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## Afterword: LatCrit@25 and Beyond, Part II—Challenges and/as Opportunities: Centering “Hybridized” Advocacy Projects in Antisubordination Praxis to Connect Campuses and Communities for Material Long-Term Progress

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**Afterword: LatCrit@25 and Beyond, Part II—  
Challenges and/as Opportunities: Centering  
“Hybridized” Advocacy Projects in  
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Progress**

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[H]ow should people who affiliate with LatCrit, and related movements of critical, antisubordinationist, and progressive scholars, teachers, lawyers, law students, and other activists, attempt to move forward? Should we devote our energy to organizing for incremental reform, attempting to work within existing frameworks and power structures? Or is it time to resist the impulse for incrementalistic reform, and instead organize and agitate vigorously for transformative action?<sup>1</sup>

## INTRODUCTION

In their own Afterword to the LatCrit “Primer,” published contemporaneously with the 25th anniversary conference, Sumi Cho and Angela Harris detailed headwinds—what they called “contemporary

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\* Professor of Law and Dean’s Distinguished Scholar, University of Miami. I owe many thanks to my co-authors here, and to the organizers, participants, contributors, and editors who have made this 25th anniversary LatCrit conference and symposium possible, as well as to the generations of work that we strive to honor, develop, and practice. All accomplishments—and errors or shortcomings—are shared.

<sup>1</sup> *Call for Papers: LatCrit 2021 Biennial Conference*, LATCRIT (June 1, 2021), <https://latcrit.org/call-for-papers-latcrit-2021-biennial-conference/> [<https://perma.cc/WAT6-93UN>].

challenges” (and even “contradictions”)<sup>2</sup>—facing transformative projects such as LatCrit. These contemporary challenges, and the turbulences we outlined in Part I of this Afterword,<sup>3</sup> present both headwinds and opportunities as they mix and blur historical entrenchment and systemic flux, both within the academy and throughout society. More complexly than ever, the questions of the moment traverse law and society, campus and community, localities and globality. As Cho and Harris urge, so must our responses.

Similarly, in her Foreword to the same Primer, Margaret Montoya frames our past and future in terms of the present—its big-picture exigencies, as well as some challenges and opportunities for organized academic activism and critical bottom-up coalitions.<sup>4</sup> Montoya’s framing and listing of existential crises, and their stark racial implications, in turn inspired the framing of the 25th anniversary conference Call for Papers around “five cosynthetic, existential, and longstanding epidemics,” with the aim to develop an action-focused LatCritical response to those epidemics as a critical and collaborative movement.<sup>5</sup>

Here, in Part II of this 25th anniversary Afterword, we delve deeper into the pressing social, material, and institutional zeitgeist introduced in Part I, and explored more widely by Montoya, and Cho and Harris, in the LatCrit Primer. We begin by noting why all of us, and many more beyond us, are centering these developments, circumstances, trends, and questions in our

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<sup>2</sup> Sumi Cho & Angela P. Harris, *Afterword: El Espíritu de Resistencia* in FRANCISCO VALDES & STEVEN W. BENDER, *LATCRIT: FROM CRITICAL LEGAL THEORY TO ACADEMIC ACTIVISM* 115, 120 (2021).

<sup>3</sup> See Francisco Valdes, Steven W. Bender, & Jennifer J. Hill, *LatCrit@25 and Beyond, Part I—Organized Academic Activism and the Long Haul: Designing “Hybridized” Advocacy Projects for an Age of Global Disruption, Systemic Injustice, and Bottom Up Progress*, \_\_ DENV. U.L. REV. \_\_ (forthcoming).

<sup>4</sup> Margaret E. Montoya, *The Gran Trecho That is LatCrit*, in VALDES & BENDER, *supra* note 2, at ix.

<sup>5</sup> See *Call for Papers*, *supra* note 1.

work as we—the networks of critical outsider scholars that emerged during the past several decades, including LatCrit—strive to develop social justice analyses and actions that recognize the volatile indications of this historical moment.

## I. CONTEXT: NEOLIBERALIZED IDENTITY CASTES AND SYSTEMS OF KNOWLEDGE PRODUCTION

At the core of this deep collective reflection is the implosive devolution of U.S. universities and law schools wrought by the dictates of neoliberalism. For instance, an educational policy scholar that Cho and Harris cite summarizes these ideological, cultural, and material shifts in power and priorities thusly:

The privatization and commercialization of previously publicly funded institutions extended to higher education, and as a result, these institutions became increasingly reliant on private funds. . . . The role of the faculty and their institutional priorities were altered, with heavy emphasis placed on generating revenue and a lesser role in institutional decision-making. The tenure system, which neoliberals argued is economically irrational and a “bad investment” came under attack. Economic efficiency became a high priority for colleges and universities, which provided the rationale to use an unprecedented amount of part-time and adjunct faculty as well as to attack systems of shared governance. A college education was increasingly seen as a private good to be purchased by a student, who was redefined as a customer. Students, as rational economic actors, changed their goals from what were largely intrinsic, such as developing a meaningful philosophy of life, to larger extrinsic goals including being very well off financially. All of these are direct results of individuals and institutions using neoliberal policies and an economic rationality to make educational decisions, including attempts to

treat and govern the university just like any traditional business, its faculty as traditional workers, and its students as customers.<sup>6</sup>

