

University of Michigan Journal of Law Reform

Volume 33 | Issue 3

2000

Front Matter

Journal of Law Reform & Journal of Race and Law

Michigan Journal of Race & Law

Follow this and additional works at: <https://repository.law.umich.edu/mjlr>

Recommended Citation

Journal of Law Reform & Journal of Race and Law & Michigan Journal of Race & Law, *Front Matter*, 33 U. MICH. J. L. REFORM i (2000).

Available at: <https://repository.law.umich.edu/mjlr/vol33/iss3/1>

This Front Matter is brought to you for free and open access by the University of Michigan Journal of Law Reform at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in University of Michigan Journal of Law Reform by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mLaw.repository@umich.edu.

UNIVERSITY OF MICHIGAN
JOURNAL OF
LAW REFORM

VOLUME 33
ISSUE 3
SPRING 2000



AND

MICHIGAN JOURNAL *Summer 2000*
OF RACE & LAW

VOLUME 5
ISSUE 3

UNIVERSITY OF MICHIGAN
LAW SCHOOL
ANN ARBOR, MICHIGAN

Cite as: 5 MICH. J. RACE & L. 787, 33 U. MICH. J.L. REFORM 203 (2000)

Copyright © 2000 by the *University of Michigan Journal of Law Reform*. All rights reserved. Except where otherwise expressly indicated, copies of scholarship printed in the *University of Michigan Journal of Law Reform* may be made for course use in any public or private institution of learning provided that (1) copies are distributed at or below cost, (2) the author and the *University of Michigan Journal of Law Reform* are identified on the copies, and (3) proper notice of copyright is affixed to each copy.

The *University of Michigan Journal of Law Reform* is published quarterly by students of the University of Michigan Law School. Fourth-class postage paid at Ann Arbor, Michigan 48109. Printed by Joe Christensen, Inc., Lincoln, Nebraska 68521.

University of Michigan Journal of Law Reform
University of Michigan Law School
625 S. State Street
Ann Arbor, MI 48109-1215
Telephone: (734) 763-6100
<http://www.law.umich.edu/pubs/journal/mjlr>

PUBLICATION POLICY

The *Journal* seeks to improve the law and its administration by providing a forum for discussion that identifies contemporary issues for reform efforts, proposes concrete means to accomplish change, and evaluates the impact of law reform. As contributions to this discussion, the *Journal* also welcomes multidisciplinary and empirical work.

We encourage the submission of unsolicited manuscripts for publication. Each manuscript should be typed, double-spaced and sent to the Managing Article Editor at the above address. Articles should generally conform to *A Uniform System of Citation* (17th ed. 2000) and *The Chicago Manual of Style* (14th ed. 1993). We regret that we cannot return submitted articles unless they are accompanied by a self-addressed postage-paid envelope.

Views expressed in the *Journal* are those of the authors and not necessarily those of the editorial staff.

SUBSCRIPTIONS

The current subscription rate is \$35.00 domestic and \$40.00 foreign. All subscription inquiries should be made, by mail or phone as stated above, to the Business Manager. Subscribers should report the nonreceipt of copies within six months of the mailing date.

INDIVIDUAL AND BACK ISSUES

Copies of individual issues from the current volume can be obtained directly from the *Journal* for \$15.00 each.

Back issues in complete sets, volumes, or single issues can be obtained from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14209—Telephone (716) 882-2600. The *Journal* is also available on microfilm through University Microfilms International, 300 North Zeeb Road, Ann Arbor, Michigan 48106—Telephone (734) 761-4700.

INDEXES

The *Journal* is indexed in the Current Law Index, Index to Legal Periodicals, Legal Resource Index, and PAIS Bulletin.

