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ON BEING AN "OUT" CATHOLIC: CONTEXTUALIZING THE ROLE OF RELIGION AT LATCRIT II

REYNALDO ANAYA VALENCIA†

In my office at the St. Mary's University School of Law in San Antonio, Texas, I have a reprint of an original work by Morales¹ which depicts a beaten and battered young, Latino male wearing a white tank top and sporting several tattoos, open wounds and scars. His hair is disheveled and his eyes look very tired. Emblazoned and superimposed on his chest and his white tank top is the image of the *Virgen de Guadalupe*, the patron saint of Mexico.² Across the bottom of her image are the following words: "*Perdóname Virgencita*" ["Forgive me, Virgin"]. I bought the poster and had it framed and mounted for my office because of the powerful symbolism which the work's images have for me. Here is a down and out young cholo/pachuco³ who probably never or rarely attends church, but has nevertheless had notions of Catholicism so ingrained in him that he still seeks forgiveness from the *Virgen de Guadalupe*. When people enter my office and view the framed print, they often ask whether I personally know the individual depicted. My response is somewhat loaded. I typically respond yes, I know the individual, because he is every Chicano that I grew up with.

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1. "Morales 1987" is the only identifying information which the artist chose to place on the work.

2. For a more thorough discussion of the role of the Virgin Mary in Mexican-American culture, see *infra* Parts I.A.1-3 and accompanying notes.

3. The terms "cholo" and "pachuco" are Spanish slang terms used to identify what can best be described as young Mexican-American males who engage in an anti-establishment lifestyle and culture within the Mexican-American community. See generally Rudulfo Anaya, '*I'm the King*': *The Macho Image*, and Jack Lopez, *Of Cholos and Surfers*, in MUY MACHO: LATINO MEN CONFRONT THEIR MANHOOD 57-73, 91-98 (Ray González ed., 1996) [hereinafter, MUY MACHO].

Of my high school graduating class in Lubbock, Texas, which included approximately 175 Mexican-American males in a predominantly Mexican-American high school, I am to date the only Latino that I am aware of that has obtained a college degree.⁴ My Latino high school classmates have pursued a wide range of career paths that are very different than mine. Some have killed and some have been killed, some have attempted suicide and some have succeeded, some have become addicted to drugs and some have dealt drugs, still others are currently in or have previously been in and out of jail. Most, however, are employed, law-abiding working-class individuals attempting to lead an honest and productive life. In general, I consider my living Latino high school classmates' chosen career paths to be no better and no worse than my own. Despite these differing lifestyles, however, I can always be sure to see a good number of these individuals in my hometown at Midnight Mass on Christmas Eve with their wives and children, passing on the Catholic traditions with which we were raised.

Given my life experiences, I believe the poster in my office speaks directly to the central role of Catholicism in many, many working-class Mexican-American families living in the Southwestern United States. Moreover, as illustrated by the poster's disturbing images, the role and importance of religion both historically and in contemporary Chicano/a⁵ identity is an issue that I consider of utmost importance in further developing and crafting LatCrit theory.

Accordingly, the first part of this essay will discuss the importance of Catholicism, particularly the *Virgen de Guadalupe*, in my own life as a working class Tejano. This discussion is both important and necessary in order to contextualize the role of religion and the manner in which the issue arose at LatCrit II. My central premise is that for many working class Chicano/as living in the Southwestern United States, the religious personal is often transformed, perhaps even unconsciously, into the secular political, and that understanding and recognizing this phenomenon is crucial to furthering LatCrit theory.

Next, I briefly summarize the recent history of the St. Mary's University School of Law and its attempts to identify more closely with Catholic social teaching. In this way, I attempt to contextualize my experiences⁶ at LatCrit II regarding the broader issue of religion

4. A few Latinas and almost all of the Anglo students in my graduating class have succeeded in obtaining a college degree.

5. I use the term "Chicana/os" to refer to and as synonymous with "Mexican-Americans," who are the largest of the Latina/o subgroups.

6. As a member of the committee that planned and organized LatCrit II (the "Planning Committee"), I was one of several individuals from law schools around the country, including the host school—St. Mary's University School of Law in San Antonio, Texas. In addition to being a member of the Planning Committee, I also served as St.

and, in particular, the issue of sexual orientation. I also theorize about how these experiences can inform the on-going and continuing development of LatCrit theory. Understanding the religious personal/secular political concept, I argue, should help the reader to appreciate more fully not only the events at LatCrit II, but also the reason why religion and its role in Latina/o communities must continue to be a significant aspect of LatCrit as a whole.

I. MY OWN HISTORY WITH CATHOLICISM

While I cannot speak for all Latina/Latinos, I can speak directly to my own experiences as a third-generation Mexican-American male who was born in a small town and raised as a Catholic in a mid-sized city in the Texas panhandle. While the Catholic Church was by no means the only church in my working class, Mexican-American *barrio*, it was by my admittedly unscientific estimation the church of choice for approximately 95% of all my *barrio's* inhabitants who chose to practice any religion. Thus, early on, I equated the Catholic Church exclusively with Latina/os and, more specifically, with Chicana/os. Religious celebration of baptisms, quinceñeras, weddings, and funerals, all were part of—and to me synonymous with—life as a Mexican-American.

Indeed, because I attended heavily segregated elementary and junior high schools, I did not meet a non-Latina/o Catholic until high school. I still recall my shock at the realization that Anglos could be Catholic. While I had met a few non-Catholic Latina/os, I had never met a Catholic Anglo. Until that time, I had assumed that Anglos were Protestant and Protestant only—it was not until I went to college that I met anyone from a non-Christian background, including Jews, Hindus, Buddhists, and others.

Attending college and graduate school in the San Francisco Bay Area, which is very racially, ethnically and religiously diverse, and attending law school in Boston, a similarly diverse major metropolitan area, significantly broadened and made more inclusive my views about Latina/o identity and specifically about Latina/o religious identity. Nonetheless, the pervasiveness and importance of the

Mary's "point" person for the event. It was in this capacity that I, in connection and cooperation with other members of the Planning Committee from St. Mary's, coordinated and handled much of the conference's final details. As the point person for St. Mary's, I made several last minute decisions on my own. It was to my great surprise, therefore, as well as that of the other St. Mary's planners, when our last-minute decisions to infuse some of Catholicism into LatCrit II proved to be quite controversial at the actual conference. As explained more fully in Part II of this piece, I continue to stand behind the decisions that my St. Mary's colleagues and I made and welcome this opportunity to explain our decisions further. I also welcome the opportunity to contribute to and further what is an interesting and, in my opinion, a much-needed dialogue about the role of religion in Latina/o communities.

Catholic Church in Latina/o lives was continually reinforced throughout my higher education.

For example, at my college graduation from Stanford University we held separate Chicano Graduation ceremonies that augmented, not replaced or displaced, the mainstream college graduation activities. A significant part of Chicano Graduation consisted of a Catholic Mass conducted in Spanish by a Mexican-American priest. I still recall the battle I had to wage with the Anglo University priest about our desire and need to have a Mexican-American priest, and not only a Spanish-speaking priest, conduct this mass as part of our Chicano Graduation. Latinos and Latinas graduating and taking part in Chicano Graduation believed that our parents who had raised us Catholic would feel truly honored to have a celebratory mass in Spanish conducted by a Chicano priest. Therefore, we held our ground until we found a Chicano priest willing to perform the mass. Our predictions proved true as the mass was standing room only.

Thus, while I agree with many of Professor Ota's observations in her symposium essay, I think it important to emphasize the significance of Catholicism in the Latina/o community. Professor Ota writes: "[a]lthough influential, Catholicism is not ubiquitous in every Latina/os' life. Indeed religion forms a cultural basis for community, and in particular, the Catholic church is central to many Latina/o communities."⁷ Although Catholicism is admittedly not the only religion for all Latina/os, I do not believe that one can overestimate the power and influence—both good and bad—that the Catholic Church has had on particular Latina/o communities and individuals and, most specifically, working-class Mexican-American communities in the Southwest.

Recent findings conclude that somewhere between 80 and 90 percent of all Hispanics identify themselves as Catholic.⁸ Moreover, the estimated 20 million Hispanic Catholics in the United States constitute approximately 30% of U.S. Catholics, and according to recent studies, "Hispanics will constitute the majority of U.S. Catholics within 25 years."⁹ Notably, Bishop Charles Grahmann of

7. Nancy K. Ota, *Falling From Grace: A Meditation on LatCrit II*, 19 CHICANO-LATINO L. REV. 437, 440 (1998).

8. Juan F. Perea, *Hernandez v. New York: Courts, Prosecutors, and the Fear of Spanish*, 21 HOFSTRA L. REV. 1, 18 n.87 (1992) (citing Kyriakos S. Markides & Thomas Cole, *Change and Continuity in Mexican American Religious Behavior: A Three Generation Study*, in THE MEXICAN AMERICAN EXPERIENCE: AN INTERDISCIPLINARY ANTHOLOGY 402, 401-07 (Rodolfo O. De la Garza et al. eds., 1985)).

9. Deborah Kovach Caldwell, *Hispanic Catholics Gain Clout: Bishops Look to Meet Needs of Spanish-Speaking Parishioners*, DALLAS MORNING NEWS, Nov. 13, 1997, at 6A.