At the same time as these neoliberal pressures redefine what universities and law school reward in their faculty, student tuition and debt loads have increased, and shifts in the employment market challenge a graduate's ability to become "very well off financially." Law school admissions rose in the 2021–2022 cycle, but U.S. universities and law schools are barreling toward a demographic cliff that may dramatically curb the enrollment that sustains their financial model—at least if these schools continue to focus on the same measures of "merit" that exclude diverse applicants,<sup>7</sup> even those able to pay spiraling tuition. The looming demographic drop exists because of the decline in births during the Great Recession of 2008—the same economic apocalypse that Cho and Harris detail as shocking "the top tiers of the [legal] labor market [which in turn] ricocheted down through the entire structure and, ultimately, disrupted the law schools."<sup>8</sup> Smaller high school graduating classes will reach U.S. universities starting around 2026, reaching law schools later this decade. Harvard Business School Professor Clayton Christensen predicted in 2017 that "50 percent of the 4,000 colleges and universities in the U.S. will be bankrupt in 10 to 15 years."<sup>9</sup>

Demographic change, in combination with neoliberal financialization already underway, may hasten the process already occurring of reconstructing higher education as a profit center for private financial

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<sup>6</sup> Daniel Saunders, *Neoliberal Ideology and Public Higher Education in the United States*, 8 J. CRITICAL EDUC. POL'Y STUD. 41, 54 (2010).

<sup>7</sup> See FRANCISCO VALDES, STEVEN W. BENDER, & JENNIFER J. HILL, CRITICAL JUSTICE: SYSTEMIC ADVOCACY IN LAW AND SOCIETY 721–30 (2021) (exposing the identity-based hierarchies supported by the invention and application of "merit" in admissions).

<sup>8</sup> Cho & Harris, *supra* note 2, at 122.

<sup>9</sup> Abigail Johnson Hess, *Harvard Business School Professor: Half of American Colleges will be Bankrupt in 10 to 15 Years*, CNBC (Aug. 30, 2018), <https://www.cnbc.com/2018/08/30/hbs-prof-says-half-of-us-colleges-will-be-bankrupt-in-10-to-15-years.html> [<https://perma.cc/4CT5-7JFT>].

interests. As The Roosevelt Institute, among others, has reported, Wall Street interests in recent years have spurred “increases in overall borrowing by colleges and universities, increases in the cost of interest payments on debt on a per-student basis, and a concentration of endowment assets at a small group of the wealthiest institutions—a form of concentrated wealth,” a phenomenon extending to law schools, faculty, and students.<sup>10</sup> Increasingly, colleges and universities, both public and private, are competing to attract tuition-paying students as customers, “courting wealthier students with fancy amenities built with borrowed money,” making schools prey to financial vendors selling risky financial deals that “have siphoned billions of dollars out of [] schools’ budgets.”<sup>11</sup> Top-down attacks on faculty governance have emerged and may be expected to intensify when faculty resist these neoliberal pressures, which they have done by drawing, thus far, on activist methods from protest to union organizing.<sup>12</sup> The response to this era’s set of challenges and opportunities will determine if we effectively oppose or further entrench “a system of higher education that works to increase social and economic inequalities.”<sup>13</sup>

The same tension between challenge and opportunity underlies the newest storm cloud for transformative scholarship and social change—the 2021 attacks on the teaching of Critical Race Theory (CRT) in schools. So

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<sup>10</sup> Dominic Russel, Carrie Sloan, & Alan Smith, *The Financialization of Higher Education: What Swaps Cost Our Schools and Students*, THE ROOSEVELT INSTITUTE 4 (June 2016), <https://rooseveltinstitute.org/wp-content/uploads/2016/09/RI-Financialization-of-Higher-Education-201609-1.pdf> [<https://perma.cc/EWC7-5YL7>].

<sup>11</sup> *Id.* at 5.

<sup>12</sup> Faculty have been among those participating in The Great Uprising, forming unions, or winning first contracts that address faculty governance, as well as economic, issues. See Neena Hagen, “*A Long Time Coming*”: *Pitt Faculty Celebrate Union Victory*, THE PITT NEWS (Oct. 22, 2021), <https://pittnews.com/article/168054/opinions/editorial-unionization-is-hard-won-well-deserved-for-faculty/> [<https://perma.cc/A7YJ-GNSA>]; Dillon Mullan, *UNM Faculty Agree to Union Contract*, THE SANTA FE NEW MEXICAN (May 19, 2021), [https://www.santafenewmexican.com/news/education/unm-faculty-agree-to-union-contract/article\\_6a183858-b8f1-11eb-8f3a-fb95261d3598.html](https://www.santafenewmexican.com/news/education/unm-faculty-agree-to-union-contract/article_6a183858-b8f1-11eb-8f3a-fb95261d3598.html) [<https://perma.cc/X23X-M9QF>].

