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# Breaking Down the Walls: Supporting Latinas to Law School Success

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# Breaking Down the Walls: Supporting Latinas to Law School Success

Glenda Beatriz Garcia\*

*La ti na: a woman or girl of Latin American origin living in the U.S.<sup>1</sup>*

*“I can’t think fast enough to say it properly with the right vocabulary so I’ll be taken seriously, because already they look at me as a woman of color . . . so anything I say out of my mouth needs to be top notch, I guess, in the way that I am saying it and portraying it because that is going to be additional fire. An additional reason for them to say, ‘You see? They’re not good enough to be here.’”<sup>2</sup>*

## INTRODUCTION

The story of Latinos and their history in the United States cannot be told without discussing immigration. For the most part, the recurring message in American culture is that immigrants—and by extension Latinos—take jobs and opportunities away from U.S. born citizens.<sup>3</sup>

“[P]residential campaign chants of ‘build that wall!’ often

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<sup>1</sup> *Latina*, MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/Latina> (last visited Dec. 20, 2017).

<sup>2</sup> YUNG-YI DIANA PAN, *INCIDENTAL RACIALIZATION: PERFORMATIVE ASSIMILATION IN LAW SCHOOL* 145 (2017).

<sup>3</sup> Julia Preston, *Immigrants Aren’t Taking Americans’ Jobs, New Study Finds*, *N.Y. TIMES* (Sept. 21, 2016), <https://www.nytimes.com/2016/09/22/us/immigrants-arent-taking-americans-jobs-new-study-finds.html>;

Tracy Jan, *White House claims ‘dreamers’ take away jobs from blacks and Hispanics. Here’s the truth*, *THE WASH. POST* (Sept. 6, 2017), [https://www.washingtonpost.com/news/wonk/wp/2017/09/06/white-house-claims-dreamers-take-jobs-away-from-blacks-and-hispanics-heres-the-truth/?utm\\_term=.377e7b2c894a](https://www.washingtonpost.com/news/wonk/wp/2017/09/06/white-house-claims-dreamers-take-jobs-away-from-blacks-and-hispanics-heres-the-truth/?utm_term=.377e7b2c894a).

echoed through Donald Trump[’s rallies before and after his election to the presidency, and] his supporters cheered his proposal to construct a physical barrier on the border between the United States and Mexico.”<sup>4</sup> After President Trump’s victory, “that [same] chant could be heard elsewhere: in a middle school cafeteria.”<sup>5</sup>

Trump’s efforts to exclude Latinos, and their significant contributions, from the United States have not been limited to building a physical wall, but has also included efforts to construct a symbolic wall meant to limit Latinos’ access to higher education. The Trump administration, like previous conservative administrations, has one goal in mind when it comes to higher education: to end affirmative action.<sup>6</sup> On July 3, 2018, under the Trump administration’s direction, the Education and Justice Departments “rescinded seven Obama-era policy guidelines on affirmative action . . . .”<sup>7</sup> Historically, affirmative action has allowed race to be factored in during admissions into higher education institutions. However, affirmative action critics perceive race-conscious policies as an unfair redistribution of opportunities that take opportunities away from white students.<sup>8</sup>

The purpose of this Comment is not to outline the history of affirmative action; however, it would be remiss of me not to discuss the previous efforts that have attempted to break down barriers into higher education. Communities of Latin American descent face both historical and actual discrimination in the United States.

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<sup>4</sup> Sarah Larimer, *Middle Schoolers Chant ‘Build the Wall’ During Lunch in Aftermath of Trump Win*, THE WASH. POST (Nov. 10, 2016), [https://www.washingtonpost.com/news/education/wp/2016/11/10/middle-schoolers-chant-build-that-wall-during-lunch-in-aftermath-of-trump-win/?utm\\_term=.4e3117ff3ele](https://www.washingtonpost.com/news/education/wp/2016/11/10/middle-schoolers-chant-build-that-wall-during-lunch-in-aftermath-of-trump-win/?utm_term=.4e3117ff3ele).

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

<sup>6</sup> See Adam Harris, *Sometimes, Perceptions of Affirmative Action Don’t Mesh with Reality*, THE CHRON. FOR HIGHER EDUC. (Aug. 3, 2017), <https://www.chronicle.com/article/Sometimes-Perceptions-of/240837>.

<sup>7</sup> See Erica L. Green, Matt Apuzzo, and Katie Benner, *Trump Officials Reverse Obama’s Policy on Affirmative Action in Schools*, N.Y. TIMES (July 3, 2018), <https://www.nytimes.com/2018/07/03/us/politics/trump-affirmative-action-race-schools.html> (“Guidance documents like those rescinded on Tuesday do not have the force of law, but they amount to the official view of the federal government. School officials who keep their race-conscious admissions policies intact would do so knowing that they could face a Justice Department investigation or lawsuit, or lose funding from the Education Department.”).

<sup>8</sup> Harris, *supra* note 6.

However, women of Latino descent have to overcome additional challenges by virtue of adding their gender to their list of obstacles, along with their racial identities. More specifically, this Comment focuses on Latinas' experiences because of their challenges in navigating the obstacles of their gender and racial identities.<sup>9</sup> The ultimate objective for this Comment is to provide alternatives and tools to tackle the negative stereotypes<sup>10</sup> and systemic inequalities that Latinas face in pursuing a law degree.

This Comment provides examples of how law schools can apply Critical Race Theory<sup>11</sup> and sociological frameworks to create inclusive spaces for students of color in institutions of higher education, specifically Latinas pursuing a legal education. Critical Race Theory<sup>12</sup> is a valuable jurisprudential tool that addresses the need to analyze traditional legal systems that legitimize oppressive legal structures, while also “listening to the lived experiences and histories of those oppressed by institutionalized racism.”<sup>13</sup> The focus here is on law schools because a legal education can serve as a stepping-stone to positions of power in corporate, criminal justice, or legislative spheres.<sup>14</sup>

Primarily, this Comment serves as a call to action for law schools to do more than merely acknowledge the importance of diversity, but rather, actually invest in

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<sup>9</sup> See generally PAN, *supra* note 2, at 145–169.

<sup>10</sup> Jonathan Feingold & Doug Souza, *Measuring the Racial Unevenness of Law School*, 15 BERKELEY J. AFR.-AM. L. & POL'Y 71, 78 (2013) (“A stereotype involves particular traits that we associate with a racial group, such as foreign, criminal, or good at math. An attitude involves an evaluative feeling about a group, such as like or dislike, fear, or admiration.”).

<sup>11</sup> WENDY LEO MOORE, REPRODUCING RACISM: WHITE SPACE, ELITE LAW SCHOOLS, AND RACIAL INEQUALITY 7 (2008) (“Critical race theory was formed out of a movement by legal scholars of color who found the failure of legal educations to interrogate the connection between race, racism, and the law, combined with the presentation of legal education as neutral and objective endeavor, extremely problematic.”); see Kimberlé William Crenshaw, *Forward: Toward a Race-Conscious Pedagogy in Legal Education*, 11 NAT'L BLACK L.J. 1, 1 (1988).

<sup>12</sup> Feingold & Souza, *supra* note 10, 76–77 (“Critical Race Theory, continue[s] to interrogate the way in which implicit biases, institutional and societal forces and identity, among other things, perpetuate racial oppression in the America.”).

<sup>13</sup> Tara J. Yosso, *Whose Culture Has Capital? A Critical Race Theory Discussion of Community Cultural Wealth*, 8 RACE ETHNICITY AND EDUC. 69, 71 (2005).

