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SHAKING OUT THE WELCOME MAT FOR AN ENDURING LATCRIT SOCIAL MOVEMENT

THE INTRODUCTORY COMMENTS OF ELVIA R. ARRIOLA* TO ESSAYS BY

ANGELA KUPENDA, KAMILLE WOLFF, MARC-TIZOC GONZALEZ,
STEPHANIE PHILLIPS, MARTIN SAAVEDRA, SEN. JARRET T. BARRIOS, AND
LINDSAY PÉREZ HUBER

I have come away with some favorites in this cluster of essays, many of which spoke to my heart and not just my head. Not able to attend the 14th annual LatCrit Conference, I am privileged to comment on these essays, which include the writings of young scholars who were at their first ever LatCrit conference. The theme of the conference, *Outsiders on the Inside*, acknowledged the significance of the historic 2008 election of Barack Obama. For those who identify as progressives, Obama's election and the hopes for his success as the first person of color to hold the office of President of the United States seemed like a dream fulfilled. Did it really happen? Had the nation really overcome race in the election? Was this the fulfillment of the rainbow of dreams and hopes of historically marginalized groups of seeing the benefits of the legacy of the civil rights movement, affirmative action, women's and queers' rights, or even cutting edge "critical theory" taking its place alongside mainstream scholarship? Or could we attribute Obama's election only partially to these social movements, but more to the voters being fed up with the past administration's illegitimate corporate sponsored "war on terror," and economic agendas?

The other part of the conference theme was titled "The New American Regime." The phrase is provocative. What makes a change in an administration's regime? Where is the power and who really holds it? Is it

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really a new regime or did Barack Obama just happen to be the lucky person of color who pulled it all together for the multiple flyback interviews (the primaries) and got the job? Is Barack Obama an *insider* now or an *outsider* who will be lucky to hold on to his job? As one who got into the legal academy, certainly on a combination of talents and the right circumstances, I am wary of the notion that we are in fact true insiders once we get into the formerly all white professions and institutions kept from us for so long. President Obama is just like many of us who either are, or have been, part of the talented tiny minority of persons of color at persistently white and male dominated institutions. These are folks who managed to take advantage of the educational opportunities and who succeeded in doing well enough to stand on the welcome mat of the interview room with a good chance for getting hired. But our success in getting into the academy, especially some of us who entered around fifteen or twenty years ago, hardly means we have succeeded in tearing down the walls of oppression. Some of us, especially women of color in the legal academy, have been fortunate just to keep our jobs. That struggle has made it hard to serve as mentors or holders of the key for entry to the next generation of Latinas and/or women of color.

The diversity of topics covered in these essays is a testament to the growth of the RaceCrit and LatCrit scholarship movements that emerged in the Eighties and Nineties as we saw the number of Latina/os, African-Americans, and Asians, and openly LGBTs increase in hiring at law schools.¹ Yet, since those days, we have also witnessed the “post civil rights” movement that began with *Hopwood v. Texas*² in 1996 as well as the abolishment of affirmative action in California³ and the struggle that produced the *Grutter* litigation over admissions policies at the University of Michigan.⁴ We have seen the decline in numbers of persons of color

1. In the late Eighties and early Nineties, Professor Michael Olivas served as a tireless advocate for the increase of Latina/os in the legal academy; he earned the sneers of law schools that were placed on the “dirty dozen list,” i.e., schools identified by the few Latina/os in attendance at a dinner held during the annual AALS meeting as those not having a Latina/o on their faculty, but having a significant presence of Latinas/os in their regional demographics. See generally Michael B. Olivas, *Latinos and the Law: An Essay in Crop Cultivation*, 14 UCLA CHICANO-LATINO L. REV. 117, 117-138 (1994) (recognizing the death of Latina/o representation in the advanced sectors of education and society at large, then arguing for an increase in the number of Latino/a lawyers and a bigger increase in the number of Latina/o law professors).