<sup>13</sup> Russel et al., *supra* note 10, at 4.

far, at least fourteen states have passed prohibitions based around a new “Big Lie”<sup>14</sup> of teaching CRT as dangerous, even treasonous ideology, with similar laws proposed in at least ten other states and federally.<sup>15</sup> But as Miami Law Dean Emeritus Anthony Varona remarked in his Jerome McCristal Culp, Jr. Memorial Lecture at the 25th anniversary conference, rather than being (only or mainly) cause for despair, “[t]he attacks on CRT are signs of progress and success.”<sup>16</sup> They come as backlash to the reality that:

some of the fundamental principles of critical race theory have broken into the core of popular culture and have been adopted by much of the zeitgeist as lenses through which to view the world. . .

In a media interview, Kimberlé Crenshaw said of the attacks on CRT: “What this is is backlash politics coming precisely at a moment where finally racial justice has become a majoritarian interest on the part of Americans from all races and all classes.” In other words, the silver lining to the backlash is that it is a sign of progress. So, *felicidades amigos y amigas*.<sup>17</sup>

Similarly, Margaret Montoya, in her Foreword to the LatCrit Primer written before the 2021 CRT backlash, portrayed the crisis of unrelenting police violence and racialized injustice as an opportunity for a societal (if not yet a legal) breakthrough of critical theory insights and ideas:

For those of us who for decades have been studying race, racism, and the uses and abuses of racial power, it is surprising to see the proposed social changes in response to . . . [racialized] police violence [that] has been ignored for so long. Now more people are paying attention, businesses and other institutions are responding. We’ve seen the massive outpouring of support, from both BIPOC

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<sup>14</sup> See VALDES ET AL., *supra* note 7, 46–47 for discussion of the elite strategy of Big Lies.

<sup>15</sup> See *Welcome to the ##TruthBeTold Campaign*, AFRICAN AM. POL’Y FORUM, <https://www.aapf.org/truthbetold> [<https://perma.cc/M2JT-G7HA>].

<sup>16</sup> Unpublished manuscript on file with authors.

<sup>17</sup> *Id.*

and white communities, for the idea underpinning Black Lives Matter as well as for the sporadic implementation of policies to change policing in fundamental ways. We've listened as the dominant news sources use the vocabulary associated with race scholars. Some of us have renewed hope that *this time* the attention to racial injustice will last; that *this time* the reckoning with history and the hard work of dismantling the systemic inequities, the institutional and structural forms of racism, and the everyday microaggressions will be real. There is an immediate need for the race-conscious stories, methods, and values about academic activism that form the core of the LatCrit project . . .<sup>18</sup>

As Montoya's Foreword, and Varona and other LatCrit conference speakers made clear, the systemic interconnections between traditional identity castes, neoliberalism, and the political reaction must be recognized in our actions both within and beyond the academy.

In the Primer, Cho and Harris summarize the impacts of this volatile political economy in the academy on LatCrit's mission: "at best destabiliz[ing] the fundamental contradiction at the heart of LatCrit's mission; at worst, they threaten LatCrit's mission and membership."<sup>19</sup> They explain:

If tenure-track positions become increasingly scarce, scholarship in general becomes devalued in contrast with teaching, and teaching becomes a student-pleasing, winner-take-all market, then it will be hard to interest junior faculty in transgressive scholarship. Instead, new faculty will be tempted to hunker down, conform, and attempt to ride out the storm alone rather than [performing the LatCrit model of] banding together to work for transformation. These pressures may produce a stark bifurcation between faculty hired in precrisis times, who may remain committed to LatCrit's transformative vision, and newer faculty, who see going along to get along as the only viable game in town. In the new political economy of academia, LatCrit may find itself

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<sup>18</sup> Montoya, *supra* note 4, at xviii.

<sup>19</sup> Cho & Harris, *supra* note 2, at 123–24.



at odds with such institutionalized incentives, perhaps even eclipsed by people of color–led organizations whose mission is more explicitly careerist in the face of these pressures.<sup>20</sup>

Cho and Harris next pose the challenge of the moment against this formidable backdrop:

Is it possible for LatCrit to overcome its fundamental contradiction—its commitment to radical projects whose successful execution depended on the financial health and largesse (or excesses) of the very institutions it was trying to transform? In light of the formidable shift in structural conditions, must LatCrit enter “survival mode”—exclusively virtual existence—and/or retreat into individual, albeit worthwhile, scholarly projects? Should LatCrit-affiliated faculty abandon building networks and focus on supporting their critically minded students and their local communities?<sup>21</sup>

This challenge, we think, effectively calls upon existing networks—the same ones built up through these past twenty-five years of critical coalition—to figure out the exigencies of the moment in timely and pragmatic yet systemic terms—and for the long haul. We do not think—and do not believe that Cho and Harris think—that critical academic networks literally should “abandon” our existing infrastructure, much less abandon “building” on them in support of “critically minded students and their local communities.” We think the missing link—or connection—between existing networks and the challenge highlighted by Cho and Harris is the kind of advocacy project—off campus as well as on campus—that we outline here and elaborate more fully in the *Critical Justice* textbook.

As detailed there, advocacy projects often target persistent systemic problems and involve complex actions that entail “issue campaigns” or “community development projects”—each a complex kind of

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<sup>20</sup> *Id.* at 124.