Dallas has proclaimed that "[t]he future of the Catholic Church in the United States is in the Spanish language."¹⁰

Accordingly, while Professor Ota may be correct that "[a]lthough influential, Catholicism is not ubiquitous in every Latina/os life," the accuracy of the statement should in no way diminish or ignore the prevalence of Catholicism in many Latina/os' lives, particularly working-class, Chicano/a families residing in the Southwest. Carlos Villareal has written that Chicanos have "a discernible culture defined by the use of Spanish, familism, machismo, respect for the elderly, and *communal Catholicism* influenced by idolatry."¹¹ Accordingly, as with other issues regarding Latina/o identity, it is extremely important to recall that when discussing Latina/o religious identity, umbrella terms such as "Latina/Latino" or "Hispanic" are problematic for several reasons.¹² Thus, while Catholicism may not be as much of an identity issue for other Hispanic subgroups, I would argue that for the vast majority of Mexican-Americans living in the Southwest United States, the Catholic Church remains a highly significant force largely because it has been accepted, rejected or otherwise confronted and dealt with by these individuals. As such, Catholicism is a force which *must* be meaningfully addressed in any serious attempt to contribute to an evolving LatCrit theory.¹³

My life experience with Catholicism speaks directly to this issue. Had I remained in the *barrio* where I was raised and not had the educational opportunities and experiences that I have been fortunate enough to have had, I am not so sure that my appreciation of Latina/o religious heterogeneity would have come about at all. Rather, I most likely would have met and married a working-class Chicana whose own background was rich in Catholic tradition. This is certainly true of my sisters and all of my cousins who have re-

10. *Id.* Because of the significant relationship between U.S. Hispanics and the Catholic Church, at a recent meeting the nation's 300 Catholic bishops determined that the Church would take two steps in the hope that these steps "will bring Spanish-speaking American Catholics into the church's mainstream." These two steps include convening a gathering of 5,000 Hispanics in three years, and approving the first American version of a Spanish-language liturgy. *Id.*

11. Carlos Villareal, *Culture in Lawmaking: A Chicano Perspective*, 24 U.C. DAVIS L. REV. 1193, 1219 (1991) (emphasis added) (citations omitted).

12. See generally Gloria Sandrino, *Los Confundidos: De-Conflating Latinos/as' Race and Ethnicity*, 19 CHICANO-LATINO L. REV. 69 (1998).

13. See William C. McCready, *Culture and Religion*, in HISPANICS IN THE UNITED STATES: A NEW SOCIAL AGENDA 52, 55 (Pastora San Juan Cafferty & William C. McCready eds., 1985) ("Although Hispanics are perceived as predominantly Catholic in terms of their religion, this perception needs to be examined as it applies to different groups in different locales. . . . As far as Mexican religious experiences and preferences are known, it appears that although there has been a good deal of proselytizing among Mexicans in specific geographic areas by Protestant sects, *the impact of such activity has been minimal.*") (emphasis added) (citations omitted).

mained in my hometown. Each of them has married a Chicano/a who is Catholic, even if only marginally. The one exception to this phenomenon is a cousin who married a white non-Catholic man from a large Texas city. The irony of my cousin's situation should not escape the reader, my only relative to marry a non-Catholic is someone who also married "outside the race": i.e. a non-Chicano.

A. *Mexican-American Catholicism and La Virgen*

No discussion of Mexican-American Catholic identity would be complete without addressing the role of the Virgin Mary.¹⁴ My mother is named Guadalupe. This is because she was born on December 12th, *El Dia De La Virgen De Guadalupe* (the day of the Virgin Mary), the patron saint of Mexico. Mexican tradition holds that if a child is born on this date, the child should bear the Virgin's name. Thus, within the Mexican and Mexican-American community, many individuals named Guadalupe or Lupe were born on December 12th.

1. *La Virgen de Guadalupe*

Because of my mother's name, St. Mary, or as we referred to her in Spanish, *la Virgen de Guadalupe* or simply *la Virgen*, played a major role early in my life. Throughout my childhood, I remember my grandparents always bringing my mother some type of gift on her birthday. This may not be significant or exceptional to many readers, but for my grandparents it was. My maternal grandparents had 13 children and, particularly as they grew older, were not always able to remember the birth dates of each of their children. In addition, as uneducated immigrants from Mexico, my grandparents had spent their adult lives as migrant farm workers with no rights to a pension or other comparable benefits upon their retirement.¹⁵ Thus, as they grew older, my grandparents' financial situation was often precarious. Nonetheless, each December 12th they were there for my mother. How was it that my grandparents were able to re-

14. This statement should not be misunderstood as a comment about the role of Jesus Christ within the Chicano/a Catholic community. Chicanos certainly adhere to traditional Christian beliefs regarding Jesus' role as Lord and Savior. In addition, however, and for largely historical reasons, the Virgin Mary has come to play a very strong and central role within Mexican and Mexican American Catholicism. For a brief history of the origins and importance of the Virgin Mary in Mexican culture, see Anaya, *supra* note 3, at 72-73.

15. My paternal grandparents were not much different than my maternal grandparents, save for the fact that they were born in the U.S. My father's mother died when he was 8 years old in a house fire that also killed two of my father's other siblings. My grandfather later remarried a woman who had her own children. Including my grandfather's six children, his new wife's existing children, and the children that this new union brought about, my father has sixteen brothers and sisters.

member my mother's birthday? Largely it was because, within our Mexican-American *barrio*, *El día de la Virgen* never passes unnoticed. Rather, traditional songs are sung, masses and processional marches are held, and there are reenactments of *La Virgen's* appearance to Juan Diego in Mexico. In short, the entire day is a day of celebration.

2. *La Virgen's Image*

In addition to my mother's name, *La Virgen's* image was everywhere during my childhood. First, my hometown church—Our Lady of Grace—was named in honor of the Virgin Mary. *La Virgen's* image adorned the homes of my grandparents, my aunts and uncles, our neighbors, and even the local businesses in my *barrio*.¹⁶ The Virgin's image could also be found in less traditional settings such as the detailing work of low rider cars, as tattoos on both women and men, and as pocketbook inserts.¹⁷

Along with these humanly created images of the *Virgen*, there were constant sightings and reported apparitions of the *Virgen* in my hometown and the nearby areas. Typically, these sightings or apparitions were accompanied with talk of the *Virgen* needing to appear because of the wayward ways of the community, or that the *Virgen* was appearing because the apocalypse was near.

3. *Petitions to La Virgen and the Shrine in San Juan, Texas*

In addition to paying homage to *La Virgen*, we were also taught and encouraged to call on the Church and its saints during times of need. Not surprisingly, in my own family, this resulted in an extreme reliance on the *Virgen*. For instance, I recall that when my mother was desirous of something or in times of crisis, my mother would pray a rosary to or light a candle for the *Virgen*, despite the availability of the many saints within the Catholic Church.

Additionally, in the tiny South Texas town of San Juan, there is a shrine, *Virgen de San Juan del Valle Shrine*, which is very well known within the Mexican-American community of the Southwest. The shrine is annually host to thousands of people who make pil-

16. When I was in law school, one of my Chicano classmates who is also from Texas and my age, stated that at the time that we were growing up, most Mexican-American households in Texas had two standard images in their home: one was a picture of President John F. Kennedy, the other was the Virgin Mary. I recall thinking about how accurate his observations were with respect to my own upbringing.

17. Mercedes Olivera, *Virgin of Guadalupe Firm on Ancient Foundation*, DALLAS MORNING NEWS, Dec. 10, 1997, at 38A (describing a mural painting program in Dallas for high school students from single-parent homes and quoting the program's director as stating that Mexican American students "always pick something religious and it's usually the Virgen.")

grimages to visit *La Virgen*.¹⁸ A common practice is to promise *La Virgen* to visit her shrine if she intercedes with respect to a petitioner's petition. Sometimes the visit is contingent on whether the particular petition is actually granted, but not always. One of the more common promises is from families with sick children. Often-times these families promise that if the *Virgen* helps to cure the child's illness, the parents will take the child to visit the shrine, and that until such cure is forthcoming the parents will not cut the child's hair. Other common promises are to refrain from particular behavior, such as smoking or drinking, if the *Virgen* grants a particular wish. Accordingly, one of the more moving places within the shrine is what is referred to as *El Cuarto de los Milagros* [the miracle room]. It is in this room that the Shrine's visitors deposit locks of children's hair, crutches, photographs, paintings, and other similar trinkets and symbols in the belief that the *Virgen* has heard their petitions and responded by performing a miracle.