2. 78 F.3d 932, 962 (5th Cir. 1996) (holding that the University of Texas School of Law violated white applicants’ constitutional right to equal protection by utilizing race in admissions).

3. Proposition 209, 1996 Cal. Legis. Serv. 209 (West) (amending the California State Constitution at CAL. CONST. art. I, § 31) (prohibiting public institutions from discriminating against or giving preferential treatment to any individual based on race, sex, or ethnicity).

4. See, e.g., *Grutter v. Bollinger*, 539 U.S. 306 (2003) (upholding, by a 5-4 decision, University of Michigan School of Law’s affirmative action policies for its

admitted to law school.⁵ We have been in a constant struggle just to hold our place.

Sometimes the debates and struggles over inclusion of the historically marginalized remain as part of the political strife that defines so much of academic politics, but the election of President Obama forced the debate into the broader venues of the mainstream media. What was fascinating about the year in which Obama ran for president was to see that the conversations we have had over the years at critical race and LatCrit conferences about race were brought to the forefront of public discussion, especially when Obama felt the need to explain his relationship with the controversial Reverend Jeremiah Wright.⁶ That event, however, and the worries some people expressed over the possibility that a black man would actually win the presidential election, warned us of what was to come. Since President Obama has taken office, we have seen a kind of unleashing of the sentiments of racial hatred⁷ that were barely suppressed by the rhetoric of “color-blindness” and post-racialism that had fed movements like the effort to get rid of affirmative action.⁸ Obviously, there is much work left to be done for the new insiders from their places of power. I suspect that the conversations held at the 14th annual conference focused not only on the presence of President Barack Obama as an outsider turned insider and on the promises and challenges for his administration’s success, but also on the burden placed on his supporters who are not in the White House to hold the administration accountable and to ensure that he does not remain the only person of color ever to hold the office of President of the United States.

Recognizing the tension between getting and holding an insider’s job, and enjoying one’s accomplishments, while not forgetting one’s roots and responsibilities associated with one’s outsider status, is the focus of Professor Angela Kupenda. In her essay *The Struggling Class: Replacing*

admissions process).

5. See Leigh Kamping-Carder, *Law School Admission for Minorities in Decline: Study* (Jan. 7, 2010), <http://www.law360.com/articles/142100> (explaining that the decreasing number of minorities being admitted to law school may lie in admissions offices’ overemphasis on the standardized Law School Admissions Test when reviewing applicants).

6. See Senator Barack Obama, *A More Perfect Union* (Mar. 18, 2008) (discussing Obama’s relationship with Reverend Wright, his personal racial history, and the history of race relations in America).

7. See Mark Potok, *Rage on the Right: The Year in Hate and Extremism*, INTELLIGENCE REP. (S. Poverty Law Ctr., Montgomery, Ala.), Spring 2010, Issue 137, <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2010/spring/rage-on-the-right> (reporting a huge rise in “patriot” groups and militias in the past year; the Southern Poverty Law Center, which publishes the Intelligence Report, monitors the activities of racist organizations).

8. See *Grutter*, 539 U.S. at 306.

an Insider White Female Middle Class Dream with a Struggling Black Female Reality, Kupenda incorporates one of the classic tools of the critical race scholar—narrative and/or personal storytelling. Kupenda makes an explicit call to action to persons now on the inside, to continue the work of focusing to “help the larger outsider community to progress.”⁹ Her call is to people like herself, middle class persons of color, academics, and legal professionals (“who by trade are at least partially inside the house,”) to have a role in dismantling the walls of exclusion and oppression.¹⁰ This essay is courageous as Kupenda is explicit about the privileges that attend those of us who have made it, those of us who grew up as part of racial/ethnic/economic communities that benefited from the combination of our innate talents and from affirmative action. We have become lawyers and law professors; we are former *outsiders* now on the inside. We make good salaries, have nice houses, and can employ people to help us enjoy the “good life.” And these material experiences, Kupenda says, can become a seduction. The privileges that attend our lives can have the effect of living in a “dreamlike, fantasy-induced view of reality” where we come to believe that our insider seat is solid and secure.¹¹ Even more importantly, the materiality of our comfort can delude us into not realizing how important our place is, how disconnected we have become from our roots, but more strikingly, how the “insider luxuries [] discourage us from dismantling the walls” for those still on the outside.¹²