<sup>14</sup> MOORE, *supra* note 11, at 2.

Latinas and their success in law school. This Comment applies and expands on Dr. Tara J. Yosso's<sup>15</sup> community cultural wealth theoretical framework<sup>16</sup> in reframing the often-overlooked cultural strengths and academic potential of Latina law students.<sup>17</sup> Section I of this Comment presents the barriers that divide Latinos from social and academic success. Section II describes the ways in which race, class, and gender intersect and keep Latinas from succeeding in law school. Section III presents narratives that give voice to Latinas' lived experience in law school.<sup>18</sup> Section IV applies, critiques, and expands Yosso's framework in a manner that makes it applicable to legal education institutions. Lastly, Section V concludes this Comment with the reiteration that an investment in Latinas is an investment on the entire legal education system.

## I. THE BARRIERS DIVIDING LATINOS FROM ACADEMIC SUCCESS

Traditionally, Latinos lack acceptance, struggle for voice, and deal with injustice because they are "regarded in the mainstream imagery as inauthentic Americans."<sup>19</sup> Race in the United States often functions in a binary system.<sup>20</sup> However, the colonization of Latin America stratified race and created *mestizaje*,<sup>21</sup> which complicates

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<sup>15</sup> Dr. Tara J. Yosso is a professor at the School of Education at the University of California, Riverside.

<sup>16</sup> Yosso, *supra* note 13, at 69.

<sup>17</sup> See Jennifer M.D. Matos, *La Familia: The Important Ingredient for Latina/o College Student Engagement and Persistence*, 48 EQUITY & EXCELLENCE IN EDUC. 436, 439 (2015).

<sup>18</sup> See generally M. Brinton Lykes & Rachel M. Hershberg, *Participatory Action Research and Feminisms: Social Inequalities and Transformative Praxis*, in THE HANDBOOK OF FEMINIST RESEARCH: THEORY AND PRACTICE (Sharlene Nagy Hesse-Biber ed., 2012) (describing the importance of researchers' role in facilitating and presenting the voices of the community).

<sup>19</sup> PAN, *supra* note 2, at 44.

<sup>20</sup> Yosso, *supra* note 13, at 72 ("Women and People of Color who felt their gendered, classed, sexual, immigrant and language experiences and histories were being silenced, challenged this tendency toward a Black/White binary.")

<sup>21</sup> Cynthia E. Nance, *Colorable Claims: The Continuing Significance of Color Under Title VII Forty Years After Its Passage*, 26 BERKELEY J. EMP. & LAB. L. 435, 449 (2005) ("With the miscegenation of these two groups and the creation of a large population of mestizos (persons of mixed race) a racial hierarchy, based largely on skin color, evolved. Light skinned and European persons tended to be at the top of the social hierarchy, and the darkest most Indian-looking persons tended to be at the bottom.")

how Latinos assert an American identity.<sup>22</sup> Consequently, for Latinos there is no one way to look “Latino” because some might appear Black, indigenous, or even White.<sup>23</sup> The Black/White racial dichotomy does not allow understanding on how racial minorities “continue to experience, respond to, and resist racism and other forms of oppression.”<sup>24</sup> The historical roots of the Latino race and race relations in the United States complicate who is accepted as an “authentic American.”

For Latinos, the social debate on “immigration reform arouses suspicion about their status in the United States (documented or undocumented) and elicits assumptions about their language abilities.”<sup>25</sup> Regardless of their citizenship status, Latinos are framed as outsiders by utilizing “psychological cognition and learning, social, and political discourse, and institutional structures.”<sup>26</sup> For instance, the common discourse has equated negative categories of immigrants with racial groups in the United States: “illegal alien is equated with Latino.”<sup>27</sup> The barriers Latinos face in the United States in accessing education are not a new phenomenon, especially considering Latinos are statistically one of the least educated racial minority groups.<sup>28</sup>

Latino students are amongst the students of color that are more likely to live in impoverished communities and attend schools with high concentrations of poverty.<sup>29</sup>

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<sup>22</sup> See PAN, *supra* note 2, at 44.

<sup>23</sup> Nance, *supra* note 21, at 449.

<sup>24</sup> Yosso, *supra* note 13, at 72.

<sup>25</sup> Pan, *supra* note 2, at 44. See also Cristina M. Rodriguez, *Latinos and the Law Symposium: Latinos and Immigrants*, 11 HARV. LATINO L. REV 247, 248 (2008) (“[T]he correlation between Latinos and immigrants is inescapable, whether individual Latinos prefer to divorce themselves from their immigrant ancestry or from immigration circumstances of Latinos with national origins distinct from their own.”).

<sup>26</sup> ANGELO N. ANCHETA, RACE, RIGHTS, AND THE ASIAN AMERICAN EXPERIENCE 64 (2d ed. 2006).

<sup>27</sup> *Id.* at 65.

<sup>28</sup> See generally Barbara Schneider, Sylvia Martinez, & Ann Owens, *Barriers to Educational Opportunities for Hispanics in the United States*, in HISPANICS AND THE FUTURE OF AMERICA 179–80 (Marta Tienda ed., 2006).

<sup>29</sup> See generally Janie Boschma & Ronald Brownstein, *The Concentration of Poverty in American Schools*, THE ATLANTIC, Feb. 29, 2016, <https://www.theatlantic.com/education/archive/2016/02/concentration-poverty-american-schools/471414/> (“In about half of the largest 100 cities, most African American and Latino students attend schools where at least 75 percent of all students qualify as poor or low-income under federal guidelines.”).

Professor Sean F. Reardon, from Stanford University's Graduate School of Education, explained: "The difference in the rate at which Black, Hispanic, and White students go to school with poor classmates are the best predictor of the racial-achievement gap."<sup>30</sup> The income disparity has persisted among racial lines and has remained unchanged since the 2008 recession; "More than 60% of black, Hispanic, and Native American kids live in low-income families, compared to 30% of Asian and white children."<sup>31</sup> The racial and socio-economic segregation of students makes it difficult to provide high quality education to all.<sup>32</sup>

An additional barrier in the access of higher education is the constant attack on policies meant to protect and facilitate racial minority students' access to education. Over the last three decades, the Supreme Court has made three high profile decisions in order to stabilize policies and laws around affirmative action.<sup>33</sup> One of these cases was *Regents of the University of California v. Bakke* in which the Supreme Court "held that the use of race and ethnicity in admissions is constitutional" and that [higher education institutions] have a compelling interest in diversity which promotes the 'robust exchange of ideas' among students from all walks of life."<sup>34</sup> In 2003, the Supreme Court in *Grutter v. Bollinger* upheld the use of racial diversity as one factor used in law school admissions.<sup>35</sup> Furthermore, the Supreme Court in *Fisher v. University of Texas* found that affirmative action to "enhance[] classroom dialogue and

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

<sup>31</sup> COLUMBIA UNIVERSITY, MAILMAN SCHOOL OF PUBLIC HEALTH, NEARLY HALF OF AMERICAN CHILDREN LIVING NEAR POVERTY LINE, <https://www.mailman.columbia.edu/public-health-now/news/nearly-half-american-children-living-near-poverty-line> (Mar. 3, 2016).

<sup>32</sup> Peter Monaghan, *How Social Capital Affects College Choice*, *Chronicle for Higher Education*, Feb. 17, 2019, <https://www.chronicle.com/article/How-Social-Capital-Affects/245715> ("Students' paths to higher education . . . are 'defined by students' social background, such as their race and class, and also by the way their high schools structured access to critical college information.'").

