

# LATCRIT THEORY, CHICANAS/OS AND ANTI-CRITICAL RACE THEORY CRUSADES

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## INTRODUCTION

In the Kulturkampf of the times, state legislators are orchestrating political criticism against critical race theory (“CRT”) and structurally prohibiting its study in educational institutions through legislation.<sup>1</sup> Notwithstanding its detractors, who are unable to define outsider jurisprudence, the prohibition of CRT adversely impacts the students of the present and future. The issues addressed here target legal education and its intersection with the disparate treatment of outsiders otherwise marginalized in strict legal formalism.

Specifically, restrictions on critical race theory would preclude study of the constitutional covenants causally tethered to anti-discrimination rulings.<sup>2</sup> This includes *inter alia* federal constitutional amendments grounded in anti-discrimination

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1. See Guadalupe T. Luna, *Kulturkampf Revelations, Racial Identities and Colonizing Structures*, 35 SETON HALL L. REV. 1191, 1193 (2005) (seeking centralization in which one voice governs to the exclusion of diversity and favors adherence to the status quo); Sarah Schwartz, *Map: Where Critical Race Theory Is Under Attack*, EDUCATION WEEK (June 11, 2021, updated March 23, 2023), <https://www.edweek.org/policy-politics/map-where-critical-race-theory-is-under-attack/2021/06> [<https://perma.cc/P6W7-BRZR>] (summarizing ongoing efforts in 44 states to adopt or consider adopting anti-CRT legislation).

2. Teachers face discharge for daring to teach history. See, e.g., Steven Santana, *First Black High School Principal in Texas Town Ousted Over Allegations He Pushed Critical Race Theory*, CHRON, (Nov. 10, 2021, 4:08 PM), <https://www.chron.com/news/houston-texas/education/article/Grapevine-Colleyville-isd-crt-whitfield-16610580.php> [<https://perma.cc/3RPD-ZFGP>].

law such as Fifteenth Amendment prohibitions against disenfranchisement,<sup>3</sup> the equal protection and due process promises of the Fourteenth Amendment,<sup>4</sup> and the Twenty-Fourth Amendment that struck down poll taxes.<sup>5</sup> Moreover, these restrictions dissuade addressing civil rights statutory texts that promote enfranchisement such as the Voting Rights Act of 1965<sup>6</sup> and judicial rulings such as the “one person, one vote” doctrine.<sup>7</sup> Anti-CRT legislation disallows tracing the nation’s diverse history and its relationship with people of color and hinders examining legal doctrines rooted in white supremacy. It further precludes understanding of how evidence in criminal or civil litigation is disregarded to the disadvantage of people of color. Anti-CRT legislation hinders academic freedom and jeopardizes training future lawyers. Jurisdictions held hostage to anti-CRT legislation ultimately create a reified equation that reverts education to legal formalism that use restrictive and narrow applications of law.

This article addresses whether and how anti-CRT legislation impacts legal education. It underscores that the anti-CRT agenda is not only irreconcilable with definitions and application of justice and equal treatment in law school curricula, but intentionally structures the formal inequality of outsider communities.<sup>8</sup> It rejects anti-CRT legislation and sheds light on its causal linkages to a time when the law marginalized Chicanas/os, forcing battles in education and in the franchise.<sup>9</sup> Absent critical analysis in legal education, the strict legal formalism of the past that promoted educational disparities can emerge with full force. As described in this article, prior to outsider jurisprudence, infrequent scholarship tethered to the realm of legal formalism included the Chicana/o civil rights struggles of the 1960s-1970s. More recently, educators were losing tenure battles for daring to approach law from the bottom up and sought safe harbor with LatCrit.<sup>10</sup> In turn, this exclusion reified case law for generations of students that purposely mischaracterized Chicanas/os blamed for their own marginalization.<sup>11</sup> This article ultimately aims to add to the paucity of Chicana/o

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3. U.S. CONST. amend. XV, § 1 (“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”).

4. U.S. CONST. amend. XIV, § 1.

5. U.S. Const. amend. XXIV. *See also* Nixon v. Herndon, 273 U.S. 536 (1927) (striking down 1923 Democratic “all white party” and 1902 poll tax that suppressed Black and Mexican voters); Harman v. Forssenius, 380 U.S. 528 (1965) (analyzing poll taxes); Harper v. Virginia State Bd. of Elections, 383 U.S. 663 (1966) (ruling poll taxes unconstitutional).

6. *See, e.g.*, Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241 (codified at 42 U.S.C. § 1971 et seq. (2006)) (ending segregation in public places and prohibiting employment discrimination).

7. *See generally* Reynolds v. Sims, 377 U.S. 533 (1964) (ruling that one person’s voting power ought to be roughly equivalent to another person’s voting power within the same state).

8. *See generally* Standards and Rules of Procedure for Approval of Law Schs. § 303(c) (Am. Bar Ass’n 2022) (ABA requiring law school instruction in cross-cultural competency). The Standard is irreconcilable with Governor Sarah Huckabee Sanders’ banning the use of the term “Latinx” in state documents. *See* Gustavo Valdes, Nicole Chavez, *Arkansas Governor Sarah Huckabee Sanders bans use of term ‘Latinx’ in state documents*, CNN (Jan. 12, 2023), <https://www.cnn.com/2023/01/12/politics/latinx-sarah-huckabee-sanders-order-arkansas-reaj/index.html> [https://perma.cc/37AQ-PH3M].

9. This article employs terms used during the LRUP and civil rights period. *See e.g.*, Lydia R. Aguirre, *The Meaning of the Chicano Movement*, in LA CAUSA CHICANA, THE MOVEMENT FOR JUSTICE, 259, 260 (Margaret M. Marigold ed., 1971) (“We challenge the educational system to teach Hispanic history, to teach bilingually, and to give us adequate schools where students are largely Chicano.”).

10. Elvia R. Arriola, *March!*, 19 CHICANA/O LATINA/O L. REV. 1, 9 (1998) (analyzing the effect the anti-CRT agenda had on both tenured and untenured professors attempting to teach Chicana/o history and social justice).

11. *See e.g.*, Elvia R. Arriola, *Talking About Power and Pedagogy*, 78 DENVER U. L. REV. 507, 514 (2001) (noting that a lack of a racially diverse curriculum may oppress Chicana/o students by distorting views on Chicana/o justice).

legal history in legal education and illustrates how this history intersects with legal formalism and collides with the anti-CRT crusaders.<sup>12</sup> The goal is to provide potential opportunities that could expedite not only student activism, but further academic critical legal theory approaches before anti-CRT legislation specifically targets Latinas/os in legal education.

Part I addresses how Chicanas/os not only wrestled with injurious racial treatment, but also with the failure of the mainstream press to report the harms they witnessed. In response, Chicanas/os created the *La Raza* newspaper to record their struggles for justice. *La Raza* not only provided critical evidence of the civil rights battles of the times, but also exhibited a primary context through the collective actions of those experiencing direct harm. *La Raza* featured *inter alia* direct evidence of police officers physically harming students protesting educational disparities and civil rights violations. Additional features included numerous injurious police brutalities, shootings, franchise civil rights activism, Indigenous land struggles and prisoner rights issues.<sup>13</sup> Additionally, it discussed the scarcity of Chicana/o students in law schools across the nation. In sum, *La Raza*'s reporting underscored the brutality of systemic institutional racism on Chicana/o and Indigenous communities from the bottom up. This article urges accessing this portal of knowledge before anti-CRT erases this critical history and renders justice inaccessible to people of color.

Part I further illustrates yet another trajectory from Chicana/o responses to the racism of the era. Not unlike LatCrit advocating systemic reform and social activism, this early period facilitated a third political party, La Raza Unida Party ("LRUP").<sup>14</sup> As witnessed through contemporary unrelenting voter suppression tactics, this section illustrates how intentional structural marginalization of communities of color are still present, and reaffirms the necessity of LatCrit's academic advocacy.<sup>15</sup> Part II addresses the anti-CRT crusade and LatCrit theory. By ending the article with a small sampling of promising present-day student activism, Part II will hopefully kindle the flame for new, increased academic advocacy, as highlighted in LatCrit scholarship, purpose, and goals.