4. *The "Last Supper of Chicano Heroes" at Stanford*

Perhaps one of the strongest testaments to the importance of *La Virgen* in Mexican-American culture is a mural found at Stanford University. A few years ago, I had an opportunity to visit my old dormitory, Casa Zapata, at Stanford. For several years, Casa Zapata has served as the Chicano "theme" house. In connection with its role, Casa Zapata has several murals on the walls throughout the facility which depict various aspects of Chicano culture and history. A mural, entitled "Last Supper of Chicano Heroes," was added after my departure from Stanford and is prominently displayed in Casa Zapata's cafeteria. Like Michaelangelo's *Last Supper*, this mural depicts several individuals seated at and around a large table. The late Jose Antonio Burciaga, who had painted some of the other Casa Zapata murals, explained that at the time he was inspired to paint the mural, he struggled with the issue of exactly which heroes to include.¹⁹ Burciaga explains that he decided to survey a sample of Chicanos, including Stanford students and various "older activists," regarding their "heroes." Burciaga chose his mural's heroes based on these responses. Burciaga explains that he

18. Tom Fatherrer, *San Juan: Up From the Ashes*, MCALLEN MONITOR, Oct. 23, 1992, at 1A (noting that at the time of its dedication in May 1954, "[a]n estimated 15,000 people weekly made pilgrimages to the shrine" and concluding, "[i]t was, and still is, the religious showpiece of South Texas." See generally THE HISTORY OF THE SAN JUAN DEL VALLE SHRINE (pamphlet produced by the Shrine, on file with author); *Thousands See Ruins of Church*, MCALLEN MONITOR, Oct. 25, 1970, at A1.

19. Jose Antonio Burciaga, *Cinco de Mayo—Some Uncommon Heroes for a Day Commemorating Heroism*, L.A. TIMES, May 5, 1988, at B2. As explained by Burciaga, "[t]he selection process brought into question the very definition of a hero or heroine as a mythical, historical, symbolic, military or popular culture figure." *Id.*

chose to seat the top thirteen cited heroes and heroines at the table, and included others standing around the seated individuals.

The first time I saw this very large mural, I was overwhelmed both emotionally and psychologically. The mural touched me on multiple levels and in multiple ways because much of the mural's contents resonate with my own life experiences. I stared at it for what seemed like hours. The individuals depicted as heroes for the Chicano community were diverse and varied, including Ernesto "Che" Guevera, César Chávez, Dolores Huerta, Martin Luther King, Jr., John F. Kennedy, Carlos Santana, Frida Kahlo, and some of the Latina/o members of the Casa Zapata cafeteria staff. Significantly, suspended above all of these individuals who are either seated or standing near the table is *La Virgen de Guadalupe*, who appears to be floating over the other individuals depicted. Burciaga relates that the *Virgen*, "received enough votes to be seated at the table, but out of respect occupies a loftier place."²⁰ Accordingly, the *Virgen* is elevated above the table and appears to be looking down, keeping watch over the mortals below her.

Finally, across the bottom of the mural's table, are the following words: ". . . and to all those who died, scrubbed floors, wept and fought for us." Burciaga has explained that this quote was inspired by a Stanford student who answered Burciaga's survey inquiring as to the Chicano student's heroes by responding, "all the people who died, *scrubbed floors*, wept and fought so that I could be here at Stanford."²¹ As I read these words, my eyes welled up. My mother with a sixth grade education did, in fact, scrub floors so that I could attend Stanford University, and later, Harvard Law School. Similarly, my father, who has a third-grade education, worked as a construction worker in the blistering cold and unbearable Texas heat toward this same end. Thus, my parents, who were not rich either in material wealth or educational history, nonetheless provided me with many of the indispensable tools necessary for me to gain acceptance into and achieve at least some success at two of the finest institutions of higher learning in the world. Not bad for a Chicano kid from Lubbock, Texas, who neither knew nor understood the English language when he first entered public school. One of the most important gifts which my parents, and primarily my mother, provided me was and continues to be my spirituality and religious grounding in Catholicism.

20. *Id.*

21. *Id.* (emphasis added).

B. *Chicano/as, Catholicism, La Virgen and LatCrit Theory*

The existence of the shrine in San Juan, and the results of Burciaga's survey—as well as the decision he made to include the *Virgen*, and the specific manner in which he chose to include her image in the mural—to me, speak volumes about the role of religion, and more specifically the Catholic Church and *La Virgen*, in the lives of many Chicano/as. That a shrine in an obscure, tiny Texas town continues to play such an integral role in the lives of many Tejanos is quite telling. Similarly, that a random sampling of Chicano/as would produce the *Virgen* as a consistent choice for a hero/heroine is a dramatic and illustrative example of the role of Catholicism in Chicano/a culture. Moreover, both the shrine and the survey's results evidence that the role of the Catholic Church in Chicano/a lives is not one that can be denied, ignored or glossed over, but must be one which is both recognized and directly addressed by LatCrit theory. To fail to do so would be disingenuous and irresponsible at the very least and revisionist history at its worst.

1. *Differences in Chicano/as' Catholic Experience*

Perhaps the best reflection on the reality of Chicana/os and Catholicism were comments made during LatCrit II by Associate Dean Jose Roberto Juárez, the first Mexican-American to hold the title of Associate Dean of Academic Affairs at St. Mary's University School of Law. Prior to his association with St. Mary's, Dean Juárez had a long and admirable history of vindicating civil rights for Latina/os, most recently as Employment Litigation Director for the Mexican American Legal Defense and Educational Fund. Dean Juárez noted that if the criticism of St. Mary's decision to infuse Catholicism into LatCrit II was in some way meant to suggest that LatCrit theory should either de-emphasize and/or ignore the importance of Catholicism in Chicana/o communities, then the conference attendees were dangerously close to losing a significant connection with Chicana/o culture, history and tradition. Dean Juárez eloquently stated that during his life's work pursuing civil rights for Chicana/os, he had attended many, many marches, and could assure the conference attendees that *La Virgen de Guadalupe* was always at the front.²² Sig-

22. Dean Juárez has subsequently expounded upon his experience at LatCrit II: For legal academics who seek to empower Hispanics, it is essential that we work to see the same power in those religious symbols that a majority of Hispanics do. To fail to do so is to engage in the kind of elitism that critical race theorists purport to reject. Religion, and particularly Catholicism, is an integral part of the Hispanic community and of the Hispanic story. To exclude religion is to fail to give voice to the very community the LatCrit participants seek to empower. At best, to fail to include religion is a strategic error because it fails to utilize a potentially powerful source of support. At worst, to

nificantly, and perhaps surprisingly to some, it was *La Virgen*, and not a crucifix or other Christian image or symbol, that led all of those farmworker marches. This speaks to a qualitative and certainly cultural difference in which Mexican-Americans practice and experience Catholicism in the United States.²³

To understand and appreciate the historical role of Catholicism, and particularly the role of *La Virgen*, in Mexican and Mexican-American life is to recognize and appreciate much about contemporary Mexican-American culture and behavior. Furthermore, for many Chicano/as, religious life is often transformed into cultural practices with little thought. For instance, the time-honored tradition of *compadres* and *comadres* within Mexican-American culture is actually religiously-based insofar as it stems from relationships which are formed as a result of individuals' participation in religious ceremonies such as baptisms, quinceñeras and weddings.²⁴ Yet,

exclude religion risks making the legal academy irrelevant to the population we purport to want to empower.

JOSÉ ROBERTO JUÁREZ, JR., HISPANICS, CATHOLICISM, AND THE LEGAL ACADEMY (1998) in CHRISTIAN TRADITIONS AND THE LAW (Michael McConnell, Robert Cochran & Angela Carmella, eds., forthcoming 1998).

23. See generally, McCready, *supra* note 13. Another example of Mexican-American Catholicism being culturally different from mainstream Catholicism in the United States is the Mexican-American wedding. A typical Mexican-American wedding will have several *padrinos* and *madrinas*, often many times more than the typical American equivalent of bridesmaids and ushers. These *padrinos* and *madrinas* are members of the wedding party, but also help to pay for the costs of the wedding. In this respect, *padrinos* and *madrinas* are essentially wedding sponsors. Serving as the first *padrino/madrina* couple for the bride and groom is generally a high honor often reserved for a favorite aunt and uncle of the marrying couple. In addition to *padrinos* and *madrinas*, the Mexican-American Catholic wedding is also full of other traditions and customs such as the *lasso*, the *dimes* and the ever-popular "dollar dance" at the reception.

The reality that Mexican-Americans practice and experience a distinct form of Catholicism does not mean, however, that such customs or cultural differences split or somehow fragment the Church. Rather, as recognized by the National Conference of Catholic Bishops,

[p]arishes are called to be communities of solidarity. Catholic social teaching more than anything else insists that we are one family; it calls us to overcome barriers of race, religion, ethnicity, gender, economic status, and nationality. We are one in Christ Jesus (cf. Gal. 3:28)—beyond our differences and boundaries. . . . We are a very diverse community of faith—racially, ethnically, economically, and ideologically. This diversity should be respected, reflected, and celebrated in our social ministry.

National Conference of Catholic Bishops, *Communities of Salt and Light: Reflections on the Social Mission of the Parish*, in COMMUNITIES OF SALT AND LIGHT: PARISH RESOURCE MANUAL 10, 12 (Dep't of Soc. Dev't & World Peace, U.S. Catholic Conf., 1994) [hereinafter, SALT AND LIGHT].

24. Geoffrey Fox has described these relationships as "ritual bonds" which are "semisacred tie[s] between the parent and godparent of a child." GEOFFREY FOX, HISPANIC NATION 82-83 (1996). However, these *compadre/comadre* relationships are not limited to only parent and godparent, but extend to other relationships formed in connection with religious activities. One commentator has noted that for Latino/as, "Familia extends beyond blood ties to the special friendships between adults, ritually cemented through *compadrazgo*, which roughly translates as godparenting. *Comadres*

most Chicana/os I know give little, if any, thought to the fact that in utilizing and participating in the *compadre/comadre* institution, they are actually participating in and reinforcing a practice which has religious origins.