Kupenda offers a story of profound consciousness and awareness that begins with her own roots as a black girl who grew up during the Jim Crow era in the Deep South. But, she argues, it is a universal story for those persons whom, because of their race, sexual orientation, or gender, come to realize that they too may have dreamed about wanting to be on the inside. And once there, they experience the “great disconnect” between imaginings of what it means to be on the inside and the harsh realities of their situation.¹³ Kupenda takes us into her childhood years in the Deep South, sharing the innocent dream of a little black girl who is bright and inquisitive, and who wants, of course, to grow up to be a “privileged white woman.”¹⁴

Most of Kupenda’s essay is a peeling away of the layers of awareness

9. Angela Kupenda, *The Struggling Class: Replacing an Insider White Female Middle Class Dream with a Struggling Black Female Reality*, 18 AM. U. J. GENDER SOC. POL’Y & L. 725, 728 (2010).

10. *Id.* at 727.

11. *Id.* at 728

12. *Id.*

13. *Id.*

14. *Id.* at 729-30.

with the years of development of a young black girl coming to know and understand that her dreams of wanting to live the life of a middle-class, white female, would always elude her. Not because she was not white, as Kupenda states at one point, but because to understand and accept the reality of a social order premised on white supremacy involves knowing that whiteness of skin color is itself a material privilege. It is the skin color that can open doors and grant unearned privilege, and its most visible consequence in this society is its giving the wearer of white skin the unearned feeling of superiority.¹⁵ I was reminded by Kupenda's essay of the powerful book by Toni Morrison, *The Bluest Eye*¹⁶ and its daring characterization of black-white relations in the pre-*Brown* period¹⁷ that gives readers a painful insight into the culture of southern white supremacy and its effects on a child's mind. Kupenda's essay encourages the partially insider professionals to embrace the constant race/class struggle, to wake up from the dream, and turn the hopes of equality into a reality for all and those to come.

Two essays in this cluster continue a conversation that was begun at the 13th annual LatCrit conference on the meaning of and crisis of the Latina/o public intellectual. Some discussion must have occurred about the simple meaning of the "intellectual." Is he or she a person who speaks from an academic setting to the non-specialists and expounds on some idea through interviews to the media? Or is intellectualism a confluence of thinking, public engagement, scholarship, and political activism? For Latina/os, when does the scholar become activist, and when is the activism the reason for scholarship? The essays by Martin Saavedra and Marc Tizoc-Gonzales have complementary approaches to the questions. Saavedra, in his essay *Engaged Intellectuals: Comments on the Crisis of the Latina/o Public Intellectual*, essentially rejects the idea of the Latina/o trying to weigh in on the "dissonant exercise of media figures."¹⁸ By this he may be referring to the obsession in these days of texting, Tweets, Facebook, and blogs for the instantaneous point of view of some individual, organization, or representative of a social movement. Saavedra discourages us from buying into that definition of a public intellectual. Instead, he argues for a view of

15. *Id.* at 742.

16. See generally TONI MORRISON, *THE BLUEST EYES* (1970) (recounting the tragic story of Pecola, a young black girl in the Depression-era Midwest who dreams of being a white girl with blue eyes).

17. See *Bolling v. Sharpe*, 347 U.S. 497, 497 (1954) (invalidating state enforced racial segregation in public schools in the District of Columbia under the Fifth Amendment Due Process Clause); *Brown v. Bd. of Educ.*, 347 U.S. 483, 486, 493 (1954) (abolishing state enforced racial segregation in public schools in four states under the Fourteenth Amendment Equal Protection Clause).