## I. CHICANA/O MARGINALIZATION

Without adopting a critical legal theory lens, the legal antecedents that recognize Chicanas/os' structural alienation remain removed from legal formalism's lofty perch. Dominant law and the anti-CRT legislation discussed below not only rewrite the nation's history, but further expose Chicanas/os to the threat of physical and other harms, as witnessed in the 2019 shooting by an individual who drove for eleven

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12. For an overview of critical analysis from the bottom up, see FRANCISCO VALDES ET AL., *CRITICAL JUSTICE: SYSTEMIC ADVOCACY IN LAW AND SOCIETY*, 14-22 (1st ed. 2021) (hereinafter "CRITICAL JUSTICE").

13. LA RAZA featured photographs and essays on the deaths of activists. See e.g., Sheriffs Riot on Whittier Blvd., LA RAZA MAG., 1970, at 7-20; 31st Massacre, LA RAZA MAG., 1971, at 36-41; LAPD Murder Another Innocent Chicano, "Lamentable Error" Say Police, LA RAZA MAG., 1971, at 30).

14. For interviews of party members, see Univ. Texas Lib., RAZA UNIDA PARTY RECORDS, 1969-1979, BENSON LATIN AM. COLLECTION, MANUSCRIPTS COLLECTION (BENSON-MS RAZA UNIDA PARTY), <https://www.lib.utexas.edu>.

15. See generally VALDES ET AL., *supra* note 12, at 14-22 (analyzing the structural and legal marginalization of communities of color); see also GERALD P. LOPEZ, *REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE, 1747, 1759* (1992) (arguing that reimagining the meaning of "client identity," difference, and competence requires that lawyers take an intersectional approach).

hours to “kill Hispanics” in El Paso, Texas.<sup>16</sup> This article thus underscores two major points.

The first point asserts Latinas/os generally and Chicanas/os specifically remain structurally disenfranchised from the past and into the present, with consequences stretching into the future. Absent a critical legal theory lens generally and a LatCrit Theory specifically, Chicanas/os disenfranchisement or civil rights battles facing the hegemony of legal formalism principally omits them from legal education; this allows misrepresentations from anti-CRT groups controlling who is educated and how education is taught. The second point emphasizes that the absence of the study of law from the bottom up systemically prevents the students of the present and future from studying the nation’s historical roots of racism, sexism, and other forms of discrimination, including hate crimes that forcibly structure unequal treatment and enforced discrimination.<sup>17</sup> It precludes addressing the legal antecedents, precedents, and legal doctrine links in constitutional studies or in reconciling the common law with statutory anti-discrimination reforms. In sum, this absence renders legal education incomplete.

The following provides a brief historical framework of the resultant Chicana/o communities’ activism confronting racism and discrimination that thereafter led and contributed to civil rights reforms.

#### A. *La Raza Newspaper Evidentiary Records*

Chicanas/os created *La Raza* newspaper in 1970 to document the ongoing oppression and injustices plaguing their communities. Although the nation’s southwestern states retained their own unique histories, they also shared confrontations with violence, segregation, discrimination, and structurally forced marginalization. Under-employment, impoverishment, sanctioned police brutality and social and economic injustice joined with scant electoral representation alienated the Chicanas/os of the past. Protesting their systemic invisibility set the stage for *La Raza* newspaper essays and editorials. Eyewitness accounts and photographic proof of police brutality revealed the veracity of Chicana/o complaints. A bilingual press, *La Raza* began “as a newspaper in 1967 and was one of the first indigenous Chicano publications in the Southwest.” The motivation behind creating the newspaper derived in large part from the exclusion and racism of the Chicana/o communities in the dominant news cycles.

Outside of legal formalism and its lofty perch, the *La Raza* newspaper provides invaluable insights via first-person accounts of the disparate treatment of the Chicana/o communities. It remains an essential tool to capture fact-based context and evidence that highlights how the history of outsiders is blocked, and sought-after legal reform thwarted. It thus underscores Chicanas/os contributing to the documentation of their own histories.

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16. Vanessa Romo, *El Paso Walmart Shooting Suspect Pleads Not Guilty*, NPR (Oct. 19, 2019, 4:31 PM), <https://www.npr.org/2019/10/10/769013051/el-paso-walmart-shooting-suspect-pleads-not-guilty> [<https://perma.cc/7N7P-QULL>].

17. See, e.g., U.S. PRESIDENT’S COMMISSION OF CIVIL RIGHTS, THE EXCLUDED STUDENT: THE EDUCATIONAL PRACTICES AFFECTING MEXICAN AMERICANS IN THE SOUTHWEST, A REPORT OF THE U.S. COMMISSION ON CIVIL RIGHTS, May 1972, Mexican American Education Study, Report III (1972), (describing the denial of equal opportunity to Mexican Americans by exclusionary practices, ranging from the underrepresentation of teachers, disciplinary action against students for speaking Spanish, not providing English language classes, and the absence of the study of ethnicity, history and culture of students).

*La Raza* newspaper contributing to an inconsistent legal historical record is addressed next.

### 1. Political, State and Federal Repression

Several key events underscore a reign of state-driven terror against Chicanas/os which expedited their robust activism. *La Raza* and its fearless community activists, in a manner similar to the present, featured a litany of discrimination-based complaints of disparate treatment. The *La Raza* record illustrates the Chicanas/os' pleas for justice were met with violent police encounters, which are not inconsistent with the present.

Although secondary evidence for legal purposes, *La Raza* photographs are presented in conjunction with eyewitness accounts of the means by which police officers employed violence when arresting Chicanas/os. *La Raza* thus bears witness to the repression plaguing the Chicana/o communities. Peaceful student walkouts led by Chicana/o youth that were protesting the discriminatory conduct they experienced from educational institutions, policies, and staff were suppressed by police brutality.<sup>18</sup> During the 1968 student walkouts of high school students throughout Los Angeles, one *La Raza* photograph reveals a trio of police officers laughing in contrast with "eyewitness accounts revealing the intensity of [that] day." For example, in his *La Raza* interview, student Freddy Plank asserted that he was singled out for arrest and exposed to physical and violent force from police. As police booked Freddy, he witnessed two cops on either side of a female, "twisting her arms . . . " while "holding her arms behind her back . . ." when booking her. In other instances, cop's arms were "around [students'] . . . throats." Female students also had "their hair . . . pulled back."<sup>19</sup> These brutal realities shocked the students who believed they would be informed of their arrests without harm and violence. "None [of the students] were prepared to be pulled by the hair, called a bitch, knocked to the ground, choked, [and] have their arms twisted, etc."<sup>20</sup>

One pictorial essay includes images of police officers armed with guns and batons directed at students who are on the ground with their arms covering their heads.<sup>21</sup> A featured article charged that the police's "senseless brutal attack" on the students was under the direction of school administrators' response to their pleas for equal treatment.<sup>22</sup> Students reported that when they approached school administrators with a list of proposed changes for "school improvements," the school called the police who arrived with "riot gear and all."<sup>23</sup>

During the school protests, community residents in East Los Angeles also faced " . . . senseless brutal attacks [by the police, who were] . . . acting upon orders of the school administration."<sup>24</sup> In this instance the students' pleas for improved

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18. Several photographic essays and prints disbursed throughout the newsprint reveal what the students encountered while striving for equal treatment, and other educational improvements. *See, e.g., Police Invade Roosevelt, Students Beaten, 150 Arrested*, LA RAZA MAG., 1970, at 37–44 (referencing police "interference with Mexican American organizational efforts"). *See also*, *Sheriffs Riot on Whittier Blvd.*, *supra* note 13.

19. *Police Invade Roosevelt*, *supra* note 18, at 37–43.

20. *Id.*

21. *Id.* at 37–43.

22. *Id.* at 37.

23. *Id.* at 38.

24. *Id.* at 37; *see also LAPD Murder Another Innocent Chicano*, *supra* note 13, at 30.

conditions, bilingual teachers, and other reforms were met with police riot squads. Yet when school officials initially notified the police of the students' demands, they declared that a "fire . . . was blocked" thereby igniting the explosive contextual framework to "justify" the need for officers to charge against the students.<sup>25</sup> *La Raza* features and photographic essays broadens the scope of evidence of the police misconduct employed against Chicanas/os to inhibit them from protesting educational disparities, engaging in peaceful protest, and seeking remedial relief.