ISSN 0033-1546



UNIVERSITY OF MICHIGAN
JOURNAL OF
LAW REFORM

VOLUME 33

Editor in Chief

SHANNON L. KIMBALL

Managing Editor

NIAMH M. McEVOY

Executive Editors

KRISTIN V. COLLINS
ALISON B. MACDONALD
LAURA E. ZACHMAN

Symposium Editor

JULIA E. BLANKERTZ

MARILYNN E. ARMOUR
LIZABETH A. BOYER
MARC J. FINKELSTEIN
SARAH E. GERAGHTY
BRIAN M. GINGOLD
DANIEL E. HAROLD
DENISE A. KIRKOWSKI

MICHAEL K. BLISSENBACH
BEATRICE S. CHANDLER
SHAWN M. DRAPER
GREGORY P. FELDKAMP
JODY B. GREENBERG
BRIAN L. HOWARD
CHARU L. JAIN
ERIN P. KAPPLER
DANIEL J. KELLY

Business Manager

MAUREEN A. BISHOP

Managing Article Editor

MARGO M. SCHNEIDMAN

Article Editors

KATHERINE Y. BARNES
JASON H. CASELL
ALEX L. FUGAZZI
EILEEN M. KIERNAN

Contributing Editors

THOMAS H. KLEIN
BRYANT T. LAMER
PHILLIP H. LEE
MICHELLE I. LUNG
AMAN L. MCLEOD
AMY M. MORTON
NICOLE S. PAKKALA

Associate Editors

MELISSA A. KERN
JASON T. KUZMA
WARREN METLITZKY
REBECCA MIN
JENNIFER K. NOWACZOK
HUN OHM
PURVEE K. PAREKH
SEAN T. PEPPARD
J. PATRICK RAULERSON

Editorial Assistants

CATHERINE T. LEGGIERI
MATTHEW S. REDDING

Executive Note Editor

AMY REMUS SCOTT

Note Editors

SARA W. CLASH
KEVIN M. HENRY
MATTHEW B. MOCK
MICHAEL S. PONDER

KENNETH J. PIPPIN

ANI B. SATZ
MARK A. SMITH
DANIEL B. STOLARSKY
JASON J. STOVER
JEAN L. TAYLOR
GENA E. WILTSEK

SARAH M. RILEY

RACHEL E. SCHWARTZ
KASSON C. STONE
KATHARINE M. SWANSON
CHRISTINA L. THACKER
CATHERINE A. THOMPSON
BONNIE H. WALKER
DENNIS E. WESTLIND
ADAM B. WOLF

Office Assistant

MONICA G. FINCH

UNIVERSITY OF MICHIGAN LAW SCHOOL

Spring 2000

Administrative Officers

LEE C. BOLLINGER, B.S., J.D., *President of the University*
NANCY E. CANTOR, B.A., PH.D., *Provost and Executive Vice President for Academic Affairs*
JEFFREY S. LEHMAN, A.B., J.D., M.P.P., *Dean*
CHRISTINA B. WHITMAN, A.B., M.A., J.D., *Associate Dean for Academic Affairs*
SUELLYN SCARNECCHIA, B.A., J.D., *Associate Dean for Clinical Affairs*
VIRGINIA B. GORDAN, B.A., J.D., *Assistant Dean for International Programs*
ERICA A. MUNZEL, B.A., J.D., *Assistant Dean and Director of Admissions*
KATHY A. OKUN, M.A., PH.D., *Assistant Dean for Development and Alumni Relations*
David H. Baum, B.A., J.D., *Assistant Dean of Students*
Charlotte H. Johnson, B.A., J.D., *Assistant Dean of Students*

Professors Emeriti of Law

FRANCIS A. ALLEN, A.B., LL.B., J.D., LL.D.,
Edson R. Sunderland Professor of Law
OLIN L. BROWDER, A.B., LL.B., S.J.D.,
James V. Campbell Professor of Law
ALFRED F. CONARD, A.B., LL.B., LL.M.,
J.S.D., LL.D.,
Henry M. Butzel Professor of Law
LUKE K. COOPERRIDER, B.S., J.D.
SAMUEL D. ESTEP, A.B., J.D.
ROBBEN W. FLEMING, B.A., LL.B., LL.D.
WHITMORE GRAY, A.B., J.D., LL.D.
JEROLD H. ISRAEL, B.B.A., LL.B.,
Alene and Allan F. Smith Professor of Law
JOHN H. JACKSON, B.A., J.D.,
Hessel E. Yntema Professor of Law
CHARLES W. JOINER, A.B., J.D.
FRANK R. KENNEDY, A.B., LL.B., J.S.D.,
Thomas M. Cooley Professor of Law
MARVIN L. NIEHUSS, A.B., LL.B.
WILLIAM J. PIERCE, A.B., J.D.
BEVERLEY J. POOLEY, B.A., LL.B., LL.M., S.J.D.
ROY F. PROFFITT, B.S., J.D., LL.M.
JOHN W. REED, A.B., LL.B., LL.M., JUR.SC.D.,
Thomas M. Cooley Professor of Law
THEODORE J. ST. ANTOINE, A.B., J.D.,
James E. and Sarah A. Degan Professor of Law
RUSSELL A. SMITH, A.B., J.D.
ERIC STEIN, J.U.D., J.D., DR.H.C.,
Hessel E. Yntema Professor of Law
PETER O. STEINER, A.B., M.A., PH.D.