18. Martin Saavedra, *Engaged Intellectuals: Comments on the Crisis of the Latina/o Public Intellectual*, 18 AM. U. J. GENDER SOC. POL'Y & L. 811, 812 (2010).

the public intellectual as someone who serves in a public sphere that is closer to the grassroots level, “where horizontal collaborations are closer to the communities in need.”¹⁹

In this sense, Saavedra arrives at a similar conclusion argued for by Marc Tizoc-Gonzales in his essay, *Latina/o (Public/Legal) Intellectuals, Social Crises, and Contemporary Social Movements*. If the question is how do we make current Latina/o sociolegal scholars’ work more socially relevant, posing the question in itself may be part of the problem. I have always felt that if our ways of communicating are inaccessible and irrelevant to the struggles in grassroots communities, we simply perpetuate the ivory tower.²⁰ But if we ask, as Tizoc-Gonzalez seemingly does, can we re-define who and what we mean by a public intellectual and find some role models in the past, in actors and agents of significant Latina/o social movements, then yes, we can apply the term “public intellectual” to the work of Latina/o sociolegal scholars.²¹ We know who and what we mean, even if the names of Latina/os do not appear in the standard compilations of Who’s Who of contemporary intellectuals. We have our own history of social movements and in it we find individuals like Cesar Chavez and, Dolores Huerta; people from humble backgrounds who moved nations and the world not only with their activism against injustice, but with their speeches. We find names like the late Gloria Anzaldúa, the institutionally unacknowledged poet and essayist, who set the standard in her book *Borderlands/La Frontera*²² for groundbreaking critical/intersectional frameworks of analysis on the meaning of race, gender, sexuality, and class-based oppression.

Similar to Kupenda, both Saavedra and Tizoc-Gonzalez encourage us to be mindful of the responsibilities we inherit when we earn the privileged

19. *Id.*

20. It is not such an unachievable goal to attempt to have the conversations not only in law reviews, but in places where it will help to educate and aid those engaged in movements for justice. One of the most challenging scholarly projects I ever engaged in involved the production of a paper for an educational website on the subject of jurisdiction of the federal courts to entertain claims by working class people against multinational corporations under the Alien Tort Claims Act. It was not easy to break down the doctrines like “forum non conveniens” into a Q & A format but the task felt like the fulfillment of a commitment to make my research as a feminist Latina relevant to the disempowered communities, i.e., female workers in Mexican border NAFTA factories whose constant struggle for justice I support. See Elvia R. Arriola, *Accountability for Corporate Abuse at the Mexican Border—Administrative Complaints versus Lawsuits, Women on the Border*, http://www.womenontheborder.org/lawsuit_complaint.htm (last visited Oct. 12, 2010).

21. See Marc Tizoc-Gonzalez, *Latina/o (Public/Legal) Intellectuals, Social Crises and, Contemporary Social Movements*, 18 AM. U. J. GENDER SOC. POL’Y & L. 787, 799 (2010).

22. See GLORIA ANZALDÚA, *BORDERLANDS/LA FRONTERA: THE NEW MESTIZA* (1987) (using poetry and lyrical prose about growing up on the border of Texas and Mexico to describe how the two cultures shaped her identity).

posts we hold in academia.²³ If we presume that we are “intellectuals” in some classic sense of someone who speaks from the high post of professionalism and expertise, we endanger our communities and we endanger ourselves. As I write, for example, the attacks on Latina/os coming through legislated fears like Arizona state’s SB 1070, a law viewed by critics as more of a racial profiling law than a legitimate effort at control of the flow of illegal immigration,²⁴ remind us of the constant, pressing reality that LatCrit theorizing is nothing if it is not grounded in critiques of society and culture. These critiques should be as relevant as possible to contemporary struggles against subordination whether found in grassroots activism, lawsuits, or filing court appeals. A perfect contemporary example is the attention currently needed to address the problems of harassment of and persecution directed against Latina/os in the name of “anti-terrorism” policies, which are pretexts for perpetuation of the historic cycles of xenophobic racist opposition to the presence of the non-white undocumented immigrants in this country.²⁵