The prevalence of religious names within the Latina/o community is another example of this unconscious reinforcement of religion. Traditional Spanish names such as Maria, Guadalupe, Jesus, Jose and Pedro, are all biblical and thus religious in origin. Yet, these names when used in every day interaction, and particularly when translated/transformed into English (Mary, Lupe, Jesse, Joe and Peter), somehow lose their religious nature and become much more secular in tone.

2. *The Religious Personal and the Secular Political*

In addition to the melding of Chicano culture with Catholicism, the prevalence and dominance of the Catholic Church in Chicana/o lives also plays a much more direct role because it is often the source and basis for Chicano/as', particularly working class Chicano/as', political beliefs and actions. Accordingly, assuming the existence of a "Chicano view," and/or "Chicano/a voice," such a view or voice is certainly and understandably often influenced by the Church's teachings on various issues. It should not be surprising, therefore, that Chicano/a views on various controversial topics ranging from abortion to the death penalty are often informed and influenced by, and thus strikingly similar to, the Church's teachings on these issues. For instance, with respect to the immigration debate, Kevin Johnson has postulated that "Catholicism, still the dominant religion among Latinos/as, may affect the community's collective view on immigration."²⁵ Similarly, Berta Esperanza Hernández-Truyol has recognized that, "[s]ignificantly, 85% of Latinas consider themselves Catholic, and many hold political and social views that are influenced by religious doctrine."²⁶

For many working class Chicano/as, therefore, the intersection of ethnicity, class and religion often results in and shapes political ideology. Moreover, it is these factors that determine many Chi-

and *compadres* become bonded to, and to an extent, responsible for the needs of an entire family—particularly to those of the parents of the same sex. They thus exceed the majority's concept of the godparenting role." Note, *Into the Mouths of Babes: La Familia Latina and Federal Funded Child Welfare*, 105 HARV. L. REV. 1319, 1322-23 (1992).

25. Kevin R. Johnson, "Aliens" and the U.S. Immigration Laws: *The Social and Legal Construction of Nonpersons*, 28 U. MIAMI INTER-AM. L. REV. 263, 289 n.127 (1996-97) (citations omitted).

26. Berta Esperanza Hernández-Truyol, *Borders (En)gendered: Normativities, Latinas, and A LatCrit Paradigm*, 72 N.Y.U. L. REV. 882, 915 n.92 (1997) (citations omitted).

cano/as' life experiences, as they have in my own life. Paraphrasing from contemporary feminism, therefore, I would argue that for many Chicano/as, the religious personal is in many instances the equivalent of the secular political.

The Honorable Reynaldo G. Garza is a living testament to this reality. In 1961, Judge Garza became the first Mexican-American federal judge when he was appointed to the United States District Court for the Southern District of Texas.²⁷ In 1979, Judge Garza again made history by becoming the first Mexican-American appointed to a federal appeals court when he was elevated to the United States Court of Appeals for the Fifth Circuit. Significantly, a little known fact about Judge Garza is that he was offered, by President Jimmy Carter, and turned down the opportunity to serve as the first Mexican-American United States Attorney General.

Despite the significant age and generational disparities between Judge Garza and me, we still have much in common. Being born and raised Tejanos, he in deep South Texas and I in the Northern Texas panhandle, and separated by 50 years of age and experience, a full half-century, seems to have had little impact on the ways in which he and I were raised and the continuing importance and significance of Catholicism in our respective families.²⁸ For more than fifty years before my arrival on this earth, Judge Garza, a legal trailblazer for all Latina/os, has been a living example that for many Chicano/as, including lawyers and judges, the religious personal is indeed the secular political.²⁹

27. LOUISE ANN FISCH, *ALL RISE: REYNALDO G. GARZA, THE FIRST MEXICAN AMERICAN FEDERAL JUDGE* (1996).

28. Louise Ann Fisch relates,

A more formally religious man would have been hard to find. Garza not only attended Mass daily, but when faced with a difficult sentence, he would find solace in prayer. He befriended many South Texas priests, who became his confidantes and spiritual advisors. When he delivered an especially severe sentence, he found comfort in religious doctrine. Theology interested Garza immensely, and he had known the Bible well since childhood. He often used religious references when discussing cases with his clerks, but he never forgot that his task on the bench was to follow Constitutional, rather than biblical, precepts. He prayed daily for divine guidance and was well aware of his responsibility to balance the scales of justice, striving for fair sentencing as dictated by law. He often arranged religious retreats for attorneys in South Texas in an effort to remain involved in religious affairs. In this manner he maintained the strong faith of his Mexican roots while following the precepts of the American judicial system.

Id. at 109.

29. The work of Juan Perea and Gary C. Furst regarding race-neutral reasons for disqualifying jurors under a *Batson* challenge is another example of the way in which a Chicano/as' personal religious beliefs can have very secular political ramifications. Gary C. Furst, *Will the Religious Freedom Restoration Act Be Strike Three Against Peremptory Challenges?*, 30 VAL. U. L. REV. 701, 717 n.84 (1996) ("Depending upon the size of the Latino population in a jurisdiction and the number of peremptory challenges that litigants are given, if a court were to allow Catholicism to serve as a race-neutral

Assuming this assertion is both accurate and correct, an interesting issue which arises is the dominance of the Democratic party for the vast majority of Chicana/os who choose to identify with either party, and for those who choose to vote at all. For instance, John Hart Ely has noted, that "Latinos are notoriously divided politically, Mexican-Americans and Puerto Ricans voting heavily Democratic, Cuban-Americans still more heavily Republican."³⁰ Similarly, Rudolfo De La Garza and Louis DeSipio have noted that "majority Latino [electoral] districts are highly partisan. In Mexican American and Puerto Rican areas, the partisanship is Democratic; in Cuban areas, Republican."³¹ Given that the Democratic party's position with respect to several issues is far more liberal than the Catholic Church's position, e.g. abortion, birth control—which way do Chicano/as choose to vote, assuming they vote at all, and what is the process they use for arriving at their decision—what factors are considered, how are they considered and why are they considered are all interesting questions worthy of further inquiry.

3. *Catholicism, Sexism and Chicana/os*

Understanding and appreciating the central and important role of Catholicism in Mexican-American identity for me also brings forth one of the most disturbing paradoxes in contemporary Mexican-American existence—the prevalence of sexism in contemporary Chicano/a culture.³² Given the enduring role of a prominent and

justification for peremptory challenges, many Latinos could be excluded from jury service.") (citations omitted); *see also* Perea, *supra* note 8, at 18 ("Catholicism, like language, is an inherent part of Latino ethnicity. Catholicism, therefore, can function as a close proxy for Latino ethnicity and should not be considered a neutral reason for excluding a juror.") (citations omitted).

30. John Hart Ely, *Standing to Challenge Pro-Minority Gerrymanders*, 111 HARV. L. REV. 576, 595 (1997) (citations omitted).

31. Rodolfo O. De la Garza & Louis DeSipio, *Save the Baby, Change the Bathwater, and Scrub the Tub: Latino Electoral Participation After Seventeen Years of Voting Rights Act Coverage*, 71 TEX. L. REV. 1479, 1515 (1993) (citations omitted).

32. Judge Reynaldo G. Garza's own family is typical of the division of roles for many Mexican American parents.

The Garza family organization, which existed along patriarchal lines, reflected a Mexican cultural pattern that mirrored American culture. Like most Mexican American and American families, the father personified authority. . . . Conversely, Zoila [Judge Garza's mother] assumed the traditional Mexican mother's role of the sympathizer. The children regarded Zoila as a saintly, patient woman who showered them with affection. Since religion was the core of Zoila's existence, she was a deeply spiritual woman who saw in her Catholic faith the answers to any contemporary problem. She kept a Bible close to her side and adorned her home with spiritual symbols. She was a conservative woman, who always wore her coal black hair back with a small wooden barrette and refrained from using cosmetics. Most of Zoila's energies were concentrated on her children and her husband.

FISCH, *supra* note 27, at 9

much-revered holy woman such as *La Virgen* in many Mexican-American families, why is it that male *machismo*, and the consequent subordination of women, continues to be an issue in many Chicana/o lives? Martin Espada writes, "'Macho,' as employed by Anglos, is a Spanish word that particularly seems to identify Latino male behavior as the very standard of sexism and violence."³³ Echoing this sentiment, Jenny Rivera has noted, "'Macho' is the accepted—and expected—single-word description synonymous with Latino men and male culture."³⁴

In a recent book, *Muy Macho: Latino Men Confront Their Manhood*,³⁵ several Latino authors from various of the Latino subgroups write eloquently and revealingly about the role of *machismo* in their own lives. Throughout this collection of essays, particularly those from Chicano authors, there are numerous references to the role of the Church in Chicano/Latino male identity, but there is no serious examination of the paradox of *La Virgen* and the continuing sexism in Chicano/a culture.