Professors of Law

LAYMAN E. ALLEN, A.B., M.P.A., LL.B.
LEE C. BOLLINGER, B.S., J.D.
EVAN H. CAMINKER, B.A., J.D.
DAVID L. CHAMBERS, A.B., LL.B.,
Wade H. McCre Professor of Law
EDWARD H. COOPER,* A.B., LL.B.,
Thomas M. Cooley Professor of Law
STEVEN P. CROLEY, A.B., J.D., M.A.
REBECCA S. EISENBERG,* B.A., J.D.,
Robert and Barbara Luciano Professor of Law
PHOEBE C. ELLSWORTH, A.B., PH.D.,
Kirkland & Ellis Professor of Law
MERRITT B. FOX, B.A., J.D., PH.D.
RICHARD D. FRIEDMAN, B.A., J.D., D.PHIL.
BRUCE W. FRIER, B.A., PH.D.,
Henry King Ransom Professor of Law
THOMAS A. GREEN,* B.A., PH.D., J.D.,
John Philip Dawson Professor of Law
SAMUEL R. GROSS, A.B., J.D.,
Thomas G. and Mabel Long Professor of Law
JAMES C. HATHAWAY,* LL.B., LL.M., J.S.D.
MICHAEL A. HELLER, A.B., J.D.
DONALD J. HERZOG, A.B., A.M., PH.D.
RODERICK M. HILLS, JR., B.A., J.D.
ROBERT L. HOWSE, B.A., LL.B., LL.M.
DOUGLAS A. KAHN, B.A., J.D.,
Paul G. Kauper Professor of Law
YALE KAMISAR,* A.B., LL.B., LL.D.,
*Clarence Darrow Distinguished University
Professor of Law*
THOMAS E. KAUPER, A.B., J.D.,
Henry M. Butzel Professor of Law
JAMES E. KRIER, B.S., J.D.,
Earl Warren DeLano Professor of Law
JEFFREY S. LEHMAN, A.B., J.D., M.P.P.
RICHARD O. LEMPERT, A.B., J.D., PH.D.,
Francis A. Allen Professor of Law
KYLE D. LOGUE,* B.A., J.D.
CATHARINE A. MACKINNON,* B.A., J.D., PH.D.,
Elizabeth A. Long Professor of Law
DEBORAH C. MALAMUD, B.A., J.D.
RONALD J. MANN, B.A., J.D.
WILLIAM I. MILLER, B.A., PH.D., J.D.,
Thomas G. Long Professor of Law
SALLYANNE PAYTON,* A.B., LL.B.
RICHARD H. PILDES,* A.B., J.D.,
*Roy F. and Jean Humphrey Proffitt Research
Professor of Law*
DONALD H. REGAN, A.B., LL.B., B.PHIL., PH.D.,
William W. Bishop, Jr. Professor of Law
MATHIAS W. REIMANN, DR. IUR., LL.M.
TERRANCE SANDALOW,* A.B., J.D.,
Edson R. Sunderland Professor of Law
JANE S. SCHACHTER, A.B., J.D.
CARL E. SCHNEIDER, A.B., J.D.,
Stillman Professor of Law
A.W. BRIAN SIMPSON, B.A., M.A., D.C.L.,
Charles F. and Edith J. Clyne Professor of Law
PHILIP SOPER, B.A., M.A., J.D., PH.D.,
James V. Campbell Professor of Law

JOSEPH VINING,* B.A., M.A., J.D.,
Harry Burns Hutchins Professor of Law
LAWRENCE W. WAGGONER, B.B.A., J.D., D.PHIL.,
Lewis M. Simms Professor of Law
PETER K. WESTEN, B.A., J.D.,
Frank G. Millard Professor of Law

JAMES BOYD WHITE,* A.B., A.M., LL.B.,
L. Hart Wright Professor of Law
JAMES J. WHITE,* B.A., J.D.,
Robert A. Sullivan Professor of Law
CHRISTINA B. WHITMAN, A.B., M.A., J.D.