<sup>21</sup> *Id.*

collaboration.<sup>22</sup> In general, issue campaigns contemplate achievement of specific goals within express time frames, whereas community development projects tend to be local institutions or services designed to last indefinitely—or for so long as the service or institution is needed.<sup>23</sup> Either way, advocacy projects expand the goals of problem solving beyond traditional lawyering, which typically centers on ameliorating an individuated injury. In addition to that kind of technical fix, advocacy projects (through complex actions) seek “three-layered goals” that only begin with the traditional or technical fix of amelioration; in addition to that first layer, advocacy projects are designed intentionally (2) to build organized group power for sustainable struggle and (3) to shift group consciousness and societal/mainstream culture around the group or problem.<sup>24</sup> As the *Critical Justice* textbook shows, advocates combine both kinds of complex actions over time in different contexts, or as circumstances or knowledge change, in order to pursue, achieve, and defend three-layered goals.<sup>25</sup> The knowledge and skill set to engage in this praxis is what the textbook proffers to teachers, students, and activists.

In the LatCrit context, then, while some of our group projects during these past twenty-five years have involved issue campaigns, such as the successful praxis intervention to contest Arizona’s anti-ethnic studies law by preparing and filing an amicus brief,<sup>26</sup> perhaps our most common type of undertaking can be characterized as a “portfolio” of community development projects. As our symposia over the years illustrate, and as the *Critical Justice* textbook and the LatCrit Primer most recently detail, LatCrit amounts to an advocacy project in which we run campaigns to establish new initiatives and we leverage existing projects to mount

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<sup>22</sup> See VALDES ET AL., *supra* note 7, at 957–1052.

<sup>23</sup> *Id.* at 961.

<sup>24</sup> *Id.* at 612–20.

<sup>25</sup> *See id.* at 961–62.

<sup>26</sup> See FRANCISCO VALDES & STEVEN W. BENDER, LATCRIT: FROM CRITICAL LEGAL THEORY TO ACADEMIC ACTIVISM 70–71 (2021).

campaigns for specific goals or outcomes. But, as Cho and Harris correctly point out, we often focus chiefly on the (legal) academy itself—and, we believe, for good reason: if not us, who? But the key, forward-leaning takeaway must be this: the programmatic experience and platform we have built collectively since 1995—and the vastly changed local-global circumstances since 2020—now situate us for effective next steps despite the harsh and growing turbulence of these vexed times.

As we elaborate below, we think contextually-focused advocacy projects, animated and controlled by local grassroots and student organizations on campus and off, often supported by national and international networks of collaborators, can provide manageable entry points and recipes for activists anywhere to disrupt the sprawling, dense, systemic problems of this age. These advocacy projects are adapted for the current moment, in which everything local is already wired to everything global, ranging from public health to supply chains to weather patterns and in which every local problem in some way manifests global realities, and every change is an example of the interplay between the local and global in all that we do. Hybridized advocacy projects—those strategically combining or choosing between in-person and virtual organizing, strategizing, and advocacy—focused on systems and their outputs can decrease our material needs and costs while, simultaneously, increasing our capacity to decentralize and democratize as well as to organize and coordinate. Critical hybridity in project design and execution additionally allows us, finally, to become significantly more responsible environmentally.<sup>27</sup>

*Systemic* advocacy projects, combined with the new opportunities of social technologies like Zoom that enable us finally to better overcome time and space in much of our work, position academic activists everywhere to act on Montoya's and Cho's and Harris' insights and bottom lines in practical, principled, meaningful terms that span law and society, or

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<sup>27</sup> See generally Valdes et al., *supra* note 3.

academy and reality, like never before. Advocacy projects that employ hybridity smartly and in context, we posit, can enable us to launch a new era and kind of critical global and local—"glocal"—praxis designed specifically to meet and overcome the entrenchment of colonial-era identity castes as globalized neoliberalism in this age of systemic injustice, global disruption, and unique opportunity. Imagination is the next step.

## II. IMAGINING: THE EVOLUTION OF LATCRIT AS A HYBRIDIZED SYSTEMIC ADVOCACY PROJECT

From its inception, LatCrit has supported multiply diverse scholars from varied disciplines working with students and communities as "our most meaningful expression of praxis"<sup>28</sup>—lawyers, groups, and activists working self-critically and collaboratively to apply critical theory to advance social justice aims. More concretely—and programmatically—LatCrit also has cultivated and nurtured scholars by serving as a "critical pipeline" through which to develop, share, and refine critical antisubordination coalitions. Now, with even greater urgency, LatCrit is challenged to become a more capacious and creative pipeline for generating student-scholar-community advocacy projects to advance social justice aims. Below, we sketch some specific, initial ways in which LatCritters and allied scholars or activists may begin to reimagine and redesign our portfolio of advocacy projects, jointly and severally, as we contemplate the months, years, and decades ahead. The imagined or proposed evolutions we sketch do not "replace" what LatCrit is currently undertaking through our current portfolio of projects—indeed, these sketches can and should be conducted in ways that supplement rather than supplant those established, ongoing, and always-evolving efforts.

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<sup>28</sup> Steven W. Bender & Francisco Valdes, *LatCrit XV Symposium Afterword—At and Beyond Fifteen: Mapping LatCrit Theory, Community, and Praxis*, 14 HARV. LATINO L. REV. 397, 433 (2011).