Equally as important as the Church, however, is the role of Chicano fathers. With respect to his father, Luis J. Rodriguez, a Chicano writes,

We never really communicated. We never shared intimate moments, or even the word *love* between us. . . . The patriarchal Mexican culture had helped build a wide breach between my father and me. The silent strong man—perhaps such a dichotomy could exist, but it also had vestiges of deceit—was revered. Waited on. Accepted. My grandfather drank his manhood away, beating up his wives, demeaning his children. My mother learned to hate, to talk a blue streak so she could defend herself.³⁶

33. Martin Espada, *The Puerto Rican Dummy and the Merciful Son*, in *MUY MACHO*, *supra* note 3, at 87. But, concludes Espada, "[w]hile Latino male behavior is, indeed, all too often sexist and violent, Latino males in this country are in fact no worse in that regard than their Anglo counterparts. Arguably, European and European-American males have set the world standard for violence in the twentieth century, from the Holocaust to Hiroshima to Vietnam." *Id.* at 88.

34. Jenny Rivera, *Domestic Violence Against Latinas By Latino Males: An Analysis of Race, National Origin, and Gender Differentials*, 14 B.C. THIRD WORLD L.J. 231, 240 (1994). A corollary to *machismo* is *marianismo*. Berta Esperanza Hernández-Truyol notes, "The Latina identity is developed in the context of the 'ideal woman' fabricated in the mold of the Virgin Mary, a construct called *marianismo* that 'glorifie[s] [Latinas] as strong, long-suffering women who ha[ve] endured and kept Latino culture and the family intact.'" Hernández-Truyol, *supra* note 26, at 915 (citations omitted). After expounding further upon the concept of *marianismo*, Hernández concludes, "[i]n sum, the Latina is supposed to be a self-sacrificing, virgin mother, a saint, superhuman. She is deemed a failure, however, if in her humanness she fails by falling short of this super- and suprahuman religious ideal." *Id.* at 916. For an example of *marianismo* in Judge Garza's life, see *supra* note 32.

35. *MUY MACHO*, *supra* note 3.

36. Luis J. Rodriguez, *On Macho*, in *MUY MACHO*, *supra* note 3, at 196. Ray Gonzalez, another Chicano contributor, amplifies this point:

Despite honest attempts by many males to come to terms with the kind of men

Moreover, another important area of inquiry should be the extent to which Chicanas, without engaging in "blaming the victim," participate, either directly or inadvertently, in instilling and reinforcing mainstay principles of *machismo*. Rudulfo Anaya writes about this much-neglected reality:

Talking about being macho also means talking about the role of women in our lives. In a traditional setting, the Mexican mother raises the male child and has a great influence on the learned macho behavior of the child. We [Mexican men and boys] learn a lot about the sexual behavior from the males of the clan, but the mother, if she does the raising of the male child, is a most crucial ingredient in the evolving macho role.³⁷

In my own experience, for instance, certainly none of the Chicanas in my life ever suggested that beating, demeaning or otherwise subordinating women is appropriate behavior for Chicano men. Nonetheless, these same women were among the fiercest protectors and enforcers of gendered roles and mores, continually insisting on my strict compliance with certain facets of male *machismo*. In their presence, I was not allowed to cry or otherwise show emotional vulnerability, was to protect my sisters and female cousins at all costs, and was otherwise consistently reminded that my gender determined much of what would be permitted of me in terms of my actions and reactions to the world around me. Subsumed in all of this *machismo* socialization was a deeply ingrained and embedded presumption of heterosexuality.³⁸ Geoffrey Fox concludes that "*machismo* is widespread, shared and reinforced even by many women, especially mothers who insist that their sons do only 'manly' tasks and leave the household drudgery to their sisters."³⁹

The paradox of *La Virgen* and persistent sexism in Chicana/o culture is an area ripe for further development in LatCrit theory.

they had for fathers, we don't completely understand why so many of us are blocked from having good relationships with them. We can go as far as to say it is not our fault our fathers were screwed up and had lived very different lives than our own. As young men, their values were different and family roles were not what they are today. We could point out certain events in our parents' lives that affected us as kids, but we could not completely understand why it was so damn hard to reach out to the male parent and pay such a high cost for doing it.

Ray Gonzalez, *My Literary Fathers*, in MUY MACHO, *supra* note 3, at 178.

37. Anaya, *supra* note 3, at 67.

38. For a more thorough discussion of sexual orientation and Mexican-Americans, see *infra* Part III.

39. FOX, *supra* at note 24, at 230-31. In his essay, Ilán Stavans, a Mexican contributor to *Muy Macho*, captures the essence of this mentality with respect to many Mexican American families and the issue of sex: "The Hispanic family encourages a double standard. Few societies prize female virginity with the conviction that we do. But while virginity is a prerequisite for a woman's safe arrival at the wedding canopy, men are encouraged to fool around, to test the waters, to partake of the pleasures of the flesh." Ilán Stavans, *The Latin Phallus*, in MUY MACHO, *supra* note 3, at 150.

For instance, given the historical significance of *La Virgen*, a strong almost impenetrable role model, why is it that domestic violence exists within the Mexican-American community at all, and what is the best way for us as a community to address this issue?⁴⁰ Moreover, and more disturbingly, why is it that according to various studies, Mexican-American women are the least likely to view certain actions as constituting spousal abuse, and are the most likely never to have informed a friend, minister or social worker of the domestic violence prior to visiting a battered woman's shelter.⁴¹ One set of researchers summarized the findings regarding Latinas and domestic violence in the following way:

The research on hispanics implies that hispanic women in shelters would tend to be the most disadvantaged economically, and be married longer and fewer times. The hispanic women are also more likely to tolerate more abuse, which would be reflected in less help seeking. When they did seek help, they would characteristically be more likely to call on police.⁴²

As a Chicano and legal academic, I find these questions intellectually perplexing, but more so extremely disturbing. While I was growing up I was never able to understand, and will never be able to understand, the persistence of domestic violence within my Chicano/a community. It bothers me, infuriates me and sickens me. Most of all, it saddens me that a community so grounded in religious faith could have such an un-Christian force play such a strong role in the lives of so many of its women. At the same time, however, I have to recall that the sexism inherent in the Catholic Church is certainly no glowing example of equality of treatment for women. As such, the Church more than likely often serves as reinforcement of rigid, traditional gendered role-playing within the greater Mexican American community.⁴³

40. Rivera, *supra* note 34, at 240.

41. Although scant, data from various social science studies has determined that Latinas do indeed experience domestic violence qualitatively, and in some instances quantitatively, different from their non-Latina counterparts. See, e.g., Edward W. Gondolf, et al., *Racial Differences Among Shelter Residents: A Comparison of Anglo, Black, and Hispanic Battered Women*, 3 J. FAM. VIOLENCE 39, 44 (1988) (concluding that Latinas are the least likely of all groups "to contact a friend, minister, or social service, [thereby] suggesting their relative social isolation"); see also Sara Torres, *A Comparative Analysis of Wife Abuse Among Anglo-American and Mexican-American Battered Women: Attitudes, Nature and Severity, Frequency and Response to the Abuse* 6 (1986) (unpublished Ph.D. dissertation, University of Texas) (on file with author). In her study, Dr. Torres found that, having decided to make contact, "Anglo-Americans contacted their relatives and a shelter for battered women for assistance. Mexican-Americans contacted the police, friends and relatives for assistance." *Id.* at 150. Dr. Torres also found that Mexican-American women had a much more tolerant view of what constitutes domestic violence. *Id.* at 93, 104.

42. Gondolf, *supra* note 41, at 40 (citations omitted).

43. See generally ADA MARIA ISASI-DIAZ & YOLANDA TARANGO, *HISPANIC WOMEN: PROPHETIC VOICE IN THE CHURCH: TOWARD A HISPANIC WOMEN'S*

Luis J. Rodriguez has written eloquently about male *machismo* and the ways in which Latino men can seek to address this issue:

I have to address an important aspect of men coming to terms with themselves, with their inner workings, their mistakes, their strengths, their vulnerabilities. And that is that no man can find his essence, can get a hold of his own true self, as long as he participates, whether willfully or not, in a world that is predicated on man's power over woman.

I may have achieved a level of peace within myself and with those I live with, but I was also capable of great destruction, including almost killing my first wife. We can't lie to ourselves. A free and spiritual man can never be a user or exploiter of women. For us, *macho* does not mean the bully, the jock, the knucklehead. He is warrior, protector, defender, and lover. He is artist, hero, father and elder. Nowhere does this imply or indicate a relation of superiority or strength over the only being that can define, limit, and even set him free: woman. This, I believe, must be integral to any activity by men in finding themselves.⁴⁴

Latino men "finding themselves," as suggested by Luis Rodriguez, is crucial to finding an effective approach for dealing with the issue of domestic violence in the Latina/o community. LatCrit certainly has a role to play in this continuing search. First, in "finding themselves," LatCrit men can look within to see what, if any, sexist notions they hold and what, if any, sexist practices they engage in, and then ask whether and to what extent these beliefs and/or behaviors stem from religious training/indoctrination. Additionally, both LatCrit men and women can address the religious personal and secular political reality in their writings. Finally, LatCrit can ensure that its internal efforts to address and eradicate this plague are mirrored in the parallel jurisprudence and efforts of other critical race theory movements.

II. LATCRIT II AND THE HOST SCHOOL

Having discussed the strong influence of Catholicism in Mexican-American culture, I would now like to address the way in which the issue of religion arose at LatCrit II. St. Mary's University School of Law was the official host school for LatCrit II.⁴⁵ The University and the Law School are both situated in a working class Mexican-American *barrio*. Given that the controversial aspect of LatCrit II turned out to be the role of religion in Latina/o communi-

LIBERATION THEOLOGY (1988).