One heinous encounter, which was featured broadly in *La Raza*, resulted in the death of *Los Angeles Times* reporter Ruben Salazar. Ruben, the first Mexican-American employed by the newspaper, was on assignment to report on the National Chicano Moratorium Committee Against the Vietnam War. The protest was centered on the disproportionate number of draftees and deaths of Chicano youth.<sup>26</sup> During the peaceful rally on August 29, 1970, sheriff deputy Thomas Wilson aimed and discharged one of his tear-gas projectiles into the Silver Bar and Café where Ruben was having lunch, immediately killing him.<sup>27</sup> The black and white photograph in *La Raza* reveals graphic details of Ruben's death, showing Wilson aiming his tear gas projectile directly into the Silver Dollar Bar. It is particularly difficult to study the photograph as it also reveals a young unknown woman with outstretched arms presumably pleading with Wilson to not discharge his weapon. Furthermore, the men standing just outside the front door in the photo are not rioting, thereby drawing into question Wilson's "urgent" need to shoot a weapon directly into the bar. Presently, Wilson has not been held accountable and many in the Chicana/o community assert that Ruben's death was premeditated to prevent him from filing a report regarding police rioting against the Vietnam protestors. Without *La Raza's* additional context, the official government record would control the narrative of Ruben Salazar's death to detract from what factually transpired.

*La Raza* also reported on police officials targeting other community engagements. In one instance law "enforcement" entered Chicano school grounds during events without warrants. For example, on March 17, 1974, the Denver Police Department "in an apparently planned attack provoked a violent confrontation with scores of Chicana/o youth attending a party" at the Crusade for Justice community center.<sup>28</sup> The center, featured in *La Raza*, offered job training, a bilingual school, and other benefits to residents and youth. "Law enforcement" officials employed grenades targeting the community center building to dissuade its social justice activism.<sup>29</sup> In this instance, police brutality caused the death of a young teacher when it launched [a] grenade" without cause.<sup>30</sup>

25. Raul Ruiz, *Chicano Eyewitness Report*, LA RAZA MAG., SEPT. 1970, at 46.

26. The first *La Raza* issue states it is "offered in memory of Chicanos who have died in the horror of the Vietnam War—a war created by their very own oppressors in the U.S. to further oppress and exploit those people it deems inferior." *Dedication, Table of Contents*, LA RAZA MAG., 1970, at 1.

27. FRONT PAGE COVER, LA RAZA MAG., SEPT. 1970, AT COVER; see also *Sheriffs Riot on Whittier Blvd.*, *supra* note 13, at 8 (describing that four shots were fired into the bar); LOS ANGELES COUNTY OFFICE OF INDEPENDENT REVIEW, REVIEW OF THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT'S INVESTIGATION IN THE HOMICIDE OF RUBEN SALAZAR (2011) (blaming Chicano-triggered violence for the riot squads, differing from what factually transpired).

28. *Denver Police Bomb Crusade For Justice*, LA RAZA MAG., 1973, at 34–35.

29. *Id.*

30. *Id.* (killing a teacher at Escuela Tlateloco with no gun, trespass and unlawful search and seizure of play gun props with National Lawyers Guild attorneys representing the students).

Furthermore, police targeting Chicano activists randomly employed rarely enforced municipal laws. In one instance, a jaywalker in front of the Crusade for Justice building resulted in police gunfire and a death.<sup>31</sup> These police tactics derived from government assertions without evidence that Chicana/o activism and gatherings were violent. Thereby, as the official government record declared, “necessitating” the bullets and bombs used to curtail Chicana/o activism.

Widespread police repression also extended to multiple arrests of community activists under “trumped up charges;” in some egregious instances, this even caused the despairing deaths of supporters as reported extensively in *La Raza*.<sup>32</sup> Thereafter, those arrested grappled with juries without Chicanas/os or other Spanish-surnamed individuals that questioned the fairness of a grand jury or trial.<sup>33</sup> Students’ attorneys from the high school walk-outs also charged jurists with bias and argued they would not receive a fair trial.

The concerted effort to curtail Chicana/o activism extends to the additional arrests of attorneys. In Colorado, civil rights attorney Francisco “Kiko” Martinez, faced “trumped-up bombing charges” that caused his disbarment and for a period forced him to leave the United States in fear for his life.<sup>34</sup> Subsequent to his trial, many of the charges were dismissed; however, excessive traffic stops plagued Martinez long thereafter.<sup>35</sup> Policing actions against Martinez further encompassed placing the attorney’s name on an FBI terrorist watch list following the heinous September 11<sup>th</sup> attacks against the United States. The excessive and non-stop police and no-fly actions caused Martinez to file a lawsuit. In the lawsuit, he challenged the stops and his unlawful detention which ultimately resulted in a settlement.<sup>36</sup>

In California, police harassment eventually instigated student attorney Oscar Zeta Acosta’s candidacy for sheriff in Los Angeles.<sup>37</sup> In announcing his candidacy, as featured in *La Raza*, Acosta declared: “Because the forces of oppression and suppression—the law enforcement agencies—continue to harass, brutalize, illegally confine and psychologically damage the Chicano, the Black, the poor and the unrepresented, I hereby declare my candidacy for the office of Sheriff of Los Angeles

31. See, e.g., John C. Ensslin, *Crusade Leaves Many Legacies Chicano Movement Was A Turning Point for Denver*, DENVER ROCKY MOUNTAIN NEWS, Sept. 21, 1999, at 28A.

32. See Denver Police Bomb Crusade For Justice, *supra* note 28 at 34–35. See also Carol Kreck, *Hundreds Log Requests to See Cops ‘Spy Files’ Records Contain Some Surprises*, DENVER POST, Sept. 4, 2002, at B01 (keeping files on citizens “since 1954”). Denver activist Corky Gonzales seeking the file on the Crusade was informed however that “the file had been purged.” *Id.*

33. The high school walkout arrests also resulted in allegations that Spanish-surnamed Mexican American citizens were being systematically excluded from participating on grand juries. *Montez v. Superior Court*, 10 Cal. App. 3d 343, 346 (1970); see generally *Castro v. Superior Court*, 88 Cal. Rptr. 500 (1970); IAN F. HANEY LOPEZ, *RACISM ON TRIAL: THE CHICANO FIGHT FOR JUSTICE* (2003).

34. See Oread Daily, *Chicano Activist Kiko Martinez Fights Back*, SCISSON (July 28, 2006, 12:55 PM), <http://oreaddaily.blogspot.com/2006/07/chicano-activist-kiko-martinez-fights.html> [https://perma.cc/ZP2B-99Z6] (“In 1973, Chicano activist and lawyer Francisco ‘Kiko’ Martinez was indicted in Colorado on trumped-up bombing charges . . .”). See also James Barrera, *The Political Repression of a Chicano Movement Activist, The Plight of Francisco E. “Kiko” Martinez*, NACCS ANNUAL CONFERENCE PROCEEDINGS 117 (2004).

35. *Daily, supra* note 34 (“Kiko was a ‘strong advocate for prison inmates and Native American and Chicano legal rights.’”); see also *Martinez v. Winner*, 548 F. Supp. 278 (D. Colo. 1982); Tomas Romero, *Looking Back Gives Us A Chance To Redefine Heroism*, DENVER POST, Apr. 10, 1996, at B07.

36. *Daily, supra* note 34. See also Manuel Barrera, *Chicano Lawyer-Activist Subjected to California State Bar Hearing*, LA RAZA MAG., Feb. 1973, at 22–23.

37. Chicano attorney, Oscar Zeta Acosta, represented the arrested students. See *Police Invade Roosevelt, supra* note 18, at 37–39.

County. . .” *La Raza*’s photographs and essays illustrated the veracity of Acosta’s announcement of his candidacy.<sup>38</sup>

While beyond the scope of this article, *La Raza* also featured the political repression of activists in African American<sup>39</sup> and American Indian communities.<sup>40</sup> Across the nation the FBI and other government groups engaged in domestic-based terror and campaigns to thwart, intimidate, and bar activists seeking civil rights for their communities. The deaths of Black Panthers Fred Hampton and Mark Clark are but two examples of undercover raids that resulted in FBI-directed campaigns against Black communities.<sup>41</sup> Both *La Raza*’s support for Indigenous communities and protestations against activist Leonard Peltier’s arrest—for the deaths of two FBI agents and based on circumstantial evidence—continue to generate controversy to this day.<sup>42</sup> *La Raza* did not shy from reporting on the realm of issues proving injurious to communities of color. *La Raza* thus serves as an invaluable witness to government structuralism purposely aimed at obstructing collective action for remedial relief.<sup>43</sup>

As in the present, past Chicana/o and Indigenous communities, including numerous Black populations, were not only confronting *inter alia* police brutality and impoverishment but also electoral disenfranchisement absent accountability. One key example in *La Raza* newsprint, addressed next, encompasses the marginalized voting rights struggles that disenfranchised Chicanas/os.

