

## Conflict and Complicity: Justice Among Communities of Color

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When we look hard at the practical struggles of our racial communities, we see continued white dominance. But we also see the reality of sometimes intense distrust and conflict among communities of color -- coupled with efforts to forge multiracial alliances. When we listen hard, we hear stories of continued resistance by racial communities against mainstream subordination. But we also hear stereotypes and accusations of wrongdoing asserted by communities of color against one another -- coupled with cautious optimism about future relations.

Examining the tense mix of intergroup distrust and hope, and listening hard to the swirling sounds of intergroup accusations and optimism expands the scope of justice inquiry beyond white-on-black and even white-on-color paradigms (although they both remain important) to encompass color-on-color perspective. This means acknowledging continuing white dominance in most facets of American life and its impact on all racial interactions, while nevertheless developing a meaningful way to interrogate and act upon justice claims among nonwhite racial groups. It means understanding, amid changing racial-economic demographics, that a racial group can be simultaneously oppressed in one relationship and complicitous in oppression in another. I suggest that in many instances meaningful understanding of this dynamic and sensitive handling of intergroup justice grievances are a predicate to forging intergroup alliances and building coalitions.

What kind of situations am I talking about? In terms of litigation, the case of *Ho v. San Francisco Unified School District*

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is a good example.<sup>1</sup> Briefly, Chinese Americans are suing to invalidate San Francisco's court-ordered desegregation program for public high schools. The desegregation order was entered ten years ago following a suit by the NAACP charging educational discrimination by whites. The Chinese American plaintiffs are now seeking to expand the current 40 percent enrollment allocation allowed by the desegregation order, arguing that the average test scores of Chinese students are higher than scores for African Americans and Latino students. The plaintiffs claim that the desegregation order violates constitutional equal protection, arguing colorblindness as principal and the educational inferiority of African Americans and Latinos (and to a lesser extent whites and other Asian Americans). The suit is vigorously supported by some Chinese American community organizations, but stridently opposed by others. The suit has also been encouraged both by neo-conservatives and some liberals, but opposed by the NAACP. Given the history of discrimination against Chinese Americans in California, the continued socio-economic subordination of most blacks, and the rising numbers of struggling Latino and Asian immigrants, it is extremely difficult to determine where and with whom justice claims lie. What racialized images, what historical intergroup relations undergird this suit? All of which are unspoken. What practical consequences flow?<sup>2</sup>

Another example is the recent federal court suit by Latino and Asian American groups to invalidate Oakland's affirmative action program in city contracting. The Hispanic Contractor's Association, The Hispanic Chamber of Commerce and The East Bay Chapter of the Organization of Chinese Americans claim unconstitutional favoritism of African Americans. The plaintiffs'

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1 Ho v. San Francisco Unified School District, 965 F. Supp. 1316 (N.D. Cal. 1997).

2 For a more developed discussion of the Ho case, see Eric K. Yamamoto, *Critical Race Praxis: Race Theory and Political Lawyering Practice in Post-Civil Rights America*, 95 MICH. L. REV. 821 (1997).

attorney describes the "present [black and white patronage] system" as "corrupt."<sup>3</sup> A Latino politician charges that "[t]here has not been any attempt by this city to improve the representation of Latinos and Asian and Native Americans in top management and at every level."<sup>4</sup> The NAACP's response is "We can't have the have-nots fight the have-nots."<sup>5</sup> Other African Americans decry the suit as an ill-advised power-play by Latino and Asian American politicians.<sup>6</sup>

In terms of state initiatives, an illustrative example is the passage of California's anti-immigrant proposition 187, which garnered nearly fifty percent support by African-Americans and established Asian Americans, groups who are concerned about Latino and South Asian immigrants displacing current workers and draining government resources. There has also been substantial Asian American support for the anti-affirmative action "California Civil Rights Initiative." What does this support mean?

In terms of economics and culture, an anecdotal example is the statement of a Pilipino American who, in a recent news interview, said that she and other Asian Americans are promoted to and kept at low management positions so that they can do the face-to-face firing of African American and Latino employees, thereby immunizing their employers from Title VII suits; after all, how can one racial minority illegally discriminate against another? A final example is the justice claim of Native Hawaiians to restoration of water diverted for 100 years by white agribusiness, which has decimated Hawaiian agricultural communities. These are claims not only of continued subordination by western capitalism, but also of complicity by nonwhite racial groups who ignore the historical origins of indigenous claims for self-determination and self-development.

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3 Rick DelVicchio, *Unusual Lawsuit Stirs Racial Questions in Oakland*, S.F. CHRON., Aug. 13, 1996, at A15.

4 *Id.*

5 *Id.*

6 *See id.*

These situations, and my descriptions of them, barely scratch the surface. These situations are set within continuing white societal dominance in most spheres of social and economic life. They are nevertheless important on their own terms, particularly as racial-economic demographics change. How do we, as LatCrit participants, theorize about and act practically upon justice claims which are often at the heart of intergroup distrust and conflict? How do we comprehend the notion of racial group complicity in the subordination of other racial groups? Or of situational racial group redeployment of oppressive socio-legal structures? How do we rethink the binary white-on-black civil rights paradigm that undergirds Equal Protection and Title VII law to promote healing and, where appropriate, reconciliation?<sup>7</sup>

The prevailing antidiscrimination law approach to justice, I suggest, provides no answers. First, it ignores questions of praxis, dissociating theory, legal norms and analysis from communities' real world experiences of subordination.<sup>8</sup> Second, the prevailing legal approach overlooks issues of interracial justice. And here what I mean by interracial is *among* groups of color. The Supreme Court as part of its antidiscrimination jurisprudence, has not meaningfully addressed the dynamics of interracial conflicts, nor has it developed any framework for analyzing interracial justice claims.<sup>9</sup> Similarly, until very recently legal scholars have largely ignored this aspect of racial justice. This silence is interesting because it contrasts starkly with the social/political works of journalists, social scientists, ethnic studies scholars, historians, and