After fourteen years of annual conferences, pioneering LatCritters are beginning to enter their golden years of seniority in law teaching, and therefore it is vitally important that we continue shaking out the welcome mat for the newcomers so that we ensure the continuity of this movement. This includes a special welcome to those scholars who probably had the feeling, as I did as an out lesbian feminist Latina at my first LatCrit conference in La Jolla in 1996 who asked herself and others, “What am I doing here?” “Do I really belong?”²⁶ From our inception as a scholarship movement, we have committed ourselves to organizing frameworks that promote diversity of identities based, at a minimum, on class, race, language, gender, sexuality, etc. We honor intersectionality and interdisciplinary research, and we ask only that scholars/researchers center the subject of Latina/os but certainly they need not be Latina/os themselves. In fact, that difference itself can be a source of critical inquiry

23. Saavedra, *supra* note 18, at 822-23; Tizoc-Gonzalez, *supra* note 21, at 800.

24. S.B. 1070, 49th Leg., 2d Reg. Sess. (Ariz. 2010) (signed by Governor Jan Brewer April 23, 2010) available at http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/49leg/2r/summary/h.sb1070_04-19-10_astransmittedtogovernor.doc.htm (requiring law enforcement officials to question individuals about their immigration status during everyday encounters, allowing enforcement officials authority to detain and transport suspicious persons).

25. See generally ABRAHAM HOFFMAN, UNWANTED MEXICAN AMERICANS IN THE GREAT DEPRESSION: REPATRIATION PRESSURES 1929-1939 (1974); FOREIGNERS IN THEIR NATIVE LAND: HISTORICAL ROOTS OF THE MEXICAN AMERICANS (David J. Weber ed., 1973) (capturing the depth of anti-Mexican sentiment in the United States from the early seventeenth century to the Great Depression).

26. See Elvia R. Arriola, *Welcoming the Outsider to an Outsider Conference: Law and the Multiplicities of Self*, 2 HARV. LATINO L. REV. 397, 397 (1997) (explaining her fears and excitement of participating in the LatCrit Symposium).

and community building as demonstrated by some essays in this cluster.

The articles by Kamille Wolff and Jarrett T. Barrios are examples of the writings that originate in the LatCrit experience for first or newer attendees who ask, “Do I belong in this community?” In her essay *Out of Many, One People; E Pluribus Unum: An Analysis of Self-Identity in the Context of Race, Ethnicity, and Culture*, Kamille Wolff introduces herself as a Jamaican-American who felt at first like an outsider at the LatCrit conference until she walked into the Junior Faculty Workshop to find a room filled with people of all colors and nationalities.²⁷ She had to rid herself of the internal stereotypes about who Latina/os are that she had absorbed growing up on the East Coast. This led her to the point of her essay, to explore the sources of her biases and stereotypes, and to understand more of her own history as a black woman who grew up in Queens, raised by immigrant parents from Jamaica, who learned that her childhood fears of being associated with the foreignness of her parents and their ties to the Caribbean islands were rooted in the fear of rejection.²⁸ Like many of the stories of LatCritters, the journey into the roots of one’s past can raise consciousness and educate oneself and others. Professor Wolff offers a poignant story of coming of age and embracing her “Jamerican” identity. Attendance at the conference encouraged her to dig deeper into the meaning of that identity, as she discovered connections between the civil rights movement and such famous entertainers of Jamaican/Caribbean descent as Harry Belafonte or Sidney Poitier, or the internationally acclaimed Bob Marley whose Jamaican peacenik reggae music united people around the world. I found this essay thoroughly enjoyable and illuminating. Noting her experiences of growing up in New York City and recalling the divisions between Latina/os and Blacks, Wolff makes a call for the formation of stronger political alliances that she believes would grow with greater understanding of the similar hurts each group suffers from institutional racism.²⁹ This exploration into the personal and cultural histories has Wolff concluding, “I am tied to the fabric of the Latino people through our shared and varied ancestry.”³⁰ Her hope for the improvement of relations lies in this kind of removal of the ignorance and fear of each other, the barriers that were forged in attitudes of racial superiority/inferiority, that we are so capable of internalizing and using to remain divided, thereby perpetuating our own oppression.