## 2. La Raza and Electoral Disenfranchisement

Under principles of federalism, constitutional provisions provide that “States have broad powers to determine conditions under which the right of suffrage may be exercised . . . .”<sup>44</sup> State registration requirements of demonstrating age and residency govern the franchise and electoral process. However, additional state-imposed obstacles deprived Chicana/o franchise rights ranging *inter alia* from literacy requirements and poll taxes, to white primaries<sup>45</sup> with grandfather clauses further

38. O. Zeta Acosta, *Platform, Oscar Zeta Acosta*, LA RAZA MAG., 1970, at 17–18.

39. See, e.g., Allan M. Jalon, *A Break-In To End All Break-Ins*, L.A. TIMES (Mar. 8, 2006, 12:00 AM) <https://www.latimes.com/archives/la-xpm-2006-mar-08-oe-jalon8-story.html> [<https://perma.cc/M3KJ-AW7X>]; TAYLOR BRANCH, *PARTING THE WATERS, AMERICA IN THE KING YEARS 1954–1963* (1983).

40. See, e.g., RUSSELL MEANS & MARVIN J. WOLK, *WHERE WHITE MEN FEAR TO TREAD: THE AUTOBIOGRAPHY OF RUSSELL MEANS* (St. Martin’s Press 1995) (this autobiographical text features *inter alia* Means incarcerations in prison, threats to his life, and Indigenous self-determination battles).

41. See, e.g., Gonzales & Rodriguez, *Secret War Against Chicanos*, DENVER POST, Jul. 4, 1999, at G02; *La Raza Staff Members and Chairman of the Snyder Recall Committee Arrested*, LA RAZA 1970, at 23.

42. See, e.g., *United States v. Peltier*, 585 F.2d 314 (8th Cir. 1978); Carol Kreck, *Ernesto Vigil, Waiting for an Old Acquaintance Longtime Activist Recalls Peltier Visits*, DENVER POST, Dec. 25, 2000, at B01 (discussing that during this period the death of activist Ana Mae Pictou-Aquash was riddled with controversy); Joe Garner, *Murder Trial Revives Ghost of Militant Past, American Indian Activist Was Taken From City, Killed*, ROCKY MOUNTAIN NEWS, Feb. 5, 2004, at 6A (trial testimony details of the single shot revolver execution of Ana Mae Pictou-Aquash).

43. See, e.g., *Mexican Americans and the Administration of Justice in the Southwest*, LA RAZA MAG., 1970, at 71–74 (investigation and summary of complaints).

44. U.S. CONST. amend. XXIV. See also *Harman v. Forssenius*, 380 U.S. 528 (1965) (poll tax analysis); *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663 (1966) (poll taxes ruled unconstitutional).

45. See, e.g., *Grovey v. Townsend*, 295 U.S. 45 (1935) (plaintiff “refused ballot for Democratic party primary because he is of the negro race . . . .”); *Nixon v. Condon*, 286 U.S. 73 (1932) (holding unconstitutional a resolution by the Democratic Executive Committee of Texas limiting participation in primary elections to white people); *Smith v. Allwright*, 321 U.S. 649 (1944) (striking down Texas



bearing witness to their disenfranchisement.<sup>46</sup> Jim Crow governance and causally related extra-legal actions further instigated violence, lynching, and segregation, while irreparably burdening constituents of color from their franchise rights.<sup>47</sup> Such actions ultimately privileging non-people of color permitted the franchise and expedited reified case law, thereby imposing a class bias that disfavors people of color.<sup>48</sup>

In the aggregate Chicanas/os lack of attention from the two-party systems to address educational disparities, their disenfranchisement, and governmental violence in their communities resulted with the creation of a third political party. A bona fide third political party La Raza Unida Party (“LRUP”) is principally omitted in textbooks. Without LatCrit analysis, the disparities La Raza Unida confronted control false narratives and who benefited from their disenfranchisement. It further precludes law students from engaging in discussions about the various causative links between anti-discrimination law and doctrines. Featured in *La Raza*, La Raza Unida is no longer functioning nationally yet remains alive to the present.

a) *La Raza Unida Party*

The legal political history of people of color reveals numerous voter suppression devices imposed on their communities which extend to the present. To dissuade their electoral rights, states implemented *inter alia* poll taxes and literacy laws, and imposed requirements that candidates own property. States also instigated social and economic intimidation, threatened deportation, accused Chicanas/os of committing voter fraud without proof and in sum, effectively alienated Chicanas/os from their franchise rights.<sup>49</sup> Where Chicanas/os were allowed their franchise rights, the dominant parties courted favor from them but thereafter ignored the communities that helped candidates succeed in election politics. The sum of top-down barriers thwarting their franchise rights thereby expedited the creation of a Chicana/o third political party.

Creating a third political party that rests on shared values is challenging given the complexities of state laws. Yet in the 1970s, Chicanas/os successfully created a third party at the same time their communities of color were confronting widespread discrimination.

La Raza Unida Party emerged in Crystal City, Texas, the heart of an agricultural region with many resident farmworkers who migrated into northern regions to harvest fruits, vegetables, and other commodities.<sup>50</sup> Federal agricultural

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Democratic Party resolution requiring all voters in its primary to be white); *Terry v. Adams*, 345 U.S. 461 (1953) (holding unconstitutional the exclusion of Black voters in the Democratic party’s primary).

46. *See, e.g.*, DAVID MONTEJANO, *ANGLOS AND MEXICANS IN THE MAKING OF TEXAS, 1836–1986* 143–155 (Univ. of Tex. Press 1987) [hereinafter “ANGLOS AND MEXICANS IN THE MAKING OF TEXAS”]; CYNTHIA E. OROZCO, *NO MEXICANS, WOMEN, OR DOGS ALLOWED, THE RISE OF THE MEXICAN AMERICAN MOVEMENT* (Univ. of Tex. Press 2009).

47. *See, e.g.*, *Nixon v. Herndon*, 273 U.S. 536 (1927) (striking down 1923 Democratic “all white party” and 1902 poll tax that suppressed Black and Mexican American voters).

48. *United States v. Penton*, 212 F. Supp. 193 (M.D. Ala. 1962) (registrars “deliberately engaged in practices favoring white applicants and discriminated against Negro applicant”).

49. *See, e.g.*, F. CHRIS GARCIA & RUDOLPH G. DE LA GARZA, *THE CHICANO POLITICAL EXPERIENCE: THREE PERSPECTIVES* 164 (Bea Gormley ed., 1977).

50. *See* DOUGLAS E. FOLEY ET AL., *FROM PEONES TO POLITICOS CLASS AND ETHNICITY IN A SOUTH TEXAS TOWN, 1900–1987* 293–99 (Univ. of Tex. Press Austin 1988); *see also*, U.S. President’s Commission of Civil Rights, *supra* note 17; REPORT V: U.S. CIVIL RIGHTS COMMISSION, *The Implementation of Racism*, LA RAZA MAG., 1973, at 24–27.

subsidies and the purposeful exclusion from the right to organize for improved terms and conditions of employment<sup>51</sup> caused the median family income in Crystal, Texas to hover around \$1,574 per year.<sup>52</sup> Farmworkers, moreover, were precluded from election primary seasons, which took place while they were in the Midwest and other northern states harvesting crops.<sup>53</sup> On average, the highest level of education for Chicanos who were twenty-five years or older was second grade. This stemmed in large part from Jim Crow segregation practices that prohibited Chicanas/os from attending school.<sup>54</sup> In contrast, only fifteen percent of Crystal residents had a twelfth-grade education.

The numerical minority moreover remained in charge of all political offices in the region. This was additionally significant because the Chicana/o community comprised eighty-five percent of Crystal's ten thousand residents and yet lacked political control. Their exclusion mandated by state and federal law expedited the invisibility of Chicana/o issues and detracted from their ability and authority to participate in the operation of Crystal City government. La Raza Unida Party's origins and its impact on Chicanas/os were repeatedly featured in *La Raza* newspaper and are considered next.<sup>55</sup>

#### (1) The "Politics of Accommodation"

La Raza Unida Party ("LRUP") resulted in part from the two major parties seeking Chicana/o votes and support during pre-election cycles but conveniently ignoring the community during post-election periods. The lack of political representation not only disabled Chicana/o communities from effectuating changes in their communities but also contributed to their alleged "lack of participation" in local and national elections, *inter alia* education, and in promoting the franchise; in turn, these communities were also blamed for their lack of participation in electoral politics.