44. Rodriguez, *supra* note 36, at 201.

45. St. Mary's is the oldest university in San Antonio, and the oldest Catholic University in the Southwest. Mission Statement, St. Mary's University School of Law Application Bulletin 3 (1997).

ties, a more appropriate location for the conversation could not exist.

As the St. Mary's members of the Planning Committee proceeded to tend to the conference's final details, we determined that given our shared enthusiasm and support for the Law School's recent emerging and developing Catholic character and image,⁴⁶ we would seek to share some of what makes St. Mary's special to us with the attendees throughout the conference weekend. Toward this end, we decided to inject a small part of St. Mary's "magic" into the LatCrit II program, particularly emphasizing the work of the Law School's clinics.⁴⁷ Much to my and my St. Mary's colleagues' surprise, however, it was this very decision which resulted in a spontaneous, tumultuous and difficult conversation during the Satur-

46. Despite the University's history, until recently the Law School was not particularly Catholic in either tone or practice. With the arrival of Dean Barbara Bader Aldave in 1989, a Catholic and the first and only woman dean of a Texas law school, and several of the faculty hired under her, the Law School has attempted, in a progressive manner, to identify itself and its work more closely with the Catholic Church and its teachings. Indeed, as noted by one commentator, Dean Aldave "is the only dean to base her law school's mission on the life of Mary, mother of Jesus." Robert Elder, Jr., *St. Mary's Clinics Continue City's Activist Traditions*, TEXAS LAWYER, May 27, 1996, at 20. Dean Aldave's efforts to redefine and refocus the Law School and its Mission have not been without controversy. From her decision to establish legal clinics to her decision to increase racial minorities among the student body, Dean Aldave's reign at the head of the Law School has been tumultuous at best. See *id.*; Bob Elder, *In the Spirit of St. Mary: San Antonio Law School Dean a Progressive Voice in the Legal Wilderness*, TEX. OBSERVER, June 14, 1996. In addition to establishing clinics and enlarging the curriculum, Dean Aldave's other controversial, so-called "liberal" actions include diversifying the student body and faculty, so much so, in fact, that St. Mary's now has more Mexican American students and law professors than any other law school in the country. For a more complete treatment of all of Dean Aldave's many accomplishments during her nine year tenure at the law school, see Report to Rev. John M. Moder, President St. Mary's University School of Law (on file with author). For Dean Aldave's own philosophy and defense of her actions, see Barbara Bader Aldave, *The Reality of a Catholic Law School*, 78 MARQ. L. REV. 291, 294-95 (1995) ("We at St. Mary's University School of Law are virtually obliged to sponsor the particular clinical programs that we have initiated, I aver. After all, for whom is our school named? . . . Somehow I have to believe that such a woman [St. Mary], whom I view as a strong and courageous figure, would heartily approve of programs—instituted at the only law school bearing her name—that are designed to aid the poor and the homeless, immigrants and refugees, the young and the elderly, and inhabitants of death row.") Another of my St. Mary's colleagues, Professor Emily Hartigan, has also written about the Law School's developments under Dean Aldave. See Emily Fowler Hartigan, *Practicing and Professing Spirit in Law*, 27 TEX. TECH L. REV. 1165, 1173-75 (1996).

47. In a completely unilateral action, for instance, I decided to ask the Law School's Campus Minister, Sister Grace Walle, to give a blessing at the conference's opening dinner on Thursday night. My St. Mary's colleagues and I also decided to present some of the conference speakers with religious art work produced by one of the Marianist Brothers associated with the University. Finally, it was determined that while some of the conference's meetings would take place at the conference hotel, the Saturday meetings which were scheduled to take place at the Law School's Center for Legal and Social Justice, which houses the Law School's five clinics, would provide an excellent opportunity to share aspects of our St. Mary's community and Catholic culture with those who may not be familiar with the Law School, the clinics or their important work.

day morning panel at LatCrit II, which Professor Nancy K. Ota has described as "four hours in sometimes heated debate over the role of religion" and "a ranging and emotionally charged discussion illustrative of the complications of the politics of identity."⁴⁸ Much of the conversation centered on the historical oppression which the Church has practiced against gays, lesbians and transgendered peoples. That this issue was a major component of the Saturday discussion was quite ironic given the Law School's recent history with respect to issues of sexual orientation.⁴⁹

48. Ota, *supra* note 7, at 437, 439.

49. When I arrived on the campus of the Law School in the Fall of 1996 ready to begin full-time teaching, I had many of the same preconceived notions that many people in contemporary society may have regarding a Catholic law school. While I was raised Catholic and certainly considered myself a practicing Catholic, I nevertheless knew that there were many beliefs that I did not share with the Catholic Church. In fact, my best friend and I had recently had a discussion regarding whether we could still consider ourselves Catholic given our differences with the Church's teachings. My position was, and continues to be the following: for me the Catholic Church stands for hundreds of thousands of different principles and the fact that I may differ with the Church on five or six major points does not mean that I can no longer consider myself Catholic. However, rather than simply picking and choosing my Catholicism, I do attempt to adhere to as many of the Church's teachings as possible while at the same time working within the institution to change those five or six that I do not support. In doing so, I am mindful of the National Conference of Catholic Bishops' admonition that, "We need to make sure our faith shapes our political action, not the other way around. We cannot forget that we pursue the kingdom of God, not some earthly vision or ideological cause." SALT AND LIGHT, *supra* note 23, at 14. With this ambivalence, therefore, I arrived at my new job. I still recall vividly that the first agenda item at my first St. Mary's faculty meeting was whether to approve the establishment of a gay and lesbian law student organization. St. Mary's being a Catholic law school, I expected there would be great debate over this issue. To my surprise, there was none, and the motion passed by an overwhelming majority of the faculty vote. As I understand it, the lack of debate over this issue may have been because the year prior to my arrival the proposal had been considered at length and many of the objections had been adequately addressed by the Catholics on the faculty to the satisfaction of those concerned about the issue, in part, by referencing Section 2358 of the Catechism of the Catholic Church which provides:

The number of men and women who have deep-seated homosexual tendencies is not negligible. They do not choose their homosexual condition; for most of them it is a trial. They must be accepted with respect, compassion, and sensitivity. *Every sign of unjust discrimination in their regard should be avoided.*

CATECHISM OF THE CATHOLIC CHURCH § 2358 (Ignatius Press 1994) (emphasis added). Moreover, although not issued at the time of the vote at issue here, The National Conference of Catholic Bishops has recently issued a pastoral letter urging parents of gay and lesbian children to accept and love their children. National Conference of Catholic Bishops Committee on Marriage and Family, *Always Our Children: A Pastoral Message to Parents of Homosexual Children and Suggestions for Pastoral Ministries*, Oct. 1, 1997.

In the end, this position proved victorious, and the law student organization was allowed to form. Interestingly, at the same time that St. Mary's, which is headed by a Marianist priest, approved the establishment of a gay and lesbian law student organization, another Catholic university in San Antonio, which is headed by a lay person, denied approval of a similar student organization on its campus. Ken Dilanian, *Gay Group Seeks IWC Recognition*, SAN ANTONIO EXPRESS-NEWS, Nov. 10, 1995. In denying the group official status the president of the university stated, "[i]f the students want to petition the pope in Rome, they're welcome to." *Id.*

As I stated at the Saturday discussion and will reiterate here, I was the one who made the unilateral decision to ask Sister Grace, the Law School's campus minister, to give the dinner blessing at the conference's first dinner—a decision which spawned a great deal of controversy unbeknownst to me until the Saturday morning discussion—and I make no apologies for this or any other of my or my colleagues' decisions regarding the infusion of Catholicism at Lat-Crit II. St. Mary's is a Catholic law school and from my vantage point, all that we did as the host school at LatCrit II was to behave as a Catholic institution.⁵⁰ To have this choice criticized by self-professed progressives who claim to advocate inclusion and tolerance for all, seemed at the time of the actual discussion, at best a little disingenuous to me and at worst exceedingly hypocritical. Nonetheless, I do want to make it clear that neither I nor my St. Mary's colleagues ever purposefully set out to offend, marginalize or otherwise discomfort anyone. In fact, the following evening I asked one of the other conference attendees, a Native American, to give a Native American blessing at dinner, and he did.⁵¹ Moreover,

In addition to approving a gay and lesbian law student organization, however, the Law School has also been supportive of gay and lesbian students and community members in other ways. For instance, until the recent passage of the so-called "Soloman Amendment," the Law School under Dean Aldave's leadership had not permitted the U.S. military to participate in on-campus recruiting. This prohibition was necessitated because the military refused to be a signatory to the Law School's policy of non-discrimination, a policy which was in accordance with a long-standing policy of the Association of American Law Schools, but which few other law schools had actually enforced. Additionally, the Law School has also purchased a table for students and faculty at the annual Black Tie Dinner, an AIDS fundraiser, held by the local chapter of the Human Rights Campaign, a national gay and lesbian organization. Perhaps the best and most-widely attended school-wide function has been a panel presentation that the gay and lesbian law student organization sponsored regarding same-sex marriage and the various legal issues involved in the debate. The Law School has also offered courses which, in part, explore legal issues relating to sexual orientation. Finally, the Law School's clinics have represented gay, lesbian and transgendered clients in various cases, many involving situations, such as petitions for political asylum, where the client's sexual orientation is the primary focus of his or her legal problem or problems.