<sup>33</sup> See generally *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978); *Grutter v. Bollinger*, 539 U.S. 306 (2003); *Fisher v. Univ. of Tex. at Austin*, 136 S. Ct. 2198 (2016).

<sup>34</sup> See generally Mark G. Yudof and Rachel F. Moran, *Affirmative Action: Why Now and What's Next?* CHRONICLE FOR HIGHER ED., (Aug. 3, 2017), <https://www.chronicle.com/article/Affirmative-Action-Why-Now/240843>.

<sup>35</sup> See *Grutter*, 539 U.S. at 343.



the lessening of racial isolation and stereotypes” is permissible.<sup>36</sup> In its 2016 decision in *Fisher*, the Supreme Court ruled that schools could consider race as one factor among many.<sup>37</sup> Throughout its decisions, the Supreme Court has recognized the importance of affirmative action. However, the Court has not fully supported a race-conscious admissions system; instead, it has standardized the hurdles that institutions of higher education must jump in order to use race as a factor in their admissions process.

The argument against race-conscious admissions (and by extension any programming that is meant to level the playing field for students of color) continues to be that institutions of higher education should be blind to race and should only make admissions decisions based on merit.<sup>38</sup> For instance, in a Gallup poll, about 70% of people believed that applicants should be evaluated solely on merit.<sup>39</sup> Neal McCluskey, an ardent critic of affirmative action, argued: “A public college or university is a governmental entity. . . . Therefore, when it gives an admissions advantage to an African-American, it cannot help but violate the principle of equality under the law.”<sup>40</sup> However, the reality is that without race-conscious admissions and support systems, white students have all the advantages over students of color. White students have statistically greater access to higher quality education and access to parents and counselors who are familiar with the path towards higher education.<sup>41</sup> In addition, as Dean and Professor Erwin Chemerinsky explains, “[m]any colleges give admissions preference to those whose relatives attended the institution, something that favors whites over racial minorities.”<sup>42</sup> Thus, legacy

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<sup>36</sup> *Fisher v. Univ. of Tex.*, 133 S. Ct. 2411, 2418 (2013).

<sup>37</sup> *See Fisher*, 136 S. Ct. at 2214–15.

<sup>38</sup> Erwin Chemerinsky, *The Real Threat to Affirmative Action*, THE CHRONICLE FOR HIGHER EDUCATION (Aug. 3, 2017), <https://www.chronicle.com/article/The-Real-Threat-to-Affirmative/240832>.

<sup>39</sup> *See Harris*, *supra* note 6, at 1.

<sup>40</sup> *Id.*

<sup>41</sup> Peter Monaghan, *supra* note 32 (“She found that many students, but predominantly the white, socioeconomically advantaged ones, had networks of siblings, other family members, and friends on whom they could rely for sound advice about how to make smart decisions about college. Many had parents who helped them to get and retain the attention of counselors and teachers, if the students hadn’t already mastered that skill.”).

<sup>42</sup> Chemerinsky, *supra* note 38.



preferences and access to resources give unaccounted advantages to white students, which defeats nonminority students' argument for meritocracy.

The implication of these barriers to education for Latino students is that the Latino community lacks appropriate leadership positions in fields that require graduate degrees, including representation in legislation.<sup>43</sup> Higher education institutions and white students also miss the opportunity to apply theoretical concepts to real life situations, learning from people of color, and their first-hand experiences of encounters with the law. Professor Chemerinsky, who has taught constitutional law for thirty years, described the real-life implications of having students of color in the classroom: "It is different to talk about racial profiling by the police when there are African-American and Latino men in the room who can talk powerfully about their experiences of being stopped for driving while black or driving while brown."<sup>44</sup> He goes on to explain, "Preparing students for the racially diverse world they will experience requires that they learn in racially diverse classrooms."<sup>45</sup> Effectively, a diverse classroom prepares students to listen to those with different lived experiences, accept various perspectives, and collaborate across differences.

The interactions between majority and minority students is imperative for future lawyers who need to understand the complexities between race and the law. A consciousness for social, economic, and racial diversity can alert an attorney that people from marginalized communities interact with the law much differently than others.<sup>46</sup> Future lawyers' social interactions in a diverse law school can make a difference on how they empathize with their clients from communities different from their own. As law school classrooms currently function, however, "they never concern[] themselves or their

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<sup>43</sup> See, e.g., MOORE, *supra* note 11, at 2 ("Elite law schools represent a gateway to positions of power in the American political system . . . Today, lawyers represent the most dominant profession in Congress, as well as in state legislatures.").

<sup>44</sup> Chemerinsky, *supra* note 38.

<sup>45</sup> *Id.*

<sup>46</sup> See, e.g., Stephen Wexler, *Practicing Law for Poor People*, 79 YALE L.J. 1049, 1050 (1970) ("Poor people do not lead settled lives into which the law seldom intrudes; they are constantly involved with the law in its most intrusive forms. . . Poverty creates an abrasive interface with society; poor people are always bumping into sharp legal things.").

students with what left a client to become involved with the law, or with what happened to him after he won or lost in court.”<sup>47</sup> Thus, simply having students from diverse backgrounds on campus is important, but several further steps must be taken to reap the benefits of a diverse student body.

Law schools, at the micro-level, have tried to address racial diversity and inclusion. Some law schools rely on student-run social organizations<sup>48</sup> to provide social networking, student mentoring, and general support.<sup>49</sup> Other law schools, like Yale Law School, have convened committees to explore and report on the status of diversity and inclusion on their campus.<sup>50</sup> Other schools host conversations and workshops aimed at developing the skills of diverse students.<sup>51</sup> More and more law schools have established administrative offices around diversity and inclusion services,<sup>52</sup> or at the very least, maintain a web page nested within Student Life Services with information on the law school’s inclusion programming.<sup>53</sup> Although, some diversity initiatives have taken place in law schools around the country, not all are

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<sup>47</sup> *Id.*

<sup>48</sup> *See, e.g.*, Latinx Law Student Association (LLSA), MAURER SCH. L., <http://www.law.indiana.edu/student-life/organizations/latino/index.shtml> (last visited Dec. 20, 2017).

<sup>49</sup> *E.g.*, How to Get In: Indiana University Maurer School of Law, U.S. News (Apr. 15, 2010), <https://www.usnews.com/education/articles/2010/04/15/how-to-get-in-indiana-university-maurer-school-of-law> (“To help build this community, all first-year students are paired with a practice group advisor (PGA) who provides front-line mentoring and support.”).

<sup>50</sup> *E.g.*, *HLS Task Force on Academic Community and Student Engagement*, HARV. L. SCH., <http://hls.harvard.edu/students/hls-task-force-on-academic-community-and-student-engagement/> (last visited Dec. 21, 2017); *Yale Law School Committee Releases Report on Diversity and Inclusion*, YALE L. SCH. (Mar. 23, 2016), <https://law.yale.edu/yls-today/news/yale-law-school-committee-releases-report-diversity-and-inclusion> (last visited Dec. 21, 2017).

<sup>51</sup> *E.g.* 2015-16 Programs, COLUM. SCH. L., <http://www.law.columbia.edu/students/student-services/connecting/diversity-and-inclusion/2015-16-programs> (last visited Mar. 11, 2019) (describing workshops to improve students’ speaking skills, lessons on maximizing diverse learning styles, and group therapy sessions focused on students who feel underrepresented).