In Crystal City, Texas, local activists initiated aggressive voter registration drives throughout the state.<sup>56</sup> The effort garnered the support of a local union and the Political Association of Spanish Speaking Organization.<sup>57</sup> These efforts backed candidates who aimed to serve the social, cultural, and economic disparities of their

51. See National Labor Relations Act, 29 U.S.C. § 151, (2022) (excluding farmworkers from employees authorized to improve their terms and conditions of employment).

52. See, e.g., FOLEY, *supra* note 50.

53. Historically agricultural labors from Crystal traveled to the Midwest during the summer followed by the subsequent agricultural harvest in Crystal and surrounding areas. See DENNIS NODÍN VALDÉS, *AL NORTE, AGRICULTURAL WORKERS IN THE GREAT LAKES REGION, 1917–1970* 70 (Univ. of Tex. Press 1991).

54. State public schools purposefully excluded Mexican children. DENNIS NODÍN VALDÉS, *AL NORTE, AGRICULTURAL WORKERS IN THE GREAT LAKES REGION, 1917–1970* 83 (Univ. of Tex. Press 1991). For example, as Professor Valdés illustrates, grower Joseph Schuller of Mount Pleasant, Michigan asserted "we believe that it would be better for these children to be helping their parents in the beet fields than to be spending their time [in school] doing nothing and learning nothing." *Id.*

55. Jose Angel Gutierrez, Gutierrez: *Mexicanos Need To Be in Control of Their Own Destinies*, LA RAZA MAG., 1970, at 26–30; see also ARMANDO NAVARRO, *LA RAZA UNIDA PARTY, A CHICANO CHALLENGE TO THE U.S. TWO-PARTY DICTATORSHIP*, 21–40 (Phila: Temple Univ. Press ed., 2000).

56. Later registration drives extended into California and other regions throughout the southwest. See, e.g., Raul Ruiz, *La Raza Unida Party*, LA RAZA MAG., Feb. 1973, at 4–5; Romo, *supra* note 16, at 4; Gilbert M. Lopez, *La Raza Unida Party, The 40th Assembly Race*, LA RAZA MAG., Feb. 1973, at 6–8.

57. Teresa Palomo Acosta, *Crystal City Revolts*, HANDBOOK OF TEX. ONLINE, TEX. STATE HISTORICAL ASSOC. (Dec. 1, 1994), <https://www.tshaonline.org/handbook/entries/crystal-city-revolts> [<https://perma.cc/6RND-J9AJ>].

communities. These voter registration drives immediately drew the wrath of employers who began discharging supporters for wearing campaign buttons.<sup>58</sup> Nonetheless, the combined approaches of the voter registration drives resulted in the 1963 success of the union-backed candidates who won five seats on the City Council.<sup>59</sup>

To their detriment, however, the instant reaction against the election of the newly elected Chicano council members manifested discrimination and arbitrary maneuvers that thwarted the council members' ability to serve. To recapture the lost seats, the minority elite who rejected the Chicana/o identity organized the "Citizens Association Serving All Americans" and ultimately succeeded in their campaign against the Chicana/o political action.<sup>60</sup>

Chicanas/os characterized the two-party system as a form of political accommodation that did not benefit their communities. They felt obligated to turn to third-party politics.

## (2) La Raza Unida Party Rises

After initial Crystal City losses, Chicanas/os hoping to "control their political destinies," continued organizing poll tax funds and voter registration drives, and addressing community concerns of discriminatory treatment. This was an era when restaurants and businesses, for example, displayed "Whites Only" signage. On January 17, 1970, supporters, activists, and others officially formed La Raza Unida Party ("LRUP") as a third party in Zavala, La Salle, and Dimmitt Counties.<sup>61</sup> In a 1970 speech addressing the LRUP's origins, key organizer Jose Angel Gutierrez stated:

We were Chicanos who were starved for any kind of meaningful participation in decision making, policy making and leadership positions. For a long time we have not been satisfied with the type of leadership that has been picked for us. And that is what a political party does, particularly the one we have here.<sup>62</sup> However, it took a second triggering event to officially organize LRUP as a formal third party in Texas.

The second spark that propelled the LRUP's development resulted from student walkouts protesting discrimination in their local Crystal schools.<sup>63</sup> Approximately 1,700 out of the 2,300 students in grades one through twelve walked out of their classes protesting their unequal treatment.<sup>64</sup> While retaliation against the students soon surfaced, community members responded by boycotting the local business establishments that were angry with the students. Ultimately, intermediaries

58. *Id.*

59. Gutierrez, *supra* note 55, at 26.

60. *Id.*

61. *See, e.g.*, FOLEY, *supra* note 50, at 143; Bob Richter, *Before There Was Clout, There Was Raza Unida*, SAN ANTONIO EXPRESS-NEWS, Sept. 9, 2001, at 10A ("Filing of papers in the Zavala County Courthouse on Jan. 23, 1970, to form La Raza Unida Party.")

62. Gutierrez, *supra* note 55, at 26.

63. *See, e.g.*, ARMANDO NAVARRO, LA RAZA UNIDA PARTY, A CHICANO CHALLENGE TO THE U.S. TWO-PARTY DICTATORSHIP 41–58 (Phila: Temple Univ. Press ed., 2000) (summary of the rise and fall of LRUP); Teresa Palomo Acosta, Raza Unida Party, Handbook of Texas Online, Texas State Historical Assoc. (1976, updated May 1, 2019) [<https://perma.cc/B475-D66A>].

64. *See, e.g.*, Antonio Camejo, *Texas Chicanos Forge Political*, LA CAUSA POLITICAL, 234 (F CHRIS GARCIA ED., 1974) (reporting on LRUP organizing and meetings in different areas); Raza Unida Party: Northern California and Jose Angel Gutierrez, LA RAZA MAG., 1971, at 10.

representing the students negotiated and brought forth changes, including employing Chicana/o counselors.

LRUP's activities continued supporting candidates who could not afford to run under the two-party system.<sup>65</sup> Complexities of the States' election code as to the timing and placement of their candidates' names on ballots forced LRUP candidates into litigation battles.<sup>66</sup> In *La Raza Unida Party v. Dean*, the Secretary of State and the Attorney General both submitted conflicting election code filing requirements emphasizing the indeterminacy of the statute.<sup>67</sup> Irrespective of two conflicting interpretations of the election code regarding placing candidates on the ballot, the court ruled against LRUP.<sup>68</sup> Reflecting a perfect example of judicial indeterminacy, this judicial bias against LRUP caused dissenting Justice Pope to declare: "These carefully studied and prepared opinions indicate that even the most qualified students of election law could not find the clarity of the meaning of Article 13.54 which this court has found."<sup>69</sup> By recognizing the good faith efforts of LRUP, the dissent underscored the failure of this mandamus action to place their candidates on the ballot.<sup>70</sup>

Despite these difficulties, LRUP ultimately succeeded as a third party and obtained two city council majorities in neighboring cities, two school board majorities, two mayoral successes, and remained active in gubernatorial campaigns.<sup>71</sup> Early LRUP elections also brought forth changes in the Crystal City educational system through the addition of Chicana/o teacher aids and a counselor. The school board curriculum was changed to include Chicano history courses, cultural courses, and a bilingual education program.<sup>72</sup> The school board further abolished a longstanding ordinance prohibiting students from speaking Spanish on school grounds. A large portion of the funds supporting the new school efforts stemmed from federal monies that the local school board had previously refused. Additionally, other programs such as school breakfast and lunch programs were established.

In an early formulation of feminist politics, women played a fundamental role in the administration of LRUP, with concrete results. For example, women advanced voter registration drives and formed the caucus *Mujeres Por La Raza*, which elected Luz Gutiérrez as chair. At conferences women presented on how to organize registration drives in rural and urban environments and opposed the killing of

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65. Gutierrez, *supra* note 55, at 26. La Raza featured several LRUP campaigns and struggles.