I outline all of this activity with respect to the Law School's interaction with and support for the gay and lesbian students and community members not to justify or somehow defend the Law School or its actions at LatCrit II—I do not believe such a defense or justification is either necessary or warranted—but rather to provide the reader with a more accurate and thorough contextual setting in which the reader may better understand why we at St. Mary's were so surprised by the tone and content of the Saturday conversation.

50. These actions, which were typical of our daily practices, are in line with the declarations from the National Conference of Catholic Bishops:

A parish cannot really proclaim the gospel if its message is not reflected in its own community. . . . The Church teaches that social justice is an integral part of evangelization, a constitutive dimension of preaching the gospel, and an essential part of the Church's mission. The links between justice and evangelization are strong and vital. *We cannot proclaim a gospel we do not live.* . . .

SALT AND LIGHT, *supra* note 23, at 3 (emphasis added).

51. Several of the conference attendees had not attended the prior evening's dinner

while I did not assume that everyone would agree with or even like the Catholic culture which I and my other St. Mary's colleagues were attempting to share, I did expect that this culture, or any other which was introduced during the course of the conference, would at least be respected.

A. *Being an "Out" Catholic*

Given the Law School's rich and recent history as outlined above, I was quite proud and happy that I had joined the Law School faculty. As I often explained to my new colleagues, for me this association was good because at long last I was able to be an "out"⁵² Catholic. No longer did I have to conceal my religious identification at work. No longer did I have to make apologies or justify my joy and enthusiasm for my deeply held spiritual and religious beliefs. No longer did I have to worry about my comments in class regarding religion as I had worried when I taught as an adjunct professor at a public law school while I was in practice. No longer did I have to worry about or be wary of having religious symbols in my office. No longer did I have to worry about excusing myself from work for a few hours on Sundays so that I could attend mass.⁵³ Accordingly, when the criticism of St. Mary's interjection of religion into various aspects of LatCrit II began, I felt as though my school and I were being criticized for being "out" about our Catholicism.

I discussed the following analogy with a fellow conference attendee. Assume a lesbian attendee at LatCrit II had presented a poem in which she alluded to holding her lover, and which further described her intimate feelings regarding the relationship. Assume

and were thus unaware of the second evening's non-Christian dinner blessing. Accordingly, the criticisms of the Saturday conversation which emphasized the Christian interjections completely failed to account for the fact that LatCrit II had, in fact, included other forms of non-Christian prayer and reflection during the conference.

52. While obviously a borrowed term from the lesbian, gay and transgendered community, I use the term "out" here as a close, but admittedly faulty and inapproximate, analogy. I believe that, with perhaps a few isolated exceptions, the ramifications for choosing to live one's life as an "out" Catholic can never be as grave as those associated with being an "out" gay, lesbian, or transgendered individual in contemporary American society. Recognizing this reality, however, I can still state that I most certainly have experienced a good amount of discrimination and marginalization, particularly among educated intellectuals, for my decision to live my life openly as a practicing Catholic. My St. Mary's colleague, Professor Emily Hartigan, has described this phenomenon accurately as a "taboo against religious speech in public, in the academy" and noted that "[i]n legal scholarship, [she] was considered irrational and outside civil discourse when [she] spoke of Spirit." Hartigan, *supra* note 46, at 1167, 1172. Thus, irrespective of an individual's "out" lifestyle, I believe discrimination against such an individual for choosing to publicly engage in a particular lifestyle is wrong.

53. For an analogous account of similar decision-making with respect to the workplace for Orthodox Jews, see Ron Coleman, *A Lawyer and His Sabbath*, STUDENT LAWYER 14 (Dec. 1987).

further that someone in the LatCrit II audience had objected that the content of the poem was bothersome to him or her and his or her morals. To me, there is no doubt that the vast majority of individuals in attendance at the Saturday discussion would have quickly (and rightfully in my opinion) responded to the objection by pleading for the objector's tolerance with respect to the presenter's right to speak. The plea would not have been for the objector to accept and/or like or enjoy what he or she was listening to, but rather merely that the objector be tolerant and respectful of another's right to speak and experience his or her own reality and complexity. In other words, I believe people would have, and should have, requested that such an objector allow the individual to be "out" with respect to her feelings, experiences and beliefs.

In my mind, we as a Catholic law school attempting to be "out" about our Catholicism were not similarly supported, but rather criticized for our actions—not by all, but at least by some in attendance at LatCrit II. Again, in my mind, all that we at St. Mary's did at LatCrit II was to behave as a Catholic institution.

B. *Professor Ota's Experiences at and Important Contributions to LatCrit II*

In her symposium essay, Professor Ota highlights and reiterates many of the points regarding sexual orientation and the Catholic Church which were raised during the Saturday discussion. While Professor Ota acknowledges "the contributions which the Catholic Church makes to various liberatory movements, to individual spirituality, and to building community," she also asserts that, "blithe incorporation of Catholic tradition in a LatCrit conference raises a few questions" which she suggests should be further explored.⁵⁴ At a later point, Professor Ota returns to one of her basic themes with which I wholeheartedly agree: "While LatCrit Theory must deal with Catholicism's prevalence, the general presumption of a Latina/o religious homogeneity around Catholic tradition is faulty."⁵⁵ It is on this specific point that I am now better able to appreciate Professor Ota's position and statements at LatCrit II and her subsequent writings on her experience.

Interestingly, however, I believe that unbeknownst to either of us, our positions may actually have more in common than not. As a preliminary matter, I am in complete agreement that the Catholic Church has a less than pristine history. Furthermore, I specifically agree with Professor Ota's assertions that "the general presumption of a Latina/o religious homogeneity around Catholic tradition is

54. Ota, *supra* note 7, at 439.

55. *Id.*

faulty." Understanding her position better helps me to understand that in our enthusiasm to share some of St. Mary's with the conference attendees, my colleagues and I may have left a wrong and inaccurate impression. While we viewed this interjection of religion as stemming solely from the host school—a Catholic law school—wanting to share some of its culture with the conference attendees,⁵⁶ for others this interjection of religion may have appeared as an unconscious and perhaps careless equating of Latina/o identity with Catholicism or as a presumption of sameness of experience and tradition with respect to religion for all Latina/os. Nothing could be further from the truth. As outlined above, our decision had nothing to do with supposed or a presumed homogeneity of religion within the Latina/o community by the St. Mary's planners. Rather, the decision had everything to do with a desire to continue the school's somewhat recent efforts of identifying and being identified more closely with the Catholic Church, and more specifically, a Catholicism which is far more inclusive and far more tolerant than many may have ever believed possible for a Catholic institution.

While I understand and cannot deny other people's reality that the Catholic Church has engaged in historical as well as contemporary oppression and repression against certain groups, which has oftentimes translated into significant individual and personal struggles for various peoples, including myself, the Catholic Church has also served a significant, important and constructive role in the lives of many others, again including myself. And, I would like to suggest that considering all practicing Catholics as a monolithic group is as unfair and as dangerous as considering all gays and lesbians, all African Americans, all Asian-Americans, all Native Americans or

56. The decisions to infuse Catholicism into LatCrit II were made, in part, because the St. Mary's Planning Committee members take quite seriously what our dean, Barbara Bader Aldave, has declared regarding the responsibilities of those who teach at religiously affiliated law schools:

We have the opportunity to live our religious faith openly and authentically, and to demonstrate that it not only can coexist with intellectual and professional excellence, but can inspire us to be all that we can be, and to do all that we should do. We who teach in religiously affiliated law schools are a privileged lot. We ought to strive mightily to meet the demands of our calling.

Aldave, *supra* note 46, at 295-96.

Furthermore, our decisions were also in line with the declarations from National Conference of Catholic Bishops:

Our parish communities are measured by how they serve 'the least of these' in our parish and beyond its boundaries—the hungry, the homeless, the sick, those in prison, the stranger (*cf.* Mt 25:31). . . . We cannot be called truly 'Catholic' unless we hear and heed the Church's call to serve those in need and work for justice and peace. We cannot call ourselves followers of Jesus unless we take up his mission of bringing 'good news to the poor, liberty to captives, and new sight to the blind' (*cf.* Lk 4:18).