27. See Kamille Wolff, *Out of Many, One People; E Pluribus Unum: An Analysis of Self-Identity in the Context of Race, Ethnicity, and Culture*, 18 AM. U. J. GENDER SOC. POL’Y & L. 747, 748 (2010).

28. *Id.* at 752.

29. *Id.* at 750.

30. *Id.* at 785.

Jarret T. Barrios' essay *Outside/Inside* is a delightful, honest narrative by someone who has decidedly made the choice to identify as a Cuban-Latino when by appearances he is "all American white."³¹ He is also an openly gay state legislator who has been politically active on gay marriage in Massachusetts, the first state to fully endorse the decision of its high court to extend civil marriage to gay couples. Like Kamille Wolff's essay, this article incorporates personal narratives that destroy the common stereotype held by liberals that all white Cuban-Americans are anti-Cuba, conservative Republicans, alienated from their roots as Cubans, and likely to identify more with the insider privilege of being white than with their outsider status as Latina/os. Barrios describes his essay as a delayed response to a classmate in law school who questioned his activist support of "those people," the brown and black Cubans who were part of the Mariel boatlift incident during the Clinton Administration, by saying to him essentially, "You're a citizen and you're white."³² At the time he didn't have a quick answer for such statements. Naturally, the LatCrit opportunity took Barrios into a close examination of the instability in the term "Latina/o" so well illustrated by the range of terminology adopted over the generations by the United States Census. Barrios aptly describes at least one of the problems, as a "lack of consonance between color and category," for we know that sometimes Hispanics/Latinos have been categorized as white, when they have been brown, but mainly to distinguish them from those who are black, or have any trace of African blood, etc.³³ The section "Not White" illustrates how our personal histories are often the best source for understanding how one chooses to identify and why.³⁴ In other words, if his former classmate could challenge Barrios by saying, "You are white," when he felt he was not, what was that experience about? What is the experience that supports his preferred identification with the census category Spanish/Hispanic/Latino and his rejection of "White American"?

The stories from Barrios' Abuela who immigrated to the United States in 1920 revealed all as he shares bitter tales of racial discrimination that were never forgotten and were absorbed by her grandchildren, like Barrios himself. Barrios asserts that maybe it is his connection to that loved one and to her stories of discrimination that guided him in his choice as an openly gay man to choose the outsider heritage label. Wearing the outsider label with his white skin forces the society we live in to confront all of the

31. Jarret T. Barrios, *Outside/Inside*, 18 AM. U. J. GENDER SOC. POL'Y & L. 825 (2010).

32. *See id.* at 828.

33. *Id.*

34. *Id.* at 831-33.

stereotypes that are associated with the Latina/o identity, in the same way that the election of a biracial black man as President opened a new chapter in racial relations discourse in America. I found Barrios' essay inspiring mainly because of the note he ends on as he asks, while pointing the finger at President Obama, whether those with outsider status, once on the inside, bear a greater responsibility to act differently than traditional insiders? To this, he says "Yes!" because Barack Obama's power is born of an authentic narrative of an outsider, the same kind of authenticity, he believes, that we can all find in our heritage, however we see it, feel it, or use it to do our work in the world as members of a critical thinking community of scholars, teachers, and activists.