66. *See, e.g.*, *Gonzales v. Knight*, 458 S.W.2d 529 (Tex. Civ. App. 1970) (resulting in part from a timing conflict in which the candidate first registered as a Democrat and later switched to a LRUP candidate (citing *La Raza Unida Party v. Dean*, 462 S.W.2d 570 (Tex. 1970)).

67. *La Raza Unida Party v. Dean*, 462 S.W.2d 570, 572 (Tex. 1970) (Pope J., dissenting).

68. *Id.* at 571.

69. *Id.* at 572 (Pope J., dissenting). *See generally* George A. Martinez, *Legal Indeterminacy, Judicial Discretion and the Mexican-American Litigation Experience: 1930-1980*, 27 U.C. DAVIS L. REV. 555, 558 (1994) ("law is indeterminate . . . statutes and court decisions . . . often permit a judge to justify multiple outcomes" in litigation).

70. *La Raza Unida Party v. Dean*, 462 S.W.2d 570 (Tex. 1970).

71. *See, e.g.*, YOLANDA ALANIZ & MEGAN CORNISH, *VIVA LA RAZA: A HISTORY OF CHICANO IDENTITY AND RESISTANCE* 206 (2008) (analyzing Chicano identity and a "Platform for Chicana/o Liberation" with an analysis of *La Raza Unida Party*).

72. *See also* U.S. COMMISSION OF CIVIL RIGHTS, *supra* note 17 (reporting on the disparate treatment of students and need of *inter alia* language classes and improved educational practices) at 13.

community youth.<sup>73</sup> In LRUP's first national convention held in 1972 in El Paso, Texas, women comprised one-half of the fifteen hundred in attendance.<sup>74</sup>

However, despite these encouraging successes, the adverse reaction throughout and after that first election besieged LRUP candidates without restraint. Intimidation tactics surfaced against LRUP leader Jose Angel Gutierrez, portraying him as a dangerous radical and communist. In contrast with the dominant narrative, Gutierrez was raised in Crystal City, a college graduate and served in the military—characteristics denoting the American ideal of a patriotic and valuable citizen. Chicana/o scholarship of the period provides examples where the “FBI instigated robberies at activists’ homes and party headquarters.”<sup>75</sup> Activists on the way to LRUP conferences were stalked and in one situation were injured or killed by vehicle bombings.<sup>76</sup> During elections the United States Civil Rights Commission observers were called in as outside monitors, serving as protection against threats of violence or economic reprisals directed against LRUP candidates and supporters. These reprisals included grand jury indictments alleging that LRUP officials had engaged in fraud and corruption. Ultimately, none of the charges “stood up in court.”<sup>77</sup>

LRUP supported candidates who would serve the social, cultural, and economic needs of the Chicana/o community. In spite of the negative campaigns against LRUP and its candidates, LRUP recaptured control of the Crystal City Council and immediately implemented changes. New appointees and employment hires included a public accountant, a city clerk, and a city attorney. Additional changes occurred in the educational system, extending to nearby communities even in the absence of a Chicana/o majority as was the case in Crystal. For example, absence of a Chicana/o majority did not hinder the nearby Cotulla school board that “eliminated a discriminatory English proficiency examination” which had been “used to classify Mexicans as mentally” deficient.<sup>78</sup> Subsequent LRUP elections witnessed Chicanas/os becoming members of city boards and commissions with the City Council implementing urban renewal projects that included street paving and sewer connections.<sup>79</sup> LRUP remained politically viable in Crystal for over ten years picking up offices in twenty-two Texas counties, including the Zavala County judge’s post, which ran from 1974 until 1981.<sup>80</sup>

As reported in *La Raza* newspaper, Chicana/o communities nationwide also joined La Raza Unida Party.<sup>81</sup> Several photo essays provide additional facts as to the candidates, campaigns, and struggles. For example, not unlike Texas LRUP confronted election code deterrents that precluded state recognition. *La Raza* further

73. See, e.g., Elda Silva, *Rosie Castro*, SAN ANTONIO EXPRESS-NEWS, May 20, 2001, at 5J (stating that Rosie Castro “helped found La Raza Unida Party . . .”).

74. Cynthia E. Orozco, *Mujeres Por La Raza*, HANDBOOK OF TEX. ONLINE, TEX. STATE HIST. ASSOC. (Nov. 1, 1995, updated Feb. 9, 2019), <https://www.tshaonline.org/handbook/entries/mujeres-por-la-raza> [<https://perma.cc/PSY7-63Q6>].

75. ALANIZ & CORNISH, *supra* note 71, at 215.

76. *Id.* The antagonism directed at LRUP and its supporters included the deaths of “six partido organizers . . . killed within 48 hours by two separate car bombs.” *Id.* Police however refused to investigate and claimed that the bombs must have exploded while being illegally transported by the victims.” *Id.*

77. ALANIZ & CORNISH, *supra* note 71, at 216.

78. U.S. COMMISSION OF CIVIL RIGHTS, *supra* note 72.

79. Gilbert Lopez, *La Raza Unida Party Attempts to Qualify Through the Courts*, LA RAZA MAG., Sept. 1973, at 4–5.

80. Richter, *supra* note 61.

81. See, e.g., RODOLFO ROSALES, THE ILLUSION OF INCLUSION, THE UNTOLD POLITICAL STORY OF SAN ANTONIO (2000) (discussing race, class struggle and segregation in Texas).

included California's stringent election code, which required the new proposed party in 1971 to "convince one percent of the voters" participating at the last preceding gubernatorial election to change their present party affiliations to the third party. Based on the 1970 election, this translated into requiring the signatures of one percent of 6,633,400 registrants.<sup>82</sup> Nonetheless, LRUP's limited resources lacked the internal infrastructures evident in the dominant two-party systems and eventually withdrew from its national efforts.

LRUP witnessed externalities from outside agitators, governmental intrusiveness, police actions, and the death of community leaders, which continues into the present. Each state-sanctioned intrusion, violence, and irreparable harm illustrate resistance strategies and advocacy. Further, similar to the external pressures of the past, educational institutions are also confronting barriers to educating students. Presently, the lessons extracted require vigilance, collective knowledge, and activism. The past in sum nonetheless offers templates of how present students can access collective knowledge from the bottom up.

## II. ANTI-CRITICAL RACE THEORY AND LATCRIT THEORY

CRT origins applied to "the work of progressive legal scholars of color who are attempting to develop a jurisprudence that accounts for the role of racism in American law and that works toward the elimination of racism as part of a larger goal of eliminating all forms of subordination."<sup>83</sup> The rapid breadth and scope of the "anti-CRT crusade" is beyond the limitations of this article, but examples center state legislation either barring the study of racism and sexism and restricting its use in education.<sup>84</sup> Engineered by the extreme right of the political spectrum, anti-CRT defenders assert that CRT imposes the study of systemic racism and white privilege in curricula, in exchange harming students and thus requiring removal from the classroom setting. Subsequent to adopting anti-CRT legislation, the Florida crusade misapplying CRT to a grade school construct expeditiously expanded its goals to reject a proposed African American Studies course, with yet additional books placed on the banned list of authors.<sup>85</sup> This maneuver shows those controlling education in Florida removing wide swaths of Black history with unmitigated restraint.

Yet anti-CRT laws are irreconcilable with teaching the fact-based realities of the nation's history and *inter alia* the Thirteenth Amendment to the U.S. Constitution. It further disallows *inter alia* promoting concepts of justice, including fairness and goals underlying educating future lawyers.<sup>86</sup> Anti-CRT legislation disallows tracing the antecedents inherent in legal rulings and the relationship of communities seeking their civil rights grounded in equal protection law. In anti-CRT jurisdictions, this

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82. *California Election Codes, Deterrent to La Raza Unida*, LA RAZA MAG., Sept. 1972, at 7.

83. Mari J. Matsuda, *Voices of America: Accent, Antidiscrimination law, and a Jurisprudence for The Last Reconstruction*, 100 YALE L. REV. 1329, 1331 n.7 (1991).

84. See Schwartz, *supra* note 1.

85. Steve Contorno, *Florida gives its reasons for rejecting proposed AP African American Studies Course*, CNN (Jan. 20, 2023), <https://www.cnn.com/2023/01/20/politics/desantis-ap-african-american-studies-florida/index.html> [<https://perma.cc/CRM3-H86R>]; The anti-CRT crusaders follow the path of cultural erasure employed against Chicana/o Studies and books from authors of color in Arizona. Guadalupe T. Luna, *LatCrit Praxis: Arce v. Huppenthal*, 10 CHARLESTON L. REV. 277, 291–93 (2016).