<sup>52</sup> *E.g.* *Community Engagement and Equity*, HAR. L. SCH., <http://hls.harvard.edu/dept/dos/community-engagement-equity/> (last visited Dec. 22, 2017); *Welcome to the Office of Diversity and Inclusion*, AM. UNIV. WASH. COLL. L., <https://www.wcl.american.edu/here/student-life/diversity/> (last visited Dec. 22, 2017).

<sup>53</sup> *E.g.* Diversity, Inclusion and Learning Environment at UCLA Law, UCLA L. SCH., <https://law.ucla.edu/student-life/diversity/> (last visited Dec. 22, 2017).

intentionally addressing gender, racial, and other types of social inequities and injustices.

## II. INTERSECTIONALITY OF RACE, CLASS, AND GENDER FOR LATINAS

Women encounter inequalities in entering the legal profession solely based on gender.<sup>54</sup> Deborah Jones Merritt, professor of law at The Ohio State University, and Kyle McEntee, executive director of the group Law School Transparency, published a report analyzing what they termed: “leaks in the pipeline.”<sup>55</sup> Merritt and McEntee explain that there are “leaks in the pipeline” all throughout the process of a woman’s legal career that continue from law school admission to actually practicing in the legal field.<sup>56</sup> Furthermore, Merritt and McEntee reported that women are more likely to attend much lower ranked schools and thus have much weaker employment outcomes.<sup>57</sup> One possible reason why women are clustered in lower ranked law school institutions is that higher ranked law schools rely heavily on the Law School Admissions Test (LSAT), and both women<sup>58</sup> and people of color tend to score much lower on the exam.<sup>59</sup>

Latinas are a growing segment of the American population, and yet, they continue to face great social and systemic obstacles in accessing higher education.<sup>60</sup> Women of Latin American descent are barraged with the expectations and stereotypes of their gender, race, and socio-economic status. During a TedWomen 2016 talk, professor and leading scholar in Critical Race Theory, Kimberlé Crenshaw described intersectionality as

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<sup>54</sup> See generally SUSAN EHRLICH MARTIN & NANCY C. JURIK, *Doing Justice, Doing Gender: Women in Legal and Criminal Justice Occupations* 107 (2d ed. 2007).

<sup>55</sup> Deborah Jones Merritt & Kyle McEntee, *The Leaky Pipeline for Women Entering the Legal Profession*, LST RADIO 1, 1 (2016) [https://www.lstradio.com/women/documents/MerrittAndMcEnteeResearchSummary\\_Nov-2016.pdf](https://www.lstradio.com/women/documents/MerrittAndMcEnteeResearchSummary_Nov-2016.pdf).

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 2.

<sup>58</sup> *Id.* at 3.

<sup>59</sup> See Feingold & Souza, *supra* note 10, at 96.

<sup>60</sup> PATRICIA GÁNDARA, *Fulfilling America’s Future: Latinas in the U.S.*, WHITE HOUSE INITIATIVE ON EDUC. EXCELLENCE FOR HISPANICS, 1, 7-9 (2015), <https://sites.ed.gov/hispanic-initiative/files/2015/09/Fulfilling-Americas-Future-Latinas-in-the-U.S.-2015-Final-Report.pdf>.

“creating multiple levels of social injustice.”<sup>61</sup> Women of color are simultaneously impacted by their race and gender and left to fend for themselves because there are very few safeguards meant for individuals impacted by both race and gender.<sup>62</sup> Crenshaw goes on to create an analogy that the law plays in protecting women of color: “[T]he law is like that ambulance that shows up and is ready to treat [a woman of color] only if it can be shown that she was harmed on the race road or on the gender road but not where those roads intersected.”<sup>63</sup> The nexus of these identities creates a web that leaves Latinas double burdened and silenced into being *las olvidadas*, or “the forgotten ones.”<sup>64</sup> The challenges created by the intersectionality of Latinas’ race and gender is evident in their low likelihood of obtaining an undergraduate degree, at just 19% compared to nearly 44% of white women.<sup>65</sup> Moreover, “Latinas have the lowest percentage of graduate degrees compared to all women of other non-Hispanic racial groups combined.”<sup>66</sup>

In academia, there are false assumptions that Latinas (and the Latino community in general) lack the social and cultural capital to succeed and are usually unmotivated and uninterested in education.<sup>67</sup> Professor Tara Yosso defines cultural capital as “an accumulation of specific forms of knowledge, skills, and abilities that are *valued* by privileged groups in society.”<sup>68</sup> For example, a child of attorneys (or other professionals) might grow up playing logic games, learning advanced English vocabulary, and having access to technology such as an at-home computer. “On the other hand, a [Latina] student whose mother works in the garment industry may bring different vocabulary, perhaps two languages (English and

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<sup>61</sup> *The Urgency of Intersectionality*, TED (Oct. 2016), [https://www.ted.com/talks/kimberle\\_crenshaw\\_the\\_urgency\\_of\\_intersectionality/transcript](https://www.ted.com/talks/kimberle_crenshaw_the_urgency_of_intersectionality/transcript).

<sup>62</sup> *See id.*

<sup>63</sup> *Id.*

<sup>64</sup> *See generally* Berta Esperanza Hernandez-Truyol, *Las Olvidadas - Gendered in Justice/Gendered Injustice: Latinas, Fronteras and the Law*, 1 J. GENDER RACE & JUST. 353 (1998).

<sup>65</sup> GÁNDARA, *supra* note at 60, at 5.

<sup>66</sup> *Id.* at 10-11 (“In 2013, just 4 percent of Latinas had completed a Master’s degree or higher by age 29 compared to nearly 5 percent of black, 11 percent of white, and 22 percent of Asian women.”).

<sup>67</sup> *See* Yosso, *supra* note 13, at 70.

<sup>68</sup> *Id.* at 76.

Spanish) to school along with techniques of [running] errands on the city bus and translating mail, phone calls and coupons for her[] mother.”<sup>69</sup> Between these two lived experiences, the experience of lawyers’ (or other professionals’) children is of having traditional cultural capital, thereby providing advantages in the school context.<sup>70</sup>

Latinas must not only confront the barriers established by assumptions of their race and gender but also overcome systemic obstacles. A major barrier into legal education for people of color, including Latinas, is the LSAT.<sup>71</sup> In general, the history of standardized testing is rooted in white supremacy.<sup>72</sup> In addition, high LSAT scores tend to be correlated with privilege, such as parental income.<sup>73</sup> The LSAT is attached to exorbitant fees, such as a registration fee of \$200 and prep courses costing up to \$1650, which also limits who is able to take the exam.<sup>74</sup> In 2012, the mean LSAT score for a Latino/a was a 146.<sup>75</sup> Research attributes minority students’ low LSAT scores to a myriad of reasons, including the burden and presumption of inferiority that students of color carry.<sup>76</sup> For Latina law school applicants, the LSAT is just another racist and classist system in place meant to block their entrance into higher legal education.

Latinas express frustration in “their role as minority minorities—a term used by some students to capture the double burden of women of color.”<sup>77</sup> Women of Latin American descent are burdened by how their gender, race, and class intersect and create barriers to education (and other forms of social mobility). Latinas are

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<sup>69</sup> *See id.*

<sup>70</sup> *See id.*

<sup>71</sup> *See* Daria Roithmayr, *Barriers to Entry: A Market Lock-in Model of Discrimination*, 86 VA. L. REV. 727, 734 (2000).

<sup>72</sup> *See* Richard Delgado, *Official Elitism or Institutional Self Interest - 10 Reasons Why UC-Davis Should Abandon the LSAT*, 34 U.C. DAVIS L. REV. 593, 595–96, 598 (2001).