The last of the trio of the "newcomer" papers is interdisciplinary, from the field of education by postdoctoral scholar Lindsay Pérez Huber. Her reflection, *Beautifully Powerful: A LatCrit Reflection on Coming to an Epistemological Consciousness and the Power of Testimonio*, documents her journey as a Chicana feminist and a LatCrit scholar in conducting a study that focuses on how the discourses of racist nativism affected the educational trajectories of undocumented and Chicana women enrolled as college and university students.³⁵ Her dissertation centered on the unique experiences of subordination that occur in the Latina/o community and arise from the intersections of immigration status, language, gender, race, and class.³⁶ The power of this reflective essay is the centering not only of the voices of the research subjects, Chicana students mostly from undocumented immigrant families, but in Huber's centering of her own experience as a researcher wanting to be involved in social justice work for communities of color and the demands on her as an academic to produce scholarship that is theoretical, while relying on epistemic, experiential foundations of knowledge to support the theories. There is a powerful underlying story of consciousness-raising as she tells of beginning the work with her subjects, undocumented Chicanas in the higher education system, around the time of the marches and demonstrations that arose nationwide to oppose the efforts of the Republican-controlled Congress in 2005 to enact H.R. 4437, a harsh anti-immigrant bill.³⁷ In the end she realizes that all of her connections to self, community, Chicana feminist identity, and academia are just as integral to, and intersected with, the race-gendered

35. Lindsay Pérez Huber, *Beautifully Powerful: A LatCrit Reflection on Coming to an Epistemological Consciousness and the Power of Testimonio*, 18 AM. U. J. GENDER SOC. POL'Y & L. 839 (2010).

36. *Id.* at 841.

37. Chicago CBS 2 News, *Protestors Rally Against Illegal Immigration Bill* (Mar. 11, 2006), <http://cbs2chicago.com/topstories/HR.4437.illegal.2.325605.html> (describing the reaction to the harsh, anti-immigrant bill that would have made it a felony to be in the country illegally).

voices of experience she had chosen for her study.³⁸ Her essay is a *testimonio* itself as she introduces the essence of her work, a dissertation on the struggles of Chicanas to overcome prejudice, racist sexism, anti-immigrant hostility, vulnerability, and self-doubt in the course of completing a degree in higher education in spite of their undocumented status.

One of the features of a LatCrit conference that I hope continues to be a source of its strength is the organizing principle of commitment to diversity in identity and frameworks for theory—e.g., queer/fem/race/lat/crit. This does not mean that the commitment to diversity always promises tension-free discussions. Some of us remember well the tense conversations at LatCrit II, which was hosted at a Catholic university's law school. Unforgettable discussions developed around the topics of religion, culture, sexuality, and oppression. For some, that particular conference evoked deep and personal emotional wounds often associated with the power of faith-based belief systems to oppress and exclude even into our adult lives. So, the subject of religion and how it intersects with the questions of culture and society raised at a RaceCrit/LatCrit conference can be a touchy subject to say the least.

The essay by Stephanie Phillips re-introduces the sensitive topic of religion to argue that those involved in progressive movements and political action should re-examine their prejudices about the insights that might be offered from conservative Christianity. Her essay, *Trying a New Way: Barack Obama's Tolerance of Intolerance*, explores the need for liberal progressives to immediately reject all that is said by conservative Christians by looking at Obama's own approach to the intolerant.³⁹ The commitment to tolerance can be challenging, considering the strong reactions to Obama's having three ministers with widely divergent views on the subject of gay rights at his inauguration: Gene Robinson, the openly gay Episcopal bishop; Reverend Rick Warren, the conservative Christian who threw his weight behind Proposition 8, which abolished gay marriage in California;⁴⁰ and Reverend Joseph Lowery, an iconic civil rights minister who supports gay rights. Phillips' essay is not just about reopening any discussion about what it means to be tolerant of the intolerant, but rather

38. See Huber, *supra* note 35, at 850-51.

39. See Stephanie L. Phillips, *Trying a New Way: Barack Obama's Tolerance of Intolerance*, 18 AM. U. J. GENDER SOC. POL'Y & L. 803, 803 (2010).

