0A2** Frank Valdes
Legal Reform and Social Justice: An Introduction to LatCrit Theory, Praxis and Community. LATCRIT MONOGRAPH SERIES – 2003.

B: Internationalism in and through LatCrit Theory

The two selections presented below are designed to focus your attention on the importance of internationalism to critical theory in general, and to LatCrit theory specifically. The first selection lays out the basic framework for our understanding of international human rights while the second focuses on the reasons why LatCrit and other critical scholars should endeavor to integrate international human rights norms into domestic U.S. law.

- **0B1** Natsu Saito
Considering “Third Generation” International Human Rights Law in the United States, 28 U. MIAMI INTER-AM. L. REV. 387 (1996-97)
- **0B2** Berta Hernandez-Truyol
Building Bridges: Bringing International Human Rights Home, 9 BERKELEY LA RAZA 69 (1996)

DAY 1:

“LATS” AND LATCRIT THEORY

These materials focus our attention on the role of identity in the development of critical theory, and on the relationship between diverse “Latina/o” identities and LatCrit theory.

1A: Beyond Categories: Intra-Lat Diversities and Inter-Group Difference.

The first selection below considers the relationship of Latina/o communities in the United States to Law, as well as to other communities of color (in particular racial minorities like African-American or Black communities). Building on this discussion, the second selection turns our attention to types or axes of identity relevant to all communities, including culture, gender and sex, while focusing on the salience of these constructs to Latina/o communities and legal or jurisprudential regimes affecting them.

- **1A1** Rachel Moran
Neither Black Nor White, 2 HARV. LATINO L. REV. 61 (1997)
- **1A2** Berta Hernandez-Truyol
Latina Multidimensionality and LatCrit Possibilities: Culture, Gender, and Sex, 53 U. MIAMI L. REV. 811 (1999)

1B: Identities and Coalitions: Beyond the “Sameness- Difference Dilemma”

The first selection below focuses on the role of “difference” in the articulation of LatCrit theory, and of critical outsider jurisprudence. The second selection presents basic propositions regarding “sameness” and “difference” in the development of LatCrit theory as a genre of critical outsider jurisprudence.

- **1B1** Ediberto Roman
Common Ground: Perspectives on Latino-Latina Diversity, 2 HARV. LATINO L. REV. 483 (1997)
- **1B2** Kevin Johnson
Some Thoughts on the Future of Latino Legal Scholarship, 2 HARV. LATINO L. REV. 101 (1997)

DAY 2:

“RACE” AND PARADIGMS OF IDENTITY

These materials focus our attention on “race” and “ethnicity” as areas of key concern among LatCrit scholars, as well as among outsider scholars more generally.

2A: Race, Blackness, and LatCrit Theory

The first selection presents a discussion, presented as a “dialog” between two LatCrit scholars, regarding the role of race in the early development of LatCrit theory, while the second selection presents a strong call to all critical scholars to build collaborative, coalitional projects toward racial justice. The third selection focuses our attention on constructions of race in a “Latin” American society (Cuba) to counter calls for class-based or “color-blind” approaches to racial justice in the United States.

- **2A1** Angela Harris & Leslie Espinoza
Afterword: Embracing the Tar-Baby - LatCrit Theory and the Sticky Mess of Race, 85 CALIF. L. REV. 1585 (1997)
- **2A2** Jerome McCristal Culp, Jr.
Latinos, Blacks, Others, and the New Legal Narrative, 2 HARV. LATINO L. REV. 479 (1997)
- **2A3** Tanya Hernandez
An Exploration of the Efficacy of Class-Based Approaches to Racial Justice: The Cuban Context, 33 U.C. DAVIS L. REV 1135 (2000)

2B: Color, Ethnicity, and LatCrit Theory

The first selection turns our attention to reparations, a current topic of debate among critical theorists in the United States today, to consider the relationship of one Latina/o community to this latest approach to racial justice. The second and third selections expand our focus to consider indigenous identities and communities, and their claims to justice, in relationship to Latinas/os and LatCrit theory.

- **2B1** Pedro Malavet
Reparations Theory and Postcolonial Puerto Rico: Some Preliminary Thoughts, 13 BERKELEY LA RAZA L.J. 387 (2002)
- **2B2** Luz Guerra
LatCrit y La Des-Colonizacion Nuestra: Taking Colon Out, 19 UCLA CHICANO-LATINO L. REV. 351 (1998)
- **2B3** Ofelia Schutte
Indigenous Issues and the Ethics of Dialogue in LatCrit Theory, 54 RUTGERS L. REV. 1021 (2002)

DAY 3:

THE SOUTH-NORTH INTERCONNECTION

These materials are designed to build on the earlier introduction to internationalism in LatCrit theory (see Day 1) and on the earlier consideration of race, color and ethnicity (see Day 2) within LatCritical networks.