As laid out in the *Critical Justice* textbook, the process by which anyone can develop an advocacy project often starts with critical reflection on social problems and experiences of interest.<sup>29</sup> This starting point merits emphasis: although we focus our attention on the work of organizing academic activism because of our own situatedness, this work already is taking place all around every campus in the country. Thus, advocacy projects already are making a difference, both off and on campus. To support this baseline, here we frame ideas around on-campus actors (like faculty, staff, and students) connecting more directly and effectively with off-campus actors (like community groups, organizers, or activists) for mutually reinforcing projects and outcomes.

To begin conceiving an advocacy project, then, students (like anyone else) may examine knowledge and insights gained from their own background and relationships; these reflections may take the form of autoethnographies, analytical narratives, or other activities.<sup>30</sup> This initial knowledge is augmented by research and analysis, using both traditional and critical methods and norms, to outline how social identities, groups, interests, and power operate to maintain a particular social problem in a particular context.<sup>31</sup> Advocates may draw on existing relationships and initiate new outreach to ensure knowledge-gathering is bottom-up and informed by those directly affected by diverse social problems. Solutions then can be imagined or projected along all three layers of systemic problem-solving—technical-legal fixes, organized group power-building, and consciousness- and culture-shifting. Problems that directly or indirectly relate to construction of “the rules of the game” are always central<sup>32</sup>—fundamental concerns with who has a voice in decision-making in governance or adjudication of any sort—organizational, institutional,

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<sup>29</sup> See VALDES ET AL., *supra* note 7, at 543–45.

<sup>30</sup> *Id.*

<sup>31</sup> See *id.* at 857–955.

<sup>32</sup> See *id.* at 424–27.

national, international—and who doesn't, as well as who benefits or suffers as a result.

Campus-based collaborations and issues may be the most immediate and “reachable” targets to consider when assisting students to explore their own advocacy projects. Are universities and law schools accountable to the communities in which they are located and, specifically, to grassroots groups representing marginalized communities? What decision-making or advisory bodies and roles exist? What decision-making or advisory bodies and roles might and should exist to increase not simply the representation but the effective power of low-income communities of color and other marginalized groups affected by the institution's actions? Whose interests do trustees represent, how are they selected, and to whom are they accountable? How are alumni/ae/x engaged—and which are sought out or left out of influence? Are faculty or staff represented by unions, faculty senates, or other bodies that have agenda-setting, rulemaking, or negotiating power? Who decides what clinics exist, with what groups they work, or what cases or causes they advance? What is the role of student government and other student organizations? Most significantly, how might collaborative advocacy projects be developed to address exclusions and marginalization—and their consequences in the lives of individuals and communities—in collaboration with the on- and off-campus groups that have been excluded?

Both on- and off-campus consequences of skewed decision-making within universities and law schools also can be the targets of collaborative, critical advocacy projects. As a collaboration with student or local community groups and national partners, an advocacy project “team” might help to research problems, develop three-layered goals, and create and advance action plans to address any number of substantive issues: Who is affected by the financialization of the university and institutional or student debt? Who is affected by or implicated in the university's environmental policies and carbon footprint? How does the naming of buildings (and the

college or academic unit itself) after wealthy donors or historical figures with racist or sexist legacies affect members of marginalized groups who are students, staff, or community members? Do students and staff have access to voter registration and voting sites on campus? What worker justice issues affect faculty, staff, adjuncts, or outsourced service workers?

In this context—and in coming years—LatCrit scholars may have to agitate within their institutions to expose exploitative relationships within and beyond academia, aiming specifically to increase resource-sharing with community or campus partners. This kind of undertaking may mean advocating for stipends to offset the costs to a local organization of sending a representative to campus; creating paid co-teaching roles for community organizers, lawyers, or leaders; contributing to advocacy project costs; or working to shift law school incentives and funding to support collaborative advocacy projects. This kind of undertaking, in other words, brings with it logistical and material needs or wants that hybridity can help to navigate; indeed, used innovatively, hybridity can both reduce material burdens and enhance the benefits of collaboration—benefits that include both increased solidarity and increments of sustainable, enduring progress. To continue over time, therefore, these benefits—and the projects that yield them—must be planned and resourced for the long haul.

Of course, among our most important resources—if not the single most important one—is ourselves, and our positions within institutions, whose various kinds of assets we can leverage as individuals and as organized groups. This capacity to dedicate our time and training, and also to leverage institutional resources, has always been key to LatCrit fortunes. For this and other reasons, we devote time and energy to professional “pipelines” and generational transitions that help to ensure not only that critical knowledge

and courses continue to prosper, but also that we continue to evolve as a critical, diverse, and self-directed community of academic activists.<sup>33</sup>

Thus, expanding LatCrit’s critical pipeline to include the development of student-scholar-community advocacy projects also depends on our ability to protect the academic “spaces” and pedagogical innovations that house and nourish this work. These spaces could include first-year social justice elective courses, advanced seminars, clinics, public interest programs, student organizations, research centers, or other sites where collective scholar-student praxis is possible. LatCrit, as noted above and discussed below, is programmatically committed to assisting scholar-activists in this endeavor.