Assistant Professors of Law

OMRI BEN-SHAHAR, B.A., LL.B., LL.M., PH.D. ELLEN D. KATZ, B.A., J.D.
SHERMAN J. CLARK, B.S., J.D. NINA A. MENDELSON, B.A., J.D.
DANIEL HALBERSTAM, B.A., J.D. ADAM C. PRITCHARD, B.A., M.P.P., J.D.
PETER J. HAMMER, B.S., B.A., J.D., PH.D. MARK D. WEST, B.A., J.D.

Clinical Professors of Law

DONALD N. DUQUETTE, B.A., J.D. NICHOLAS J. RINE, B.A., J.D.
PAUL D. REINGOLD,* B.A., J.D. SUELLYN SCARNECCHIA, B.A., J.D.

Clinical Assistant Professors of Law

LAURA B. ANDONI, B.A., J.D. KIMBERLY A. JAMES, A.B., J.D.
MELISSA BREGER, B.S., J.D. ROCHELLE E. LENTO, B.A., J.D.
JULIET M. BRODIE, A.B., J.D. ANDREA D. LYON, B.A., J.D.
HOWARD J. BROMBERG, B.A., J.D., J.S.M. BRIDGET M. MCCORMACK, B.A., J.D.
LORRAY S.C. BROWN, B.A., J.D. GLORIA K. MILLER, B.A., M.A., J.D.
JULIE P. CLOSE, B.A., J.D. ANNE N. SCHROTH, B.A., J.D.
WILLIAM L. COOPER, A.B., J.D., A.M.L.S. THOMAS H. SEYMOUR, B.A., M.A., J.D.
PHILIP M. FROST, B.A., J.D. GRACE C. TONNER, B.A., J.D.

Visiting Professors of Law

JOHN S. BECKERMAN, A.B., M.A., PH.D., J.D. SHELDON H. DANZIGER, B.A., PH.D.
G. ROBERT BLAKEY, A.B., J.D. SHINICHIRO HAYAKAWA, LL.B.
MATTHEW CHASKALSON, B.A., LL.B. HAROLD K. JACOBSON, B.A., M.A., PH.D.
CHRISTINE M. CHINKIN, LL.B., LL.M., M.P.H. ROBERT R. KUEHN, B.A., J.D., LL.M., M.P.H.
LL.M., PH.D. BING LING, LL.B., LL.M.
L. Bates Lea Visiting Professor of Law TAKASHI MARUTA, B.A., M.A., LL.M., PH.D.
GENNADY M. DANILENKO, DIPL. IN LAW, BRUNO E. SIMMA, DOCTORATE OF LAW
DOC. OF LAW YOZO YOKOTA, B.A., LL.M., LL.D.

Visiting Associate Professor of Law

JULIE A. NICE, B.A., J.D.

Visiting Assistant Professors of Law

ALYSON M. COLE, B.A., M.A., PH.D. JOAN L. LARSEN, B.A., J.D.
MARTHA M. ERTMAN, B.A., J.D. OSAMU MORITA, B.A., PH.D.

Adjunct Professors of Law

ELIZABETH M. BARRY, B.A., J.D. RIYAZ KANJI, A.B., J.D.
JOHN E. BOS, B.A., J.D. MARVIN KRISLOV, M.A., J.D.
ANDREW P. BUCHSBAUM, A.B., J.D. KARL E. LUTZ, B.A., J.D.
LAURENCE D. CONNOR, A.B., J.D. ROBERTA J. MORRIS, A.B., J.D.
TIMOTHY L. DICKINSON, A.B., J.D., LL.M. CYRIL MOSCOW, B.S., J.D.
MATTHEW W. FRANK, B.A., J.D. STEVEN W. RHODES, B.S., J.D.
ALISON E. HIRSCHL, B.A., J.D. MARK D. ROSENBAUM, B.A., J.D.
PETER KALBE, 1.STAATSEX., M.C.L., 2.STAATSEX. EDWARD R. STEIN, B.A., J.D.