SALT AND LIGHT, *supra* note 23, at 3.

all Latina/os as monolithic groups. There is great danger in engaging in reductionist simplification.⁵⁷

Thus, rather than being associated with the Catholic Church's historical repression, oppression, violence, homophobia and sexism, I prefer to be identified with the Law School's Center and clinics which just last week gave hope and support to many of San Antonio's less fortunate citizens, irrespective of race, gender, ethnic origin, or sexual orientation.⁵⁸ This is the Catholicism with which I identify. This is the Catholicism which I practice. This is the Catholicism that accompanies me and informs my beliefs and actions in my quest for and pursuit of social justice. As concluded by the National Conference of Catholic Bishops, "[r]especting and responding to the cultural and ethnic diversity of the communities we serve is an expression of justice."⁵⁹

III. EPILOGUE

LatCrit II took place in early May, 1997. Oddly enough by October of 1997 some of the very issues regarding Latina/os and religious identity which had been discussed in a scholarly and intellectual, if not controversial, manner at LatCrit II, and which I have discussed in this work, came to life in a very real and personal way for me. As previously stated, under Dean Aldave's leadership the Law School had historically excluded the United States military from utilizing the school's career services offices for recruitment purposes, due to the military's refusal to sign the Law School's policy of non-discrimination on the basis of, *inter alia*, sexual orientation. The Law School's policy was in line with the Association of American Law School's (AALS) Bylaw 6.4 and Executive Committee Regulation 6.19. Recently, however, the Department of Defense began threatening St. Mary's and other law schools which were ex-

57. As Geoffrey Fox has noted, Hispanics "don't have a common biological descent. 'Hispanics,' the Census Bureau reminds us whenever it uses the term, 'can be of any race.' They can also be of any religion and any citizenship status, from undocumented to U.S. citizen by birth, and may have any of over twenty distinct national histories. They do not even all share the same first language. . . . These diverse people are a community only to the extent and only in the ways that they imagine themselves to be. And the only sort of community they can imagine themselves to be is that vague sort we call a 'people' or a 'nation.'" FOX, *supra* note 24, at 3.

58. In her essay for this symposium issue, Professor Ana Novoa writes that in her life experience, and despite the patriarchy in the Church and in her own family, the Church nevertheless, "clearly but unconsciously proclaimed that it is the call of the pilgrim church to infiltrate and humanize institutional structures: as prophet to confront and challenge power, as priest-mediator to seek solidarity, and as servant-king to minister to the needs of the marginalized." Ana Novoa, *American Family Law: HiStory—WhoStory*, 19 CHICANO-LATINO L. REV. 265, 282 (1998). The fact that one of the Law School's clinics is directed by someone such as Ana, whose vision of Catholicism is so progressive and inclusive, makes me proud to be associated with St. Mary's.

59. SALT AND LIGHT, *supra* note 23, at 14.

cluding the military from on-campus recruitment with loss of federal funds, pursuant to the provisions of the so-called "Solomon Amendment." Because this issue was not limited to St. Mary's, the AALS was forced to adjust its position regarding the military's discrimination on the basis of sexual orientation. In short, by Memorandum 97-46, dated August 13, 1997,⁶⁰ the AALS notified all member and fee-paid schools that compliance with Bylaw 6-4 and Executive Committee Regulation 6.19 would be excused for each law school, with respect to military recruiters only, until such time as the Solomon Amendment was no longer in effect. Additionally, however, excused non-compliance with these two AALS requirements was contingent on the law school further demonstrating to the satisfaction of the AALS that the particular law school was taking some "amelioration" in a form that both expresses publicly the law school's disapproval of the discrimination against gays and lesbians by the military and provides a safe and protective atmosphere for gay and lesbian students."⁶¹

In response to the threatened loss of funds, Dean Aldave, against her wishes but because of University directives, was forced to abandon the Law School's policy of military exclusion for recruitment purposes. In accordance with the AALS requirements, however, the Law School took several steps to ameliorate the effect of allowing the military access to our career services offices. One of these was to sponsor a school-wide program regarding the military's "don't ask, don't tell" policy which was the underlying basis for the controversy. In connection with the program, and the impending presence of the military on campus, the Law School's gay and lesbian student group solicited the support of the various other campus student groups in its efforts to take public position's against the military's "don't ask, don't tell" policy.

Because I was on a visitorship away from the Law School during the Fall 1997 semester, I was not aware of this activity until late one afternoon in October when I received a panicked phone call from the President of the Law School's Hispanic Law Students Association (HLSA). The President informed me that HLSA's support had been sought by the gay and lesbian student organization, but that the issue had created a great deal of controversy not only within the greater HLSA body, but particularly among its five officers, two of whom were adamantly opposed to HLSA providing its support and three of whom were in favor.⁶² The HLSA President, who was

60. Association of American Law Schools, Memorandum 97-46, Aug. 13, 1997.

61. *Id.* at 2.

62. Interestingly, the two officers who were adamantly opposed to HLSA's supporting the gay and lesbian organization on this point were both male. Of the three officers who were in favor of supporting the group, two were female and one was male.

calling me because I was an official HLSA Faculty Advisor, informed me that she did not know what to do. Should she submit the issue to the body as a whole (and risk a negative vote) or take the divided officer vote as her license as President to proceed accordingly to support the gay and lesbian students?

Upon learning of this controversy, my first reaction was to ask, "What's the question?" Of course our organization, made up almost entirely of historically oppressed individuals, and in existence for the purposes of fighting historical oppression against an ethnic minority, would stand in solidarity with another organization in condemning other types of similarly groundless oppression and repression. However, I would soon find out that what was so crystal clear to me was not so clear to some HLSA members.

Following this phone call, the other official Faculty Advisor for the group and I—along with another Chicano faculty member and a Latina administrator—scheduled a meeting with the five officers regarding this issue. Prior to the meeting, I drafted and circulated a letter to the five student officers and copied all of the Law School's Hispanic faculty and administrators. In this letter, I made my own position quite clear:

My own personal and professional position on this matter is quite simple: either we as an organization are committed to the principle of non-discrimination or we are not. In my personal capacity, I have worked too long and too hard to assure non-discrimination against Hispanics only to have a Hispanic organization, in turn, determine that discrimination against other groups is okay, or alternatively, abstain altogether from the issue—hereby resulting in a silence which is deafening.⁶³

I further informed the HLSA officers that if they or the body as a whole chose not to support the gay and lesbian student organization, then I had no choice but to ask the Dean to accept my resignation as an official HLSA Faculty Advisor. I could not in good conscience continue in this capacity.

The meeting was quite lengthy and filled with heightened anxiety and emotions from both the faculty and the students. One of the most interesting arguments made at the meeting, and by subsequent students who later telephoned me, was that for many of the HLSA members, their position against supporting the gay and lesbian student organization was a religiously, particularly Catholic, based decision. It was interesting to me that what these students seemed to be suggesting was that their intolerance of another group's rights was essentially religiously based—s if that somehow excused or justified the intolerance altogether. For me, this was a prime example

63. Reynaldo Anaya Valencia, Letter to HLSA Officers, Oct. 13, 1997 (on file with author).

of the religious personal manifesting itself as the secular political for several members of the predominantly Mexican-American HLSA organization.

This intolerance for issues of sexual orientation among Hispanics was not new to me. Throughout my life, my Chicano/a community experience was one laden with extreme homophobia. Indeed, Ilán Stavans has noted,

Among Hispanics, homosexuals are the target of nigh-well insurmountable animosity. If the Latin phallus is adored in heterosexual relations, it is perceived as wild, diabolic, and uncontrollable for homosexuals. . . . Hispanic gays remain a target of mockery and derision, forced to live on the fringes of society. To be gay is to be a freak, mentally ill. . . .⁶⁴

However, as I pointed out to the HLSA officers in my letter, a religiously based intolerance is not an acceptable rationalization, given Section 2358 of the Catechism: "[I]f our [Hispanic] cultural homophobia stems from the supposed Catholic teaching on the matter, then this position, too, is a weak one given that the new Catechism specifically provides that, 'Every sign of unjust discrimination in their [gays and lesbians] regard should be avoided.'"⁶⁵

Moreover, the HLSA students who were adamantly opposed to supporting the gay and lesbian student organization were also missing a very significant point: the two groups were not mutually exclusive. Hispanics are quite capable of being gay or lesbian, and certainly lesbians and gays are quite capable of being—and actually are—Hispanic. One of the lesbian Hispanic students confided in me that as she sat in the HLSA meeting during which the issue was discussed, she felt as if she were invisible: Hispanic students were behaving and discussing the issue as if Hispanics could not also be gay, and treating the two groups as mutually exclusive. This lack of recognition and acknowledgment created a great deal of inner conflict for this Latina lesbian.⁶⁶

Throughout this ordeal, the irony of this situation, given the struggles and discussions that took place at LatCrit II regarding the role of religion in Latina/o lives, kept resurfacing for me. In a very disturbing manner, this episode greatly reinforced my strong beliefs regarding the continuing importance of Catholicism for Mexican-Americans in the Southwest United States. Moreover, this episode also reinforced my belief that if movements, such as LatCrit and the

64. Stavans, *supra* note 39, at 154.

65. Valencia, *supra* note 63, at 2.

66. With respect to this phenomenon, one commentator has noted, "the traditional Roman Catholicism (and "machismo") of Latin cultures can put latino gay men and lesbians at odds with their communities." Eric Heinze, *Gay and Poor*, 38 *HOW. L.J.* 433, 445 (1995) (citations omitted).

Catholic social justice movement practiced at St. Mary's, are to realize their full potential, then they must speak directly to, and not past, as well as work with each other. Furthermore, my ordeal with the St. Mary's HLSA students, while certainly difficult, nevertheless provides an excellent example of ways in which old stereotypes of Catholicism can be addressed using legitimate modern teachings of the Church—such as the new Catechism and the recent pastoral letters from the National Conference of Catholic Bishops—in order to help Chicano/as and others understand that to be Catholic does not necessarily mean that one is intolerant. There is hope, but this hope is meaningless unless it produces results. Thus, both LatCrit and its Catholic participants must assure that the dialogue continues.