86. See generally Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 523 (1980) (regarding the foundational precepts of critical race theory).

discriminatory white supremacist agenda challenges academic freedom, and hinders public school authors of CRT casebooks from teaching their own materials.<sup>87</sup> Incredulously, anti-CRT legislation controls school accreditation which has resulted in downgrading “accreditation for . . . school districts charged with violating the state’s anti-CRT legislation.”<sup>88</sup> As manifested, these floodgates continue the historical systemic removal of studying how racism is employed to subjugate people of color and control misinformed dominant narratives.

#### A. *LatCrit Theory and Critical Race Theory*

LatCrit Theory is closely aligned with Critical Race Theory consisting of a “genre of critical outsider jurisprudence.”<sup>89</sup> This trajectory, compounded with anti-CRT rhetoric and attendant crusades, is now at risk from detractors. The unfamiliarity of the anti-CRT crusaders with how outsider jurisprudence addresses the disparate inequalities imposed on communities of color, the relationship with constitutional amendments, and public education legislation, heightens the risk CRT and LatCrit theorists are witnessing in the present.

Prior to LatCrit Theory, legal scholarship and core curriculums limited the Latina/o legal realities, lapsing their disparate treatment to the margins of legal studies. Property texts, for example, principally omit the Mexican, Spanish, Black and Indigenous land struggles otherwise grounded in outsider jurisprudence. The limitations of legal formalism further disregarded the intersections that reveal how the law systemically structures discrimination, not just in education, but in voter suppression, and the trajectories in which race, class, gender and identities remain on the outside of law’s transformative possibilities. The historical framework that showcases activists who fought for equal treatment does not conform within the law’s margins because of outsider jurisprudence. Without outsider jurisprudence, this framework would prove less elusive and instead render impossible fair treatment and equality against discrimination.

This article encourages accessing collective knowledge from the bottom, which not only slips through the mainstream press of the present, but also yields misinformation campaigns. In the alternative, the following could advance the call for students seeking socio-economic transformation, thus delineating LatCrit justice imperatives.<sup>90</sup>

#### B. *Training Future Lawyers*

*La Raza* reporting not only exposed the civil rights battles of the past, but their communities witnessed how responding students’ pleas succeeded. The education of youth reflects the achievement of their past requests as illustrated by legislation authorizing bi-cultural programs and policies, the increase of teachers of

87. *See, e.g.*, Pernel v. Fla. Bd. of Governors of The State Univ. Sys., No. 4:22-cv-00304-RH-MAF, 2022 WL 16985720, at 1 (N.D. Fla. Mar. 15, 2022).

88. Schwartz, *supra* note 1 (stating that in Oklahoma, the state board of education “downgraded . . . accreditation for two schools . . .”).

89. FRANCISCO VALDES & STEVEN W. BENDER, LATCRIT: FROM CRITICAL LEGAL THEORY TO ACADEMIC ACTIVISM (N.Y.U. Press 2021) (tracing the evolution of LatCrit from critical legal theory and activism that centers on issues of race, gender, and social justice).

90. *See, e.g.*, Valdes, et al., *supra* note 12 at 1153 (examining how law and society perpetuate injustice and offering strategies for transforming these systems); VALDES & BENDER, *supra* note 89 (Latcrit primer text).

color, and learning their histories, which enhances the social studies curriculum. Yet youth remain at high risk to the anti-CRT crusades. The newer versions of cultural control and dominance of people of color of the present accordingly illustrate the need for social justice lawyering and advocacy training.

Creating resistance lawyering introduces newer educational paradigms beyond the traditional law school curriculum. The American Bar Association (“ABA”), which is in charge of accreditation of law schools, adopted new standards for training lawyers which opened doors to implementing Standard 300 in the law school curriculum. New teaching methods and tools exist to expedite the ABA standards. The new Critical Justice Systemic Advocacy in Law and Society, for example, provides an immediate and easily accessible framework with its categories promoting systemic advocacy and approaches. Currently, numerous issues are plaguing distressed communities and provide potential trajectories for change which could advance lawyer training. The small listing below is not exhaustive but offers possibilities for students and the academy. Without critical race pedagogy and anti-CRT legislation, these newer intersections will limit opportunities for resistance, advocacy, and strategies.

For example, newly evolving judicial decisions that eliminate franchise protections demonstrate that the disenfranchisement of the past remains today, in full force. Extensive litigation has opened the franchise to new sophisticated forms of disenfranchisement, such as states purging names from voting rolls.<sup>91</sup> On election days, states curtail voting times ensuring long lines to discourage casting ballots.<sup>92</sup> Yet, in other instances, faulty electronic voting machines disproportionately occur in communities of color hinder their ballots.<sup>93</sup> Moreover, states with increasing Latina/o populations are witnessing officials asserting voter fraud based on flimsy evidence and, in turn, adopting increased eligibility standards with stringent identification requirements.<sup>94</sup> *La Raza* corroborates the burdening of access to the ballot as well as the systematic exclusion of Latinas/os from full participation in the franchise.

Not unlike past exclusionary tactics, the present challenges, contrasted by primary electoral evidence, factually illustrate voter fraud as illusory; if fraud were actually taking place, it would constitute “an occurrence more rare than getting hit by

91. *Husted v. A. Philip Randolph Institute*, 138 S. Ct. 1833 (2018) (involving a challenge to Ohio’s process for removing inactive voters from its registration rolls).

92. *See, e.g., Lieberman v. Husted*, 900 F. Supp. 2d 767 (S.D. Ohio 2012) (holding that Ohio voter restriction law disproportionately burdened African American voters); Tova Wang, *2012 Election Lessons Learned: How Voters Stood Up Against Suppression, Id, and Intimidation*, DEMOS (Nov. 15, 2012), <http://www.demos.org/publication/2012-election-lessons-learned-how-voters-stood-against-suppression-id-and-intimidation> [<https://perma.cc/PCF7-B8CZ>] (analyzing voter suppression tactics used during the 2012 U.S. election).

93. *See, e.g., Joanna Stern, How Faulty and Outdated Voting Machines Contributed to Voting Lines and Frustration*, ABC NEWS, (Nov. 8, 2016) <https://abcnews.go.com/Technology/OTUS/faulty-outdated-voting-machines-contributed-voter-lines-frustration/story?id=17666985> [<https://perma.cc/XBC8-RHSU>] (highlighting how malfunctioning and outdated voting machines contribute to long lines and voter frustration on election day); Charlotte Alter, *Detroit Voting Machine Failures Were Widespread on Election Day*, TIME, (Dec. 14, 2016), <https://time.com/4599886/detroit-voting-machine-failures-were-widespread-on-election-day> [<https://perma.cc/L7BW-94ZG>] (discussing the impact of failing voting machines during on voter turnout and confidence in the electoral process).

94. *See, e.g., Kris W. Kobach, The Dishonesty of Voter ID Laws*, N.Y. TIMES (Sept. 1, 2013), <http://www.newyorktimes.com/2013/01/01/opinion/the-dishonesty-of-voter-id-laws> [<https://perma.cc/SV58-C34P>] (parenthetical); Editorial Board, *Kris Kobach’s Voting Sham Gets Exposed in Court*, N.Y. TIMES, (Mar. 17, 2018), <http://www.nytimes.com/2018/03/17/opinion/sunday-kris-kobachs-voting-sham-gets-exposed-in-court.html> [<https://perma.cc/Q357-U4RL>] (examining the legal challenges surrounding Kris Kobach’s efforts to implement strict voter ID laws in Kansas).



lightning.”<sup>95</sup> Escalating voter identification legislation frustrates the Fifteenth Amendment of the U.S. Constitution, legislative protections of the right to vote, and civil rights laws, all of which remain at risk of erasure by the anti-CRT agenda.<sup>96</sup> Heightened biased gerrymandering in the present further erodes and diminishes voting strength, requiring vigilant observers.<sup>97</sup> Alternatively, promoting required programs for student advocacy as a prerequisite for graduation could assist in elevating franchise rights in impoverished communities.

Additional issues ripe for academic and student advocacy include under-employment, impoverishment, discrimination, and the social and economic injustice endured by distressed communities lacking representation.<sup>98</sup> LRUP’s legacy shows scant electoral representation or accountability in states or cities due to the systemic alienation, dilution, and negation of the voting strength of Latina/o voters.<sup>99</sup> The tension between voter suppression and access to the franchise, coupled with the lack of electoral representation thereby is causing contemporary Chicanas/os and other Latinas/os to even consider forming a third political party.<sup>100</sup> Yet in these challenging times promoting collaboration, collective action is feasible and movement lawyering possibilities surface.