But LatCrit members who take up this work also may face increased risks. The current era of hegemonic racialized capitalism and resurgent fascist mobilization is not a time in which job security—or, for many, personal safety—is assured. Thus, LatCrit’s welcoming, mutually supportive, and solidaristic nature remains central as representative of core principles and as the basis of a strategy to protect the spaces, people, and projects to which we are committed. LatCritters can learn to assess risks in ways tailored to systemic advocacy projects and can model strategic risk-taking action. LatCrit’s scholar-activists can make sure that students and others understand the risks associated with justice-seeking work—including the possibility of failure or unanticipated consequences, the likelihood of

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<sup>33</sup> This attention to long-term planning and resourcing has been a LatCrit hallmark since 1995, and continues to the present, as reflected in LatCrit symposia afterwords which emphasize generational transitions, long-term continuity, and forward-looking strategic planning to ensure we remain self-critical, diverse, principled, and pragmatic. See, e.g., Francisco Valdes, *Coming Up: New Foundations in LatCrit Theory, Community and Praxis*, 48 CAL. W. L. REV. 505 (2012) (LatCrit XVI afterword); Bender & Valdes, *supra* note 28 (LatCrit XV afterword); Steven Bender & Francisco Valdes, with Shelley Cavalieri, Jasmine Gonzalez Rose, Saru Matambanadzo, Roberto Corrada, Jorge Roig, Tayyab Mahmud, Zsea Bowmani & Anthony E. Varona, *Afterword—What’s Next? Into a Third Decade of LatCrit Theory, Community, and Praxis*, 16 SEATTLE J. SOC. JUST. 823 (2018) (2017 biennial conference afterword).



retaliation, and a potentially paralyzing sense of futility in the face of pain and loss. Simultaneously—and as important—LatCrit can continue to make visible the risks of *not* seeking change—opportunities missed, strategies untried, pain and suffering experienced, and lives cut short—generation after generation.

By generating systemic advocacy projects in student-scholar-community collaborations, LatCrit and its community members can build on commitments made during the last twenty-five years. We can develop students as future lawyers and activists whose work is rooted in a personal, yet collective, praxis. We also can demand from our academic institutions greater investment in and accountability to local Black, Indigenous, Latina/o/x, worker, immigrant, disabled, feminist, and LGBTQ+ communities. We can help our diverse community of activist scholars and students to design advocacy projects that address climate change, discrimination, hunger, violence, mass incarceration, healthcare, and many other vital issues.

Powerful glocal advocacy projects may emerge when students and scholars collaborate with community groups. The most important, albeit sometimes the most difficult, sort of collaboration is with grassroots organizing groups. These are groups that engage, develop, and support the leadership of members from marginalized communities as they confront powerful elites to change decision-making processes and improve material outcomes. Bill Quigley, among many others, notes the importance of working with organizing groups: “Community organizing is *the* essential element of empowering organizational advocacy.”<sup>34</sup>

This bottom line distills the cumulative lessons of critical knowledge and bottom-up praxis to this day. Going forward, this bottom line also marks the point of departure for reconceived, redesigned, and realigned systemic

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<sup>34</sup> William P. Quigley, *Reflections of Community Organizers: Lawyering for Empowerment of Community Organizations*, 21 OHIO N.U. L. REV. 455, 456 (1994).

advocacy projects that are self-critically tailored both to the context and to this moment. It therefore provides the prime directive for the *Critical Justice* textbook and aspiration detailed in the next section.

Make no mistake, advocacy projects with community groups inevitably will engender top-down resistance, delay, distraction, cooptation and worse. Advocates must be ready to address opposition; this advance preparation is integral to the project team's work. Neglecting the certainty of backlash puts both progress and projects in peril. This preparation begins with a keen recognition that reactive opposition comes in many forms and operates in myriad ways. Opposition very often tries to neutralize community leaders, organizers, and lawyers through tactics like capture, tokenism, or cooptation;<sup>35</sup> to seduce them based on personalized interests or ambitions; to threaten them based on vulnerabilities at work or in personal lives; or to undermine their capacity to effectively act as an organization through disinformation and other divisive, disorienting stratagems.<sup>36</sup> Moreover, in

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<sup>35</sup> See VALDES ET AL., *supra* note 7, at 634–46.

<sup>36</sup> See *id.* at 634–46, 701–30. See also Michael Saint, “Locked Out By and Robot:” *Amazon Fresh Accused of Retaliation to Union Drive*, THE GUARDIAN (Mar. 22, 2022), <https://www.theguardian.com/us-news/2022/mar/22/amazon-fresh-retaliation-union-unionization> [<https://perma.cc/H6U8-HPZU>] (detailing retaliation against worker-organizers); Maurizio Guerrero, *Little Has Changed for Immigrants and Advocates Protesting Abusive Detention and Immigration Policies*, PRISM (Dec. 8, 2021), <https://prismreports.org/2021/12/08/little-has-changed-for-immigrants-and-advocates-protesting-abusive-detention-and-immigration-policies/> [<https://perma.cc/W7X8-D2NM>] (outlining continuing surveillance and retaliation against immigrants and advocates who oppose abuses in detention and healthcare settings); Marcia Chatelain, *How Colleges Co-opt Black-Student Protests*, CHRON. OF HIGHER EDU. (Mar. 9, 2020), [https://www.chronicle.com/article/how-colleges-co-opt-black-student-protests/?resetPassword=true&email=jehill%40igc.org&success=true&bc\\_nonce=dzsu6ktn62dlsiqlpaavad&cid=gen\\_sign\\_in](https://www.chronicle.com/article/how-colleges-co-opt-black-student-protests/?resetPassword=true&email=jehill%40igc.org&success=true&bc_nonce=dzsu6ktn62dlsiqlpaavad&cid=gen_sign_in) [<https://perma.cc/93DJ-Z9T8>] (offering examples of retaliation against Black student activists and coercive moves by administrators to limit the impacts of antiracist campus protest); Isabel Tringali & Julia Kirschenbaum, *Texas’s Abortion Bans and Voter Suppression Laws Let Citizens Do “Dirty Work” of Opposing Constitution*, BRENNAN CENTER FOR JUSTICE (Nov. 9, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/texas-abortion-bans-and-voter-suppression-laws-let-citizens-do-dirty> [<https://perma.cc/F3LB-QQCU>] (explaining how citizen-vigilante laws are used to threaten abortion activists and