40. See CAL. CONST. art. I, § 7.5 (stating that "[o]nly marriage between a man and woman is recognized or valid in California" as added by ballot proposition in the November 2008 election); see also *Strauss v. Horton*, 207 P.3d 48 (Cal. 2009) (rejecting a procedural challenge to the referendum initiative); *Perry v. Schwarzenegger*, 704 F. Supp. 2d 921 (N.D. Cal.) (2010) (holding Proposition 8 as unconstitutional under the Equal Protection Clause).

asks as a *theological* matter, what it means to support the commitment to tolerance of the intolerant, as part of a broader agenda to find the things that unite people of faith so that the work of renewing America can be accomplished. This essay may be of greater interest to those persons who in fact have particular religious commitments as part of their identity and who may ask themselves, “How can I make my spiritual set of values more directly relevant to my public/political work?”

I found this essay interesting, if not intriguing, as a Latina lesbian, who considers herself guided by *decidedly* non-Christian spiritual values, largely because I associate so much anti-gay/lesbian activism with people who justify their actions as “guided by faith.” The term “faith” itself can be, to someone like myself, a complete turn-off. On the other hand, the term “spirituality,” is less likely to trigger this judgmental attitude that those who believe in conservative Christianity are all hate-mongering homophobes. I happen to know they are not, from the unconditional love and acceptance my life partner and I receive from some of our deeply Christian and conservative family members. But I also find myself somehow holding their interpretation of tolerance as different and separate from the hate-mongers I tend to associate, maybe unfairly, with most forms of institutional Christianity. However, Phillips is asking us to reconsider whether we should not listen at all to the conservative Christian.⁴¹ Whether, in the example of President Obama, we have an opportunity to broaden our inquiries and goals for positive social action and change by considering the use of religion, theology, and spirituality as starting points for analysis.

Historically we know, of course, that the most important movements for social change have been led by individuals of deep faith, such as Mahatma Gandhi and Dr. Martin Luther King, Jr. Yet persons of deep conservative Christian faith in America are often feared by liberal progressives, and rightly so, given their close association with persecution and oppression. Whether it is abortion, gay marriage, or homosexual “correctional” institutes, usually the strident voice of the “god-fearing Christian” is nearby supporting such examples of extremist belief and activism. This is why Phillips poses the question, upon reminding us that President Obama’s beliefs and values are part of his own agenda, to have “respectful regard for certain features of conservative Christianity.”⁴² In answer to the obvious question that the topic engenders—what does it have to do with critical race/LatCrit theory? Her answer is succinct: we would miss an important dimension of people’s lives, of the possibilities for positive social change, if one could not form coalitions that transcend politics into the place of

41. See Phillips, *supra* note 39, at 806.

42. *Id.*

doing what is right and good because it also satisfies a person's spiritual commitments.⁴³

CONCLUSION

The questions about what it means for us as scholars and law professors to be part of the community that Barack Obama came from (i.e., activist lawyers, law professors), to see ourselves as attendees at the consciousness-raising opportunities we create at a LatCrit conference, as “outsiders who are on the inside” obviously raised for me, as I read these essays, further questions about where we are going and where we will be when his term is over. I have begun to lose hope in President Obama's ability to make a real difference as a Democrat in the White House, given not only the racist rhetoric in the public, which is seemingly more virulent than ever, but also the role played by private corporate power in American democratic politics. As a scholarship movement, we can entertain the idea of being “public intellectuals” all we want, but we need to be finding ways of engaging ourselves more often in the role of rebellious lawyers who may never be asked for an interview by Politico, CNN, The Nation, or MSNBC. The socio-economic realities tell us that too many of the members of our communities of color are very much on the outside; whether it is the overrepresentation of Blacks and Hispanics on death row, the continuing patterns of racially segregated education nationwide, or legislated forms of prejudice as in Arizona's SB 1070, we are ever reminded that our status as persons of color is vulnerable regardless of our citizenship or economic status. And so it is we who sit in the places of privilege and power who must have the courage to raise the voice of dissent, loudly, so that it may be heard.

43. *Id.* at 808.