Adjunct Clinical Professors of Law

P.E. BENNETT, B.S., M.A., J.D. NEIL S. KAGAN, B.S., M.S., J.D.
LORI L. COHEN, B.A., J.D. VALERIE R. NEWMAN, B.A., J.D.
J. TAYLOR TEASDALE, B.A., J.D., LL.M.

Instructor

MARGARET A. LEARY,† B.A., M.A., J.D.

* *On Leave*

† *Adjunct*

UNIVERSITY OF MICHIGAN
JOURNAL OF
LAW REFORM

VOLUME 33
ISSUE 3
SPRING 2000



AND

MICHIGAN JOURNAL *Summer 2000*
OF RACE & LAW

VOLUME 5
ISSUE 3

INTRODUCTION

Expanding Directions, Exploding Parameters: Culture and
Nation in LatCrit Coalitional Imagination

Elizabeth M. Iglesias

Francisco Valdes 203

FOREWORD

Culture, Nationhood, and the Human Rights Ideal

Berta Esperanza Hernández-Truyol

Sharon Elizabeth Rush 233

ARTICLE

Silence and Silencing: Their Centripetal and Centrifugal
Forces in Legal Communication, Pedagogy and Discourse

Margaret E. Montoya 263

COMMENTARIES

- Silencing Culture and Culturing Silence: A Comparative
Experience of Centrifugal Forces in the Ethnic
Studies Curriculum
Steven W. Bender 329

- The Paradox of Silence: Some Questions About
Silence as Resistance
Dorothy E. Roberts 343

ARTICLE

- Franco's Spain, Queer Nation?
Gema Pérez-Sánchez 359

COMMENTARIES

- Querying a Queer Spain Under Franco
Peter Kwan 405

- Hegemony, Coercion, and their Teeth-Gritting Harmony:
A Commentary on Power, Culture, and Sexuality in Franco's Spain
Ratna Kapur
Tayyab Mahmud 411

AFTERWORD

- Legal Language in the Age of Globalization:
Prospects and Dilemmas
Patricia Fernández-Kelly 443

EDITORS' NOTE

This volume marks the first time that the *University of Michigan Journal of Law Reform* and the *Michigan Journal of Race & Law* have collaborated to produce a joint issue. We entered this relationship to pursue two shared goals. First, we seek to enhance the developing body of Latina/o Critical Race Theory by bringing LatCrit, and Critical Race Theory more generally, into established legal discourse. This area of study involves important issues that, for the most part, are rarely discussed, despite their centrality to the legal system and the legal profession's role in an increasingly diverse society. Second, through our collaborative effort, we endeavor to integrate the goals of our publications—providing a forum for the exploration of issues relating to race and law, and focusing on publishing law reform-oriented scholarship.

Race continues to dominate the political, legal, and academic discourse of our nation. As persons of Latina/o heritage quickly move toward becoming the largest minority population in America, the discourse must expand to include the experiences of Latinas and Latinos. Today, these experiences are of particular importance to us and the nation as the diversity-promoting admissions policies of educational institutions are attacked. The University of Michigan and University of Michigan Law School, in particular, are the current legal battlegrounds for challenging affirmative action. The decision that is made about the University's policies has the possibility of changing the way our nation handles diversity in education, employment, and other areas of great impact. Although our joint publication does not deal specifically with affirmative action policy, we believe that the first step toward preserving and further promoting diversity is to expand "outsider jurisprudence" so that each side is better able to understand the other and how their experiences differ.

Finally, this volume was modeled after the collaborative LatCrit issue of the *California Law Review* and the *La Raza Law Journal*.^{*} We hope that other law reviews and journals will join together to bring issues of Critical Race Theory into the "mainstream."

David C. Mitchell
Editor in Chief
Michigan Journal of Race & Law

Shannon L. Kimball
Editor in Chief
*University of Michigan
Journal of Law Reform*

* See *Latcrit: Latinas/os and the Law, A Joint Symposium by California Law Review and La Raza Law Journal*, 85 CAL. L. REV. 1087 (1997), 9 LA RAZA L.J. 1 (1998).