<sup>73</sup> *See id.* at 601.

<sup>74</sup> *See id.* at 603 (“Because our society has the highest level of childhood poverty in the western world, with over forty percent of Black and Latino kids growing up poor, it is easy to guess who gets to take Kaplan courses . . . .”) (citation omitted).

<sup>75</sup> Leonard M. Baynes, *The Pipeline to Law School: Uplifting Students of Color from the Negativity Surrounding Racial Identity, Racial Diversity and LSAT Scores*, in *THE END OF THE PIPELINE* 261 (Dorothy H. Evensen & Carla D. Pratt eds., 2012).

<sup>76</sup> *See id.*

<sup>77</sup> PAN, *supra* note 2, at 146.

expected to rise to both sets of expectations for women and their race. The cultural wealth that Latinas bring into higher education environments is commonly undervalued or offset by cultural stereotypes attached to being Latinas. Subsequently, Latinas are left feeling inferior because they are commonly falling short in their interactions with systems that are in complete disagreement with their identities of being woman, Latina, and often times from a lower socioeconomic status.

### III. HOW LATINAS EXPERIENCE LAW SCHOOL

Gender expectations are a normalized part of the legal profession, but the combination of gender and race heightens anxiety for particular law students, including Latina students.<sup>78</sup> The legal field is predominately white and masculine—the antithesis of Latina identity.<sup>79</sup> The legal curriculum is primarily presented as racially and genderneutral. However, Professor Kimberlé Crenshaw has identified this “perspectivelessness” as perpetuating both a white normative perspective and ignorance to the relevance of the long history of racism in the law.<sup>80</sup> Additionally, Professor Crenshaw argues that “perspectivelessness” is “particularly burdensome on minority students because ‘to assume the air of perspectivelessness . . . minority students must participate in the discussion as though they were not . . . Latino, but colorless legal analysts.’”<sup>81</sup> Latinas in law school are faced with the harsh reality that in order to succeed in law school, they must step away from their history and identities, and stand apart from their

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<sup>78</sup> See *id.* at 145.

<sup>79</sup> See *id.* at 146; see also Feingold and Souza, *supra* note 10, at 73 (“These burdens can produce intersecting harms and headwinds that span from emotional and mental anguish to academic underperformance. Because whiteness remains the baseline in nearly every major American law school, White students do not face these challenges.”).

<sup>80</sup> MOORE, *supra* note 11, at 7 n.4; see also Kimberlé Williams Crenshaw, Foreword, *Toward a Race-Conscious Pedagogy in Legal Education*, 11 NAT’L BLACK L. J. 1 (1988).

<sup>81</sup> DOROTHY H. EVENSEN & CARLA D. PRATT, THE END OF THE PIPELINE: A JOURNEY OF RECOGNITION FOR AFRICAN AMERICANS ENTERING THE LEGAL PROFESSION 104 (2012).



reality.<sup>82</sup> In general, learning to think like a lawyer means learning to behave and act like a white man.<sup>83</sup>

Besides having to overcome the obstacles that arise at the intersection of gender, race, and socio-economic identities, Latinas are also expected to conform to their cultural obligations of adopting a family devotion role and to fulfill their responsibilities as dutiful daughters and siblings.<sup>84</sup> The multitude of stereotypes and expectations that Latinas must abide by often shape the way they think about themselves in their legal education and future careers.<sup>85</sup> For Latinas, law schools are “educational settings [that] can be hostile environments created and maintained without their consideration,”<sup>86</sup> or the consideration of the innumerable expectations and roles that they must meet.

Latinas experience one of the highest degrees of informal isolation in law school because of the contradicting expectations they must meet.<sup>87</sup> Once enrolled in law school, Latinas do not only face the reality of being a racial minority but are also pigeonholed into particular practice areas and extracurricular activities. Araceli Baez, a second-year Mexican-American law student explained:

I think it [fellow Latino students’ assumptions about my practice choice] happens in our group [Latinos] because there’s so many people in our community that need help. How could you not help? . . . [I]n law school . . . I spoke with some undergrads, and it was a little comment, like “Why are you working for a private company? Aren’t you going to do immigration?” . . . I think now I’m very much more like the defender of it [alternative ways of helping the community]. Because it’s like, don’t dismiss my passion and

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<sup>82</sup> See *id.*

<sup>83</sup> See PAN, *supra* note 2, at 146.

<sup>84</sup> See PAN, *supra* note 2, at 168.

<sup>85</sup> See *id.*

<sup>86</sup> Matos, *supra* note 17, at 439.

<sup>87</sup> See, e.g., Tina Vasquez, *It’s the Best Time to be a Latina in Law—and It’s Thanks to Attorneys Like Catalina Vergara*, HISP. EXEC. (Jun. 16, 2013), <http://hispanicexecutive.com/2013/omelveny-myers-llp/> (“It was reported that at every stage of academic and professional progress, there was a sizeable drop off in Hispanic representation in high school, college, and law school, and fewer Latinos were making it to the next step. One of the reasons for this: informal isolation.”).

my background just because I have an interest [in a different area]. Like, it's still legitimate! And I feel very much involved [in Latino issues].<sup>88</sup>

If Latinas deviate from practice areas that are seen as incongruent with their racial or gender stereotypes, then they fear being considered sell-outs.<sup>89</sup> Besides being grouped into particular practice areas by non-Latinos, Latina students must also deal with perspectives from fellow Latino students. Ultimately, both inside and outside the Latino community, there are perceptions of which legal practice areas are meant for Latinas and which are not.

Latino parents are statistically less likely to have achieved higher levels of education, and thus lack understanding of their children's challenges in navigating higher education institutions.<sup>90</sup> Andrea Rodriguez—a Mexican- and Guatemalan-American law student who aspires to pursue a career in entertainment law—shared her experience speaking with her father, who had little understanding of her practice area of interest:

My dad's always very, very critical about everything. So when I first switched over from poli[tical] sci[ence] to global studies [in college], he was like, "What is that? You can't even say that in Spanish." And then going to law school, he was like, "What kind of law are you doing? Are you doing immigration law?" It was one of those things where he automatically assumed that's what I was doing. And then when I told him that I was doing entertainment law, he was like, "You're wasting your time going to law school then."<sup>91</sup>

Although family plays a major part in the Latino community, there are shortcomings in the support system when it comes to navigating predominately white institutions of higher education.

Latinas must also be alert to how their contributions to the social life of the law school will be

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<sup>88</sup> PAN, *supra* note 2, at 123 (alterations in original).

<sup>89</sup> *See id.* at 124.

<sup>90</sup> *See* Matos, *supra* note 17, at 449.

<sup>91</sup> PAN, *supra* note 2, at 160 (alterations in original).

interpreted. While there is a sense that Latinos should build their own network while in law school, there are expectations of what the right type of involvement is appropriate. Baez, the second-year Mexican-American student, clarified:

If you can get a Latino student to be a [law] clerk of some sort, everybody would be very excited. But the steps that lead up to it—"Oh, you're in the [school's] law review"—you might get some flack for it. And I don't think that's right, because the whole point is getting people in positions that could help others.<sup>92</sup>

The assumption is that Latinas will be involved primarily in Latino affinity groups and not "selling-out" to activities that assimilate students into the dominant culture.