these times, opposition is likely to intensify as entrenched elites stoke fears of demographic changes that might threaten entrenched identity castes and their maldistribution of social and material goods. These trends and their convergence with other current developments will continue to activate the panics of white nationalism. Inevitably—if not by design—these panics add to the advantage of neoliberal interests, including an increasing top-down capacity to constrain dissent, both with high-tech sophistication and with brute, old-fashioned violence.

LatCrit, in prioritizing systemic advocacy projects that take advantage of hybridity to leverage the impact of our collective work, must assume the responsibility of attending to the organizing and protest rights and realities of partners. This is a responsibility, of course, in discrete advocacy projects, as when leaders are threatened with arrest or deportation, organizers face surveillance or entrapment, or organizations are faced with SLAPP suits or anti-protest restrictions. More broadly, as LatCrit focuses on supporting advocacy projects, we will need to critically and fundamentally reconceptualize—with community partners—notions of “access to justice.” Because effective organizing is needed to advance equality and change material outcomes, opponents always will try to “take out” leaders, organizers, and organizational rights and capacities. Thus, strong organizing and protest rights and individual and organizational protections from

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providers and to harass and intimidate voters and poll workers); Jamie Peck, *Don't Let Corporations Co-opt #MeToo*, THE GUARDIAN (Jan. 11, 2018), <https://www.theguardian.com/commentisfree/2018/jan/11/dont-let-corporations-co-opt-metoo-times-up> [<https://perma.cc/C4PE-L58U>] (describing how large talent agencies, among other corporations, have tried to “buy their way out of” public relations problems or “cash in on” anti-harassment organizing and advocacy with “management-friendly” solutions); see generally Catherine L. Fisk & Diane S. Reddy, *Protection by Law, Repression by Law: Bringing Labor Back into the Study of Law and Social Movements*, 70 EMORY L. J. 63 (2020) (describing legislative and adjudicative efforts to suppress labor organizing rights and bargaining power); Jennifer J. Lee, *Legalizing Undocumented Work*, 42 CARDOZO L. REV. 1893 (2021) (describing retaliation against organizers and activists protesting employer and immigration officials’ crackdowns on undocumented workers).

retaliation become a sine qua non of access to justice programs that aim to advance Critical Justice using systemic advocacy. With this in mind, LatCrit scholars are positioned to advance a more robust conception of access to justice in academic and professional settings and circles.

### III. CRITICAL JUSTICE: SYSTEMIC ADVOCACY PROJECTS FOR MATERIAL LONG-TERM PROGRESS

Here we add a short note to emphasize the utility of the *Critical Justice* textbook in reconceiving, redesigning, and realigning advocacy projects for this historical moment. Called “Critical Justice” to denote a material lived equality for social groups “at the bottom” (in contrast to the unmet promises of formal legal equality since and under *Brown*<sup>37</sup>), this new textbook is, in fact, designed around advocacy projects that connect intentionally the transformation of law and society to each other. It responds organically to the very same core tensions—or “contradictions”—that Cho and Harris center.<sup>38</sup> Moreover, this *Critical Justice* textbook, with the advocacy project model at its core, is itself an advocacy project toward fostering and feeding the critical classroom and training systemic advocates for long haul lawyering toward antistatist ends. This new resource and the follow-up activities already taking place based on it exemplify, reinforce, and expand our LatCrit portfolio, pedagogy, and praxis in fundamental terms that, by design, go way beyond LatCrit as we have known it for the past quarter century.

Early in LatCrit’s history we identified four functions of theory to help guide this emerging group, formation, or community: the production of knowledge, advancing social transformation, a commitment to intersectional theory and praxis, and the cultivation of critical community

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<sup>37</sup> See VALDES ET AL., *supra* note 7, at 81–177 (using the *Brown v. Board of Education*, 347 U.S. 483 (1954) aftermath as a case study on the limits of formal legal equality toward transformative ends).