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7 See Eric K. Yamamoto, *Rethinking Alliances: Agency, Responsibility and Interracial Justice*, 3 ASIAN PAC. AM. L.J. 33 (1995) (addressing these questions). See also Alexandra Natapoff, *Trouble in Paradise: Equal Protection and the Dilemma of Interminority Group Conflict*, 47 STAN. L. REV. 1059 (1995), and Selena Dong, *"Too Many Asians": The Challenge of Fighting Discrimination Against Americans and Preserving Affirmative Action*, 47 STAN. L. REV. 1027 (1995).

8 See Yamamoto, *supra* note 2.

9 See *id.*

peace scholars, all of which highlight the prevalence of intergroup conflicts and the uniqueness of color-on-color racial dynamics.<sup>10</sup> For example, theologian Cornel West and a ethnic studies scholar Jorge Klor de Alva recently discussed what they called "Our Next Race Question: the Uneasiness Between Blacks and Latinos."<sup>11</sup>

For reasons developed in another recent article, it is unsurprising that a workable legal framework and language for interracial justice has yet to emerge. This void, although understandable, is highly problematic.<sup>12</sup> The frameworks and language are necessary not only to challenge the ideology of the courts' silence, and not only to address interracial justice claims arising from concrete realities, but also to facilitate the formation of politically potent interracial alliances and coalitions. Race scholars Manning Marable and bell hooks locate the only hope for African Americans and other racial groups in the formation of interracial alliances, whether those alliances are to enhance cooperative working and living arrangements or to combat white racism.<sup>13</sup> The problem, however, is that neither Marable nor hooks offers a persuasive view on "how to" forge those alliances, on "how to" maintain coalitions in a distrustful post-civil rights America.

I suggest that theorizing about and acting practically upon concrete frontline interracial justice grievances is one aspect of the "how to." This underscores a need for development of a sophisticated, workable, interracial jurisprudence. I have offered a beginning framework for that jurisprudence in other works. I will suggest here four starting points.

The first, in addition to critically unpacking the Court's current non-recognition approach to interracial justice claims, is to

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10 See *id.* (discussing scholarly inquiry into interminority group conflict).

11 Colloquy, *Our Next Race Question: The Uneasiness Between Blacks and Latinos*, HARPER'S MAG., Apr. 1996, at 55.

12 See Yamamoto, *supra* note 2.

13 See MANNING MARABLE, *BEYOND BLACK AND WHITE: TRANSFORMING AFRICAN AMERICAN POLITICS* (1995), and bell hooks, *KILLING RAGE: ENDING RACISM* (1995).

interrogate nonwhite racial groups' situational redeployment of conceptual claims originally used by whites in "reverse discrimination" suits to invalidate programs benefitting other subordinated groups.<sup>14</sup> The key "challenge facing any movement dismantling . . . a system in which one culture dominates another . . . is to provide for a new order that does not reproduce the social structure of the old."<sup>15</sup> This leads to the second starting point, simultaneity: how groups can be simultaneously oppressed in one relationship in one setting and oppressive in another relationship in another setting.<sup>16</sup> This implicates racial group agency and responsibility not only in addressing resistance to white dominance but also in the construction of interracial group conflicts and the formation of intergroup alliances. This leads to a third point, differential group power: in light of continuing white dominance in most aspects of socio-economic life, how nonwhite groups are differentially racialized and how differing racial images and status impact upon intergroup power relations.<sup>17</sup> Tomas Almaguer has done a wonderful analysis of differential racial positioning among Mexicans, Chinese, Native Americans and African Americans in 19th century California.<sup>18</sup> That work needs to be undertaken now, particularly in the context of the kinds of interracial group justice grievances discussed at the outset.

The final starting point is praxis: closing the disjuncture between progressive race theory and political lawyering practice. An interracial jurisprudence needs to ground its theoretical inquiry in concrete racial realities, i.e., in how racial communities

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14 See Yamamoto, *supra* note 7, at 59-65 (discussing situational redeployment of structures of oppression by nonwhite racial groups).

15 Lisa Lowe, *Heterogeneity, Hybridity, Multiplicity: Marking Asian American Differences*, 1 *DIASPORA* 24, 31 (1991).

16 See Yamamoto, *supra* note 2 (developing concept of simultaneity as part of an interracial praxis).

17 See Yamamoto, *supra* note 7, at 59-65 (discussing differential racialization and disempowerment).

18 TOMAS ALMAGUER, *RACIAL FAULT LINES* (1994).

experience intergroup conflict and perceive and attempt to handle justice grievances. To do this, theorists need to engage in frontline justice struggles and to translate theory emerging from those struggles into operative political language. Political lawyers and community leaders, in turn, need to engage in critical analyses not only of the particulars of immediate controversies, but also of the ideological underpinnings of justice practice, i.e., the interplay of legal norms and procedures with judges, lawyers, bureaucracies, politicians, community organizations and media.<sup>19</sup>

When we look at and listen to racial communities in conflict, when we examine notions of agency and complicity and explore concepts of responsibility and prospects of intergroup healing,<sup>20</sup> we give new meaning to "justice among communities of color." For LatCrit theory, and indeed for race theory generally, interracial justice awaits.

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19 See Yamamoto, *supra* note 2.

20 See HARLON DALTON, RACIAL HEALING (1995).