3A: Globalization & Beyond: LatCrit Perspectives

The first selection calls on us to consider an ecologically sound environment as a human right within the framework introduced in Day 1 of this course, and the second selection then situates environmental justice against calls for “free trade” that oftentimes are asserted as a counterpoint to environmental considerations of local and global proportions.

- **3A1** Ileana Porras
Reflections on Environmental Rights As Third Generation Solidarity Rights, 28 U. MIAMI INTER-AM L. REV. 413 (1996-97)
- **3A2** Carmen Gonzalez
Beyond Eco-Imperialism: An Environmental Justice Critique of Free Trade, 78 DENV. U. L. REV. 979 (2001)

3B: Class, Economics & Human Rights: LatCrit Perspectives

The first selection lays out a critical approach to “law and economics” in general, which also serves as a response to calls for “class” as a substitute for “race” in the ongoing quest for social justice (See Day 2), while the second selection centers cultural considerations as potential obstructions to the acceptance and enforcement of “collective” human rights.

- **3B1** Charles R.P. Pouncy
Institutional Economics and Critical Race/LatCrit Theory: The Need for a Critical "Raced" Economics, 54 RUTGERS L. REV. 841 (2002)
- **3B2** Claire Moore Dickerson
Culture and Trans-Border Effects: Northern Individualism Meets Third-Generation Human Rights, 54 RUTGERS L. REV. 865 (2002)

DAY 4:

LEGAL EDUCATION AND CRITICAL THEORY

These materials are designed to conclude the course with a critical review of modern legal education, and the invisibility of Latina/o histories, identities, communities and interests in mainstream law and legal education within the United States.

4A: Lats and Legal Education

The first selection critiques the omission of key cases involving Puerto Rico (and other Lat-identified communities within the United States) from mainstream formal legal education and considers the causes and consequences of this formalized ignorance. The second selection critiques how dominant elites abused and violated their own rules of Law to arrogate land from Mexicans after North American conquest of California, and how this abuse is erased in the teaching of law today.

- **4A1** Sanford Levinson
Why the Canon(s) Should Be Expanded To Include the Insular Cases and The Saga of American Expansionism, CONST. COMMENTARY 241, SUMMER 2000
- **4A2** Kim Chambonpin
How the Border Crossed Us: Filling the Gap Between Plume v. Seward and the Dispossession of Mexican Landowners in California After 1848, 52 CLEVE ST. L. REV. 297 (2005)

4B: LatCritical Theory and Critical Legal Education

The first selection summarizes how dominant North American elites established the structures of modern legal education and law practice, including the American Bar Association, specifically to exclude disfavored immigrants, Jews, Blacks and other “outsider” groups within the United States, and how the ramifications of those original motivations and designs continue to breed inequality today. The second selection considers the role of history and collective memory in critical approaches to legal education, and canvasses the current efforts of LatCrit and other scholars to establish opportunities for “critical legal education” within the formal confines of formal legal education.

- **4B1** Daria Roithmayr
Deconstructing the Distinction Between Bias and Merit, 85. CALIF. L. REV. 1449 (1997)
- **4B2** Frank Valdes,
Outsider Jurisprudence, Critical Pedagogy and Social Justice Activism: Marking the Stirrings of Critical Legal Education, 10 ASIAN L.J. 65 (2003).

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SUPPLEMENTAL READINGS

The materials presented in the following pages are completely voluntary readings, provided to you as additional texts that you should consider reading to help supplement the assigned readings presented above, and to amplify your understanding of the issues, concepts and vocabulary developed in LatCrit and related critical networks during the past decade or so.

A: Constructions of Race and Ethnicity in Law, Scholarship and Society

- **SA1** Juan F. Perea
The Black/White Binary Paradigm of Race: The "Normal Science" of American Racial Thought, 85 CALIF. L. REV. 1213 (1997)
- **SA2** Ian F. Haney Lopez
Race, Ethnicity, Erasure, 85 CALIF. L. REV. (1997)

B: Paradigms of Identity and Beyond

- **SB1** Athena Mutua
Shifting Bottoms and Rotating Centers: Reflections on LatCrit III and the Black/White Paradigm, 53 U. MIAMI L. REV. 1177 (1999)
- **SB2** Joe R. Feagin
White Supremacy and Mexican Americans: Rethinking the "Black-White Paradigm", 54 RUTGERS L. REV. 959 (2002)