When Latina law students describe their classroom experiences, many explain trying to dodge the "angry woman of color" image often ascribed to nonwhite women who are openly critical of race or gender issues.<sup>93</sup> Felicia Alvarez, a first-year Chicana student explained:

I don't want to offend people and I also don't want to be the "angry woman of color. . . . People characterize other women or peers that speak on these topics [of race and gender] as angry, frustrated. They can't empathize with them. I think people have grown up in such segregated societies, and especially at this caliber of a school and in graduate education, period. It's pretty rational, pretty articulate, fact-based. I'm not talking with passion. But still these issues are issues that I think my classmates and America in general are uncomfortable with. So with that discomfort comes stereotypes, and I think the "angry woman of color" [image] is definitely alive.<sup>94</sup>

Imbedded in the stereotypes of women of color, is that they are angry. Thus, when Latinas speak out against racial, gender inequality, or other matters against the status quo, they are "angry." The stereotypes attached

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<sup>92</sup> *Id.* at 124.

<sup>93</sup> *Id.* at 155.

<sup>94</sup> *Id.* at 156.

with being Latina not only isolate these law students but make them curb their passion and their desire to speak out in fear of fulling stereotypes and/or assumptions of women of color.

In Latino communities, family is often seen as a source of strength and a structure that can serve as model for community. However, most women, especially Latina women, are typecast into maternal roles that can create shortcomings in the way they see themselves as law students and future attorneys.<sup>95</sup> Latina women internalize these expectations as “a family devotion schema, one they are both pressured to fulfill by one group of peers and looked down on for considering by another.”<sup>96</sup> Marta Ortiz, a Mexican-American and first-generation law student, said, “I think money for me is a big issue. It’s a big issue to know how to pay for law school. And afterwards, know how to pay off my loans . . . I think about it on a daily basis. I think that plays a part in the pressure of getting good grades and trying to get a good job.”<sup>97</sup> For Latino working-class students, money is a big issue, not only because of having to pay student loans, but also having the ability to financially assist their families.<sup>98</sup>

Latinas experience law school by having to either adopt a “perspectiveless” approach to their presence in law school classrooms or by having to balance multiple expectations. The stereotypes attached to women of Latin American descent can create feelings of anxiety because in order to succeed in law school, they must decide whether to be their authentic self or disappoint their communities.

#### IV. APPLYING AND EXPANDING ON YOSSO’S THEORETICAL FRAMEWORK

Dr. Tara J. Yosso’s framework conceptualizes community cultural wealth as a Critical Race Theory challenge to traditional views on cultural capital.<sup>99</sup>

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<sup>95</sup> See *id.* at 151 (speaking on the motherhood role for both Latina and Asian women).

<sup>96</sup> *Id.* at 151–52.

<sup>97</sup> PAN, *supra* note 2, at 153.

<sup>98</sup> See *id.* at 142.

<sup>99</sup> See Yosso, *supra* note 13, at 69.

According to Dr. Yosso, community cultural wealth is comprised of (at least) six forms of capital: “aspirational, navigational, social, linguistic, familial, and resistant capital.”<sup>100</sup> Dr. Yosso utilizes community wealth capital to reframe the skills that students of color bring from their communities into the classroom.<sup>101</sup> Yosso’s theory defines community cultural wealth as “an array of knowledge, skills, abilities and contacts possessed and utilized by Communities of Color to survive and resist racism and other forms of oppression.”<sup>102</sup> The opposite of community cultural wealth is the cultural deficit model, which relies on stereotypes and negative assumptions to place blame on communities of color for their lack of educational success.<sup>103</sup> In addition, cultural deficit allows higher education institutions to be excused from taking accountability for educational equity and inclusion of all their students.<sup>104</sup> Intellectual and cultural deficits continue to be ascribed to African Americans, Latina/os, Asian Americans, and Native Americans.<sup>105</sup> By adopting Dr. Yosso’s community cultural wealth approach instead of a cultural deficit approach, institutions can “empower people of color to utilize assets already abundant in their communities.”<sup>106</sup>

Academics often rely on the assumption that the education system is fair and “that students, parents and communities need to change to conform to this already effective and equitable system.”<sup>107</sup> In Matos’s application of Yosso’s community cultural wealth in the K-12 setting, she recommends recognizing how cultural assets can be bolstered to ensure academic success for Latina students.<sup>108</sup> Margarida Da Graca and Lori Dougherty, in their virtual workbook, recommend applying Yosso’s model of community cultural wealth because it facilitates

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<sup>100</sup> *Id.* at 77–81.

<sup>101</sup> *See id.* at 69.

<sup>102</sup> *Id.* at 77.

<sup>103</sup> *See id.* at 75 (“[S]chooling efforts usually aim to fill up supposedly passive students with forms of cultural knowledge deemed valuable by dominant society.”).

<sup>104</sup> *See id.*

<sup>105</sup> *Id.* *See* Yosso, *supra* note 13, at 75–76.

<sup>106</sup> *Id.* at 82.

<sup>107</sup> PAN, *supra* note 2, at 129.

<sup>108</sup> *See* Matos, *supra* note 17, at 449.

marginalized students' navigation in the esoteric world of higher education.<sup>109</sup>

Yosso defines aspirational capital as the ability of students of color to maintain hopes and dreams for the future despite obstacles.<sup>110</sup> Among the obstacles to Latinas' aspirational capital are expected to follow based on their gender and racial stereotypes (such as pursuing a career in public interest). Da Graca and Dougherty provide tips to help counter this type of pressure. They recommend: "Spend some time exploring what you've always dreamt of becoming. Grab some magazines or just a blank sheet of paper to create a vision board or map out your [higher education] journey."<sup>111</sup> However, students cannot be held responsible for sustaining their own aspirations because they are already responsible for coping with negative messaging against them and performing well in school. Additionally, student social groups cannot be responsible for maintaining the aspirations of their peers, because students graduate, and it is uncertain whether there will always be the same level of dedication in creating communities of support.

To develop aspirational capital, law schools must provide dedicated staff that are tasked with running consistent and long-term programming focused on building self-esteem and counteracting negative rhetoric, much like Da Graca and Dougherty recommend. Law schools and higher education institutions rely on student-run organizations to provide student support. However, relying on students to support one another is unsustainable. The dedication of student leaders to student programming is uncertain, which leaves students in need of community and support in a lurch. Although university-wide culture centers<sup>112</sup> are an excellent,

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<sup>109</sup> See Margarida Da Graca & Lori Dougherty, *Barriers to Access, Inclusion, & Success: Community Cultural Wealth*, FIRST GENERATION COLLEGE STUDENTS: NAVIGATING HIGHER EDUCATION, <http://scalar.usc.edu/works/first-generation-college-student-/community-cultural-wealth> (last visited Dec. 22, 2017).

<sup>110</sup> See Yosso, *supra* note 13, at 77–78.

<sup>111</sup> Da Graca & Dougherty, *supra* note 109.

<sup>112</sup> See, e.g., INDIANA UNIVERSITY LATINO CULTURE CENTER, <https://www.indiana.edu/~lacasa/about/index.shtml>. <https://www.indiana.edu/~lacasa/about/index.shtml>. During my transition to law school, I visited the IU Latino Culture Center, or La Casa, as a way to curb my homesickness and feelings of isolation. The Director of a La Casa became a constant source of support during my first two years of law school.



consistent resource, law specific support is necessary to ensure students are receiving the right advice and support.

Aspirational capital, in addition, refers to the manner in which family structures support and motivate students toward academic success.<sup>113</sup> In a study of Latina, college-aged women, aspirational capital was evident when women discussed a desire to prove that women were capable of being sources of pride and that this was something to be shared with other women in the family.<sup>114</sup> Law schools are notorious for being competitive environments; however, a Director of Diversity and Inclusion (or someone solely dedicated to diverse student programming) can create traditions that allow the reiteration of aspirations and create channels in which students are able to speak out about their desire to persevere.