<sup>38</sup> See generally Cho & Harris, *supra* note 2.

and coalition.<sup>39</sup> And as outlined in consecutive chapters in the newly published LatCrit Primer, the LatCrit project indeed has been conceived and constructed around these interlocking and synergistic functions. Looking back on the last twenty-five plus years, we can see how LatCrit performed the founding functions: (1) contributing theory to critical outsider, or OutCrit, jurisprudence, centering and elaborating Latina/o/x identities designed to promote intra- and intergroup understandings, to emphasize internationalism and transnationality, to cross and connect disciplines, and to situate class identities within interlocking systems of identity castes;<sup>40</sup> (2) building community and antisubordination coalition;<sup>41</sup> (3) undertaking coalitional praxis that combines theory and action toward antisubordination ends;<sup>42</sup> and (4) programmatically exchanging and developing critical pedagogies and innovative teaching strategies that bring theory, praxis, and community-building into the classroom.<sup>43</sup> For us, today's big-picture flux changes nothing about these fundamentals. On the contrary, among the contemporary challenges we face is staying steady while also leaning forward.

Today, the *Critical Justice* textbook refines and deepens our efforts to achieve all these founding and operative functions in all we do—as well as to take our personal and collective work to the next level. The lessons we have learned during the twelve years of producing this resource, including the advocacy project as the key unit of organized bottom-up action, have been worth it. The conflicted overlap with the COVID-19 pandemic and the rise of social technologies like Zoom was coincidental. Combining the two critically is our task.

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<sup>39</sup> VALDES & BENDER, *supra* note 26, at 8–9.

<sup>40</sup> *Id.* at 26–34.

<sup>41</sup> *Id.* at 35–69.

<sup>42</sup> *Id.* at 70–78.

<sup>43</sup> *Id.* at 79–90.

*Critical Justice* draws primarily from the various “Schools” of critical legal knowledge and “Approaches” to lawyering for social justice. It is designed to support instructors and their students in varied locales, courses, and efforts focused on social and economic equality, problem-solving through lawyering, and the legal profession or industry itself—legal “training” through law “schooling.” In addition to presenting the insights of critical theory and bottom-up practice in a digestible format, this textbook also is designed to make those critical insights actionable in diverse problem-solving settings. That is, the book aims to ensure that theory and action inform each other at all times and do so concretely in the flexible yet focused form of advocacy projects geared to specific circumstances and designed for enduring, long-term progress.

Both the development of the *Critical Justice* text and its implementation in classrooms and other venues are aspects of an advocacy project like those the textbook features and that we urge here as a key part of our vision for the next twenty-five years. This project, perhaps more than others in our portfolio, is focused on the dynamic relationship of law and society *today and going forward for the long term*. Aligned in great measure with the urgings from Montoya, Cho and Harris, and many others, the *Critical Justice* book aims to align transformations of the academy itself—and of learning and teaching within it—with ongoing movements and struggles, as well as with big-picture trends, disruptions, and convergences.

Our theory of change via this *Critical Justice* advocacy project and related activities thus is plain: to build, over time, a hybridized resource to increase our collective and individual capacities to design and execute advocacy projects in varied contexts. This approach, we think, can better equip teachers, students, activists, and others—including ourselves, individually and as LatCrit—to work more effectively for, with, and in support of organized communities and social groups to disrupt historical and systemic patterns of collective injustice. Arising out of the functions and experience of the LatCrit project since the mid-1990s, while

simultaneously spanning the varied schools of critical legal thought and the variety of social justice lawyering approaches, this new *Critical Justice* book emerges as central to the future of LatCrit itself as we look ahead at the next twenty-five years and informs the concrete suggestions of this Afterword.

#### IV. CONCLUSION: MOVING TOWARD 2046

In the current moment, as we have noted, the local is wired to the global, and LatCrit is, like others, challenged to strategically use the range of in-person and virtual actions that are necessary to mount advocacy projects aiming to advance Critical Justice. We cannot afford to miss the opportunities presented by critical hybridity when we live in an era of new exigencies generated by the increasing alignment of neofascist and neoliberal interests. By moving with critical alacrity to respond to today's new opportunities and dire pressures, we can expand our reach to a broader scale while staying rooted in the bottom-up knowledge and accountability required for effective systemic advocacy. In effect, we argue here that we should make a conscious shift away from uses of connective and informational technologies that serve only or primarily as tools for *mobilization*. Instead, we should develop ways to use such technologies for *organizing* and *advocacy*—for developing relationships that nourish solidarity and support smart risk-taking and for advancing collective strategies to challenge elite domination of law and society.

*Systemic* advocacy projects, combined with the new opportunities of social technologies like Zoom that enable us finally to better overcome time and space in much of our work, position academic activists everywhere to act on Montoya's and Cho's and Harris' insights and bottom lines in practical, principled, meaningful terms that span law and society, or academy and reality, like never before. To achieve these goals—and to protect the gains of the first twenty-five years—will require us to recommit to collective action and collective organizations as the vital core of any

social change effort. Looking ahead—and acting together—we can focus attention on entrenched systemic problems within the academy. Universities and law schools are not simply sites of knowledge production, critical pedagogy, and social power, but also workplaces. That means that Crit scholars, students, and advocates in the field all have a stake in mounting creative organizing and actions in response to anti-CRT attacks. These attacks are important precisely because they illustrate the interplay of racial capitalism and neoliberalism in this particular systemic context—the academy as legal workplace. Advocacy projects that employ hybridity smartly and in context, we posit, can enable us to launch a new era and kind of critical glocal praxis designed specifically to meet and overcome the entrenchment of colonial-era identity castes as globalized neoliberalism in this age of systemic injustice, global disruption, and unique opportunity. Imagination is the next step.