The diversity of the Latina/o community also provides opportunities for developing intern programs or adding to the role of observers in elections to promote the franchise. For example, Florida Latinas/os, with some exceptions, are primarily Cubans tethered by some to international politics and links with Cuba, and Texas

95. See, e.g., Brennan Center for Justice, *Voting Laws Roundup 2018*, BRENNAN CENTER FOR JUSTICE (Apr. 2, 2018), <https://www.brennancenter.org/analysis/voting-laws-roundup-2018> [https://perma.cc/TZ2B-KPT2] (providing a comprehensive analysis of the voting laws and policies across the United States); Justin Levitt, *The Truth About Voter Fraud*, BRENNAN CENTER FOR JUSTICE 6 (Nov. 9, 2007), <http://www.brennancenter.org/publication/truth-about-voter-fraud> [https://perma.cc/2LPP-762L] (examining voter fraud in the United States and concluding that it is a rare occurrence); see also Ortiz et al., v. City of Philadelphia Office et al., 23 F.3d 306 (1994) (regarding purging voter registration lists in Pennsylvania).

96. See Schwartz, *supra* note 1.

97. See generally, PEW RESEARCH CENTER, DEMOGRAPHIC AND ECONOMIC PROFILES OF HISPANICS BY STATE AND COUNTY, 2014 (2014), <https://www.pewresearch.org/hispanic/states/state/nc> [https://perma.cc/729K-ZKGA] (reporting 890,000 Latinas/os in the state of North Carolina); U.S. CENSUS BUREAU, THE HISPANIC POPULATION IN THE UNITED STATES: 2014, <http://www.census.gov/data/tables/2014/demo/Hispanic-origin/2014-cps>.

98. For example, without representation, distressed communities such as the Texas colonias lacking viable water access, roads, and other infrastructure difficulties remain hidden from academic and political textbooks. Maria Esquinica & Andrea Jaramillo, *Colonias on the Border Struggle With Decades Old Water Issue*, TEXAS TRIB. (Aug. 22, 2017), <http://www.texastribune.org/2017/08/22/colonias-border-struggle-decades-old-water-issues> [https://perma.cc/E7FQ-GQ73]; Guadalupe T. Luna, “Facts Are Stubborn Things:” *Irregular Housing in the Texas Colonias*, XXVIII WISCONSIN J. OF LAW GENDER AND SOC.’Y 121 (2013).

99. See, e.g., *Weinschenk v. State*, 203 S.W. 3d 201 (2006) (parenthetical); *League of Women Voters of Indiana, Inc., v. Rokita*, 929 N.E.2d 758, 767 (2010) (declaratory action challenging state voter identification law); U.S. G.A.O. ELECTIONS, ISSUES RELATED TO STATE VOTER IDENTIFICATION LAWS, GAO-14-634 (2014), <https://www.gao.gov/products/gao-14-634> [https://perma.cc/UR63-TPYT] (report on costs of voter identification laws and impact on elections); Tova Wang, *2012 Election Lessons Learned: How Voters Stood Up Against Suppression, Id., and Intimidation*, DEMOS IDEAS & ACTION (Nov. 15, 2012), <http://www.demos.org/lessonslearned2012.pdf> [https://perma.cc/6RVH-R5CE].

100. For specifics on LRUP formation, see Gutierrez, *Mexicanos Need To Be in Control of Their Own Destinies*, LA RAZA (1970), at 26–30; NAVARRO, LA RAZA UNIDA PARTY, A CHICANO CHALLENGE TO THE U.S. TWO-PARTY DICTATORSHIP, 21–40, *supra* note 55. Richard Gonzales, ‘Latino’ Doesn’t Equal ‘Democratic’ Anymore, FORT WORTH STAR TELEGRAM, Sept. 5, 2004, at E4; Terri E. Givens, *Time for a Political Party?*, POLITICO MAG. (Oct. 2, 2014), <https://www.politico.com/magazine/story/2014/10/is-it-time-for-a-latino-political-party-11558> [https://perma.cc/BZH5-59ZX].

Chicanas/os while sharing geographic commonalities retain their own rural and urban histories separate and apart from Florida Cubans.<sup>101</sup> Other factors distinguish the combined rural and urban environments of Crystal City activism. For instance, rural Chicana/o farmworkers throughout the nation, which once comprised the majority of agricultural workers, are now joined by Indigenous groups from Mexico and Central America. Immigration population groups also retain their own identities, and while some groups are ineligible to vote, their treatment and status in the United States is a concern impacting Latina/o communities.<sup>102</sup>

These differences accordingly illustrate that the identity politics that benefited LRUP are not easily reached against the politics of impeding ballot access or voter suppression laws, especially when conjoined with the limitations of United States Supreme Court voting law rulings. Homeland Security's nexus with immigration control officials and local law enforcement personnel throughout Latina/o communities elevate the repression of the past to the present. These issues render innumerable possibilities for not only training future lawyers but also expediting academic teaching even in states where the anti-critical race theory agenda dominates.

Across the nation, Latinas/os and other minority groups are confronting class struggles and commonalities. A range of issues tethered to plant closings, globalization, declining wages, immigration battles, and disappearing pensions present wide opportunities in labor law, immigration law, and globalization of the market in anti-CRT jurisdictions. Corporations accruing great wealth without transparency or accountability offer opportunities for studies in ethics or corporate law if not otherwise addressed in class studies. Innumerable additional opportunities and lessons surface with little structural cost, including the use of social media. However, social media academic activists are against advancing resistance lawyering beyond the service requirement but not garnering credit towards tenure. A review of tenure requirements thus obligates promoting social change and advancing the teaching of the nation's law students more accurate and precise legal histories.

## CONCLUSION

*La Raza* articles and photographic essays provide numerous fact-based examples in which cities and states terrorized Chicanas/os, American Indians, and Black communities. Without Critical Race Theory and its closely linked LatCrit Theory, the nation's history and linkages with anti-discrimination law allows for people of color to remain purposely hidden from legal studies. Anti-CRT animosity infringes academic freedom, disallows teaching law that targets racism, and encourages the disparate treatment and litany of inequalities that cause communities of color to be at risk of further discriminatory challenges. This equation thus disappears the legal antecedents and contextual histories of *inter alia* the constitutional amendments inseparably tethered to equal treatment and formal equality of outsiders.

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101.Center for Puerto Rican Studies, Hunter CUNY, New York, <http://centropu.hunter.cuny.edu> (“Between 2010 and 2019, the Florida Puerto Rican population grew by 38%). Latinas/os consistently favor Democrats; at one time, Republicans actively sought Latinas/os to join the party. See e.g., REPUBLICAN PARTY, GROWTH AND OPPORTUNITY PROJECT (2013) (targeting in part GOP access to Hispanic voters).

102.See, e.g., Paul Taylor et al., *An Awakened Giant: The Hispanic Electorate Is Likely to Double by 2030*, PEW RESEARCH CENTER (Nov. 14, 2012), <https://www.pewresearch.org/hispanic/2012/11/14/an-awakened-giant-the-hispanic-electorate-is-likely-to-double-by-2030> [<https://perma.cc/HY4N-NHH2>].

The present battles and challenges to intimidate voters of color from the franchise are systemic to electoral politics and obligate inclusion in legal education beyond the two-party limitations. The ongoing police assaults and deaths in communities of color constitute a source for training future lawyers. Distressed communities could elevate law practice that would address the class struggles that continue to dissipate the rights of workers, educational inequality, and the disenfranchisement that plagued the communities of the past. It would advance rebellious lawyering if more texts that employ outsider jurisprudence become requirements for graduating from the nation's law schools.

Without looking at the law's applications from the bottom up and its closely aligned intersectionalities with racism, top-down power struggles, and disparate inequalities, these eliminations further preclude students from intellectual inquiry separate and apart from the limitations of legal formalism. Accordingly, dissuading academic activism and disallowing transforming the inequities law creates and thereby rendering the LatCrit project imperative.<sup>103</sup>

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103.To counter thwarting academic activism crusades, *see* VALDES, ET AL., *supra* note 12, at 531–581 (presenting “starting point for systemic advocacy projects.”).