Yosso describes navigational capital as: “the skills of maneuvering through social institutions.”<sup>115</sup> Matos further explains that navigational capital “fortifies children with inner resources and resilience that empower students to endure stressful events, persist in hostile environments, and demonstrate agency within systems that were not created with people of color in mind.”<sup>116</sup> Although most law schools have an assigned Office of Career Services,<sup>117</sup> it is not enough to assume that their services are one-size-fits-all. Latinas come with the triple-burden of their race, class, and gender, thus career navigational tools should address those needs. An appropriate approach by an Office of Career Services will entail not only figuring out how to tailor a resume, but also providing resources that are often provided by professionals or parents with advanced degrees. For instance, parents would not only recommend wardrobe ideas for an important interview, but also would provide the clothing. An institution dedicated to the success of Latinas (and low-income or other students in need) would

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<sup>113</sup> See Matos, *supra* note 17, at 442.

<sup>114</sup> See *id.*

<sup>115</sup> Yosso, *supra* note 13, at 80.

<sup>116</sup> Matos, *supra* note 17, at 439.

<sup>117</sup> See, e.g., MAURER SCHOOL OF LAW: CAREER SERVICES, [http://www.law.indiana.edu/student-life/career/](http://www.law.indiana.edu/student-life/career/http://www.law.indiana.edu/student-life/career/) (last visited Jan. 5, 2018).

establish a wardrobe library that is open to all. Extracurricular activities, although vital to having a robust resume (and positive law school experience), also mean student dues and other expenses.<sup>118</sup> Although there are fellowships to cover the costs of tuition, books, and living expenses, there are many other costs that are not factored into the cost of attending law school. This matter could be addressed by having the Office of Student Affairs keep a bucket of money to address unforeseen student expenses.

Social capital as described by Dr. Yosso is “networks of people and community resources” that “provide both instrumental and emotional support to navigate through society’s institutions.”<sup>119</sup> The networks of people that assist the law students should render support in the form of navigating scholarship applications and the On-Campus Interview process, or advising on what courses to take. However, in law school, there are some social networks that are overvalued inside and outside the institution. Some examples of the popular social groups in law schools include: coveted study groups, top class rank, flagship law review, second-summer associate at a law firm, and a post-graduation associate position at a large firm or federal clerkship.<sup>120</sup>

Latinas, and students of color in general, do not typically have the social capital (such as being children of alumni) that leads them to be conscious of all the possible networks and resources that could be tapped into. Moreover, Latinas are often left wondering how to access social networks and face the reality that as Latinas they will not be accepted into those circles. Thus, all law schools need to establish programming similar to the Indiana Conference for Legal Education Opportunity (ICLEO), which assists in inculcating social capital for members of underrepresented communities before starting law school.<sup>121</sup> The program is only available for in-state residents; thus, it would be beneficial to establish programming that is open to both in-state and out-of-state

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<sup>118</sup> Example of dues: Indiana Journal of Law and Social Equality (\$120 for 2L Associates), Latinx Law Student Association (\$20), Public Interest Law Foundation (\$10), and associated costs for participating in school events.

<sup>119</sup> Yosso, *supra* note 13, at 79.

<sup>120</sup> See Feingold & Souza, *supra* note 10, at 93–94.

<sup>121</sup> See ROBERT H. MCKINNEY SCHOOL OF LAW, JD PROGRAM: DIVERSITY INITIATIVES, <https://mckinneylaw.iu.edu/admissions/jd/diversity/ICLEO.html> (last visited Jan. 5, 2018).

residents. Additionally, the program would be most valuable if the students with a Summer Law and Leadership Academy like ICLEO's (but with current students, staff, and faculty of the law school) were all attending the same law school so as to build trust and channels for exchanging ways to navigate the law school experience.

Linguistic capital includes the intellectual and social skills attained through communication experiences in more than one language and/or style.<sup>122</sup> For students who act as an interpreter for members of their family, as well as being from a culture that is invested in storytelling, linguistic capital may enhance a student's ability for "memorization, attention to detail, dramatic pauses, comedic timing, facial affect, vocal tone, volume, rhythm and rhyme."<sup>123</sup> However, in the law school context, this form of capital is often not valued.<sup>124</sup>

The undervaluing of the contributions of students of color is evidenced by law professors in meaningful discussion on lived experience or the impact of the law on marginalized communities. In general, law professors' "failure to engage students on an equal basis[, which] can be perceived as demeaning and presumptive behavior that communicates that the professor does not value each student's contribution equally."<sup>125</sup> Law school professors should be required to receive training on how to lead appropriate discussions that allow the interjection of narratives of race, class and gender without making the interjection seem irrelevant (as it most often tends to be the case).<sup>126</sup> At the very least, law schools should consider which professors possess adequate competency to teach constitutional law courses that analyze issues of race with cases like *Dred Scott*, *Plessy*, *Brown* and *Grutter*.<sup>127</sup> Law school professors are properly situated to prompt their students to think about how legal principles perpetuate the subordination of minorities. The aforementioned

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<sup>122</sup> See Yosso, *supra* note 13, at 78.

<sup>123</sup> *Id.* at 79.

<sup>124</sup> See Rita Sethi, *Speaking Up! Speaking Out! The Power of Student Speech in Law School Classrooms*, 16 WOMEN'S RTS. L. REP. 61, 62 (1994) ("Students are not encouraged to infuse their personal/emotional experiences into classroom discussion.").

<sup>125</sup> Feingold & Souza, *supra* note 10, at 86.

<sup>126</sup> See *id.* at 97.

<sup>127</sup> See EVENSEN & PRATT, *supra* note 81, at 107.

exercise could lead to a fruitful discussion on how legal practice areas such as Property, Constitutional Law, and Secured Transactions impact minority communities differently.

Familial capital is the “cultural knowledges nurtured among *familia* (kin) . . . that engages a commitment to community wellbeing and healthy connection to community and its resources.”<sup>128</sup> For the Latino community, familial capital also refers to the ways in which students are able to care for each other and the manner in which they are able to cope with difficult situations.<sup>129</sup> The main theme raised in the manifestation of familial capital was the “replication of Latina/o family culture.”<sup>130</sup> For example, most law schools advertise their Latino student organizations on campus.

Traditionally, within a family, family support and pride manifests in most cases verbally, through letters, in preparing students for the move to college, or through cultural expressions of admiration upon the students’ return home.<sup>131</sup> Besides student organizations, students at times turn to faculty or staff for support, answers, feedback, and a source of accountability.<sup>132</sup> Again, this form of community wealth capital is the most beneficial when faculty and staff are properly equipped to address questions from women of color. For example, law faculty, staff, and upper-class (2L and 3L) students could begin every year with trainings based on not only cultural competence, but also possible ways to build community by developing healthy connections with incoming students and sharing resources. First-generation Latina students can collect information such as the importance of outlines, dispelling myths, passing down best practices, and employment practices.

The American Bar Foundation conducted a 10-year study to track the progress of diversity in the legal

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<sup>128</sup> Yosso, *supra* note 13, at 79.

<sup>129</sup> See Matos, *supra* note 17, at 444.

<sup>130</sup> *Id.*

<sup>131</sup> See *id.* at 449.