C: Faith, Spirituality and Religion in LatCrit Theory

- **SC1** Margaret E. Montoya
Toward a LatCrit Conversation Introduction: Religious Rituals And LatCrit Theorizing, 19 UCLA CHICANO-LATINO L. REV. 417 (1998)
- **SC2** Verna C. Sanchez
Looking Upward and Inward: Religion & Critical Theory, 19 UCLA CHICANO-LATINO L. REV. 431 (1998)
- **SC3** Nancy K. Ota
Falling from Grace: A Meditation on LatCrit II, 19 UCLA LATINO-CHICANO L. REV. 431 437 (1998).
- **SC4** Reynaldo Anaya Valencia
On Being an "Out" Catholic: Contextualizing the Role of Religion of LatCrit II, 19 UCLA CHICANO-LATINO L. REV. 449 (1998)
- **SC5** Max J. Castro
The Missing Center? Cuba's Catholic Church, 19 UCLA LATINO-CHICANO L. REV. 493 (1998).
- **SC6** Guadalupe Luna
Piercing Webs Of Power: Identity, Resistance, And Hope In LatCcrit Theory And Praxis: Gold, Souls, and Wandering Clerics: California Missions, Native Californians, and LatCrit Theory, 33 U.C. DAVIS L. REV. 921 (2000)

D: LatCritical Perspectives on Sex, Gender and Sexuality

- **SD1** Ratna Kapur
Post-Colonial Economies of Desire: Legal Representations of the Sexual Subaltern, 78 DENV. U L. REV. 855 (2001)
- **SD2** Josephine Ross
Riddle for our Times: The Continued Refusal to Apply the Miscegenation Analogy to Same-Sex Marriage, 54 RUTGERS L. REV. (2002)
- **SD3** Leti Volpp
Diversity, Commonality, and Identity: American Mestizo: Filipinos and Antimiscegenation Laws in California, 33 U.C. DAVIS L. REV. 795 (2000)

E: A LatCritical Sampler

- **SE1** Frank Valdes
Annual Olmos Lecture – Insisting on Critical Theory on Legal Education: Making Due While Making Waves, 12 BERKELEY LA RAZA L.J. 137 (2001)
- **SE2** Frank Valdes
Race, Ethnicity and Hispanismo in Triangular Perspective: The “Essential Latina/o” and LatCrit Theory, 48 UCLA L. REV. 305 (2000).
- **SE3** Steve Bender & Keith Aoki
Seekin' the Cause: Social Justice Movements and LatCrit Community, 81 OR. L. REV. 595 (2002)
- **SE4** Eric Yamamoto
Conflict and Complicity: Justice Among Communities of Color, 2 HARV. LATINO L. REV. 495. (1997)
- **SE5** Kevin Johnson
Immigration and Latino Identity, 19 UCLA CHICANO-LATINO L. REV. 197 (1998)
- **SE6** Charles Venator Santiago
LatCrit Theory and Latin American Studies: Preliminary Reflections on Latin American Subaltern Perspectives and the Problems of Law, LATCRIT MONOGRAPH SERIES – 2004.
- **SE7** Enrique Carrasco
Who Are We?, 19 UCLA CHICANO-LATINO L. REV. 331 (1998)
- **SE8** Max Castro
Making Pan Latino, Latino Pan-Ethnicity and the Controversial Case of the Cubans, 2 HARV. LATINO L. REV. 179 (1997)
- **SE9** Victor Romero
"Aren't You Latino?": Building Bridges upon Common Misperceptions, 33 U.C. DAVIS L. REV. 837 (2000)
- **SE10** Dorothy Roberts
BlackCrit Theory and the Problem of Essentialism, 53 U. MIAMI L. REV. 855 (1999)

(“LATCRITICAL SAMPLER” CONTINUED)

- **SE11** Robert Chang
Who’s Afraid of Tiger Woods?, 19 UCLA CHICANO-LATINO L. REV. 223 (1998)
- **SE12** Celina Romany
Gender, Race/Ethnicity and Language, 9 BERKELEY LA RAZA L.J. 49 (1996)
- **SE13** Gil Gott
Critical Race Globalism?: Global Political Economy, and the Intersections of Race, Nation, and Class, 33 U.C. DAVIS L. REV. 1503 (2000)
- **SE14** Enrique Carrasco
Intersections Between Latcrit Theory and Law and Development Studies, 28 MIAMI U. MIAMI INTER-AM L. REV. 313 (1996-97)
- **SE15** Jane E. Larson
Class, Economics, and Social Rights, 54 RUTGERS L. REV. 831 (2002)
- **SE16** Eden E. Torres
Power, Politics, and Pleasure: Class Differences and the Law, 54 RUTGERS L. REV. 853 (2002)
- **SE17** Ellen J. Pader
Space of Hate: Ethnicity, Architecture and Housing Discrimination, 54 RUTGERS L. REV. 881 (2002)
- **SE18** Manuel J. Caro
Tying Racism in El Ejido to Spanish and European Politics, 54 RUTGERS L. REV. 893 (2002)
- **SE19** Sylvia Lazos
History, Legal Scholarship, and LatCrit Theory: The Case of Racial Transformations Circa the Spanish American War, 1896-1900, 78 DENV. U. L. REV. 921 (2001)
- **SE20** Anita Tijerina Revilla
LatCrit and CRT in the Field of Education: A Theoretical Dialogue Between Two Colleagues, 78 DENV. U. L. REV. 623 (2001)