<sup>132</sup> See *id.* at 445 (“Participants who were estranged from their parents regarded the coordinator of the multicultural academic services program as a surrogate mother . . . . She knows what classes I have taken, and she can answer my questions resourcefully. She’s easy to talk to, and she checks up and checks in. She has high expectations for me, and she wants me to succeed.”).

profession. The isolation that Latina students encountered throughout the stages of academic and professional progress was a factor in the sizeable drop off in Hispanic representation, starting in high school, college, and law school, and fewer Latinos were making it to the next step.<sup>133</sup> A Latina attorney at O'Melveny & Myers LLP attorney, explained: "The fact that I made it and that I can mentor others is a source of pride for me because it makes a difference to see others like you make it."<sup>134</sup> Law schools can enhance their Latina students' experience by recreating a family network in law school, such as the Posse Foundation has done within undergraduate institutions across the United States.<sup>135</sup>

The Posse Foundation model provides students with an on-campus mentor who are tenured faculty or staff, and before arriving on campus, the Posse Scholars attend pre-collegiate training, including a summer retreat, to get to know one another. Attending law school is already a demanding and traumatic experience for students.<sup>136</sup> However, law schools can prevent Latinas from having to deal with the additional burden of feeling isolated by:

- Adequately training staff, faculty, and students
- Offering weekly workshops <sup>137</sup> to learn the intricacies of law school,
- Encouraging "team building and group support, cross-cultural communication, leadership and academic excellence."<sup>138</sup>

Resistant capital is the "knowledges and skills fostered through oppositional behavior that challenges

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<sup>133</sup> See Vasquez, *supra* note 87.

<sup>134</sup> *Id.*

<sup>135</sup> *Mission, History, Goals*, POSSE FOUND., <https://www.possefoundation.org/about-posse/our-history-mission> (last visited Jan. 5, 2018) (The Posse Foundation identifies public high school students with extraordinary academic and leadership potential who may be overlooked by traditional college selection processes. The Foundation extends to these students the opportunity to pursue personal and academic excellence by placing them in supportive, multicultural teams—Posses—of ten students. The Foundation's partner colleges and universities award Posse Scholars four-year, full-tuition leadership scholarships.).

<sup>136</sup> See Feingold & Souza, *supra* note 10, at 92.

<sup>137</sup> See, e.g., *Scholars Complete Pre-Collegiate Training*, POSSE FOUND., (Fall 2013 Quarterly) <https://www.possefoundation.org/news/detail/d.c.-scholars-complete-pre-collegiate-training>.

<sup>138</sup> *Id.*

inequality.”<sup>139</sup> For example, through verbal and non-verbal lessons parents of students of color instill a legacy of resistance in the face of race, gender, and class inequality.<sup>140</sup> Research studies show that Latino parents “consciously instruct their children to engage in behaviors and maintain attitudes that challenge the status quo.”<sup>141</sup> Da Graca and Dougherty recommend that in order to create a legacy of resistance students ask themselves: “How will you return to your community as a change agent? Recall the moments that got you here. How will you continue the legacy and lift as you climb?”<sup>142</sup>

Law schools can foster resistant capital by empowering Latinas with skills on how to resist feelings of inadequacy and presumptions of inferiority, and instead bolster self-esteem and confidence. One way to accomplish this goal is by taking an opposite approach to “perspectivelessness” and instead adopt programming and teaching techniques that takes the following into account:

- Attend to potential internal and external stressors for Latinas
- Recognize first-generation law students arrive on campus with cultural strengths in a culturally different environment
- Become more cognizant of the roles of colorism and racism in the interpersonal interactions with Latinos in different settings
- Attend to law school professors, administrators, and staff biases and prejudices about Latina/os
- Become familiar with legislation that may affect Latina students
- Do not buy in to the myths about Latinas<sup>143</sup>

Ultimately, the goal of law schools should be to provide an experience that does not cause anxiety or force students to shut off parts of themselves in order to fit in. Specifically, law schools should find opportunities to encourage

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<sup>139</sup> Yosso, *supra* note 13, at 80.

<sup>140</sup> *See id.* at 81.

<sup>141</sup> *Id.*

<sup>142</sup> Da Graca & Dougherty, *supra* note 109.

<sup>143</sup> *See* PATRICIA ARREDONDO, MARITZA GALLARDO-COOPER, EDWARD A. DELGADO & ANGELA L. ZAPATA, CULTURALLY RESPONSIVE COUNSELING WITH LATINAS/OS 115 (2014).



cultural pride for Latinas and cultural competency for everyone else.

## CONCLUSION

Gloria Anzaldúa, in *Haciendo Caras/Making Face, Making Soul: Creative and Critical Perspectives by Women of Color*, calls for the connection of the community to the academy.<sup>144</sup> One way the academy, specifically law schools, can connect to the community is by supporting and investing in opportunities that bolster Latinas' lived experiences and inherent assets that are abundant in the Latino community. First of all, Latinas are able to overcome the intersectionality of their identities and the contradictory expectations; this is a resilience that can be tapped into as Yosso's framework suggests. Secondly, Latinas are able to persist in a society that constantly reminds them that they do not belong either because of their race, gender, immigration status, language abilities, social class, and many other social identities meant to segregate individuals. Attending and succeeding in law school is an endeavor that demands persistence and endurance, and both are qualities that Latinas possess.

Law schools should be obligated to do more than simply include photos of diversity in their brochures and should instead invest and support students once on campus (and better yet, before students arrive on campus). The existence of a Latinx Law Student Association (LLSA) does not suffice as a satisfactory method to address the needs of students. Latino students should not be expected to help themselves or each other, and instead there should be funded staff to tap into the community wealth capital and prevent students' feelings of isolation and inadequacy. There should be systems in place to address the systemic inequalities that Latinas encounter due to their gender and race. Ideally, every law school will have a Diversity Coordinator that is a constant source of information, expectation, accountability, and feedback. Student organizations are a great starting point; however, when students graduate, there is no consistent source of support for students to rely on. The aforementioned solutions are just examples of what law

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<sup>144</sup> See GLORIA ANZALDÚA, *HACIENDO CARAS/MAKING FACE, MAKING SOUL: CREATIVE AND CRITICAL PERSPECTIVES BY WOMEN OF COLOR* 30–31 (1990).

schools could implement to complement their existing resources for their diverse students. However, schools should keep in mind the specific needs of Latina women and utilize frameworks that take into account the already-existing strengths of their lived racial and gender experiences.

In conclusion, the investment in Latinas, and diversity in general, is an investment that could determine the quality of all students' experience in law school.<sup>145</sup> Law schools need to commit to consistent and constant dialogue around race, racial segregation, and societal inequalities. At one point in history, the legal academy was forced to open up to women and African Americans, and this is no different. As the diversity of the country increases, so must the efforts to include Latinas.

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<sup>145</sup> See Derek Black, *The Intricate Associations between Diversity and Law Student Engagement* By Deidre Bowen and Aaron Taylor, LAW PROFESSORS BLOG NETWORK (Mar. 11, 2015), [http://lawprofessors.typepad.com/education\\_law/2015/03/the-intricate-associations-between-diversity-and-law-student-engagement-by-deidre-bowen-and-aaron-t.html](http://lawprofessors.typepad.com/education_law/2015/03/the-intricate-associations-between-diversity-and-law-student-engagement-by-deidre-bowen-and-aaron-t.html) (“When students perceive that their law school encourages diversity and fosters diverse interactions, students report having both a better understanding of people from other racial and ethnic backgrounds and better training in solving complex problems—a fundamental skill every lawyer could possess.”).