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Will the South Rise again and, if So, in What Form?: Lessons from LatCrit about Resisting the Fear of Cultural Understanding, 47 J. Marshall L. Rev. 1211 (2014)

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WILL THE SOUTH RISE AGAIN AND, IF SO, IN WHAT FORM? LESSONS FROM LATCRIT ABOUT RESISTING THE FEAR OF CULTURAL UNDERSTANDING

BY ANGELA MAE KUPENDA *

I. Introduction	1211
II. Migrating to LatCrit 2013, in Chicago	1216
III. Acknowledging the Imbalance of Cultural Influence.....	1220
IV. Accomplices to the Continuation of the Fear of Understanding	1223
V. Conclusion: Lessons from LatCrit, Rising Resistance to help a New South Rise	1226

I. INTRODUCTION

“The south will rise again!” is a chant that evokes various sentiments. Many of these responses take our minds back to the South of cotton plantations,¹ post Civil War Black codes,² and the

* Professor Law, Mississippi College School of Law. I am exceedingly grateful for LatCrit and for the collegial and encouraging environment it provides. LatCrit has opened its arms widely, embracing me and my many diverse students who have attended LatCrit with me over the years. I also appreciate Mississippi College School of Law for encouraging and funding faculty scholarship through pre and post publication grants and funding travel for student and faculty scholarly presentations.

I dedicate this article to Professor Adjoa A. Aiyetoro, Director of Racial Disparities in the Arkansas Criminal Justice System Research Project, University of Arkansas-Little Rock, William H. Bowen School of Law. While we did not walk the windy streets of Chicago on the last evening of the LatCrit conference; my student Jou-Chi Ho, who also presented at LatCrit, and I enjoyed dinner and reflections with Prof. Aiyetoro as we discussed our different, yet similar, journeys in this life. I am so grateful to Professor Aiyetoro for her soulful contributions to my work and to my very life. I also appreciate my student, Jou-Chi Ho, for his comments on my work and the insights I gained from his work and his presentation at LatCrit 2013.

¹ For example, my parents’ hometown area includes Port Gibson, Mississippi. This town, which boasts beautiful antebellum homes, was spared as too beautiful to burn during the Civil War. Yet, in the eighties, White merchants persisted in a lawsuit against the National Association for the Advancement of Colored People (NAACP). Fortunately, the White merchants ultimately lost in their suit for damages for the early sixties economic boycott waged by the Black community to obtain just “a little taste of freedom.” My mother’s oldest brother, “Uncle Buddy”, the late Rev. James N. Dorsey, loved living in his home community, where during the movement he was the local NAACP president. Although he loved his home community, Uncle Buddy held

old way of doing things in the Deep South, including the old way of doing race.³ The phrase is powerful, inducing various emotions. For some, these reflections bring sentimental tears of a desire to go back to the old ways and sentiments of longing as expressed in the song, *I wish I was in Dixie*.⁴ For others, the chant, “The south

quite different views about certain traditions of inequality of the Old South from the suing White merchants who had sought to keep the old ways where Blacks were not allowed to vote and were treated as lesser beings than Whites. Fortunately, Uncle Buddy’s view prevailed and they were able to get some freedom, though racial economic inequities linger. See Angela Mae Kupenda, *NAACP v. Claiborne Hardware*, 458 U.S. 886 (1982), in *ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES* 350 (David S. Tanenhaus ed., 2008) (explaining the case described above); EMILYE CROSBY, *A LITTLE TASTE OF FREEDOM: THE BLACK FREEDOM STRUGGLE IN CLAIBORNE COUNTY, MISSISSIPPI* 118-27 (Waldo E. Martin, Jr., & Patricia Sullivan eds., 2005) (describing the grassroots battle); Angela Mae Kupenda, *The Struggling Class: Replacing an Insider White Female Middle Class Dream with a Struggling Black Female Reality*, 18 AM. U. J. GENDER SOC. POLY & L. 725, 738 (2010) [hereinafter “*The Struggling Class*”].

² See generally Mario L. Barnes and Erwin Chemerinsky, *The Once and Future Equal Protection Doctrine?* Essay, 43 CONN. L. REV. 1059, 1071 (2011) (discussing Black codes, which were designed to maintain White supremacy even after the Emancipation Proclamation).

³ *Cooper v. Aaron*, 358 U.S. 1, 8 (1958) (Arkansas governor blocking Black schoolchildren from entering White school); *Palmer v. Thompson*, 403 U.S. 217, 220 (1971) (city of Jackson, Mississippi, defending, and prevailing, in closing swimming pools that had been forced open to Blacks and Whites together); *United States v. Fordice*, 505 U.S. 717, 723 (1992) (Court ruling Mississippi had operated separate and unequal higher education system, with formerly all White colleges receiving more funding, and Historically Black Colleges and Universities receiving far less).

⁴ The song, *Dixie Land*, is credited to Daniel Emmett. *Dixie Land, Daniel D. Emmett, 1859*, available at

<http://www.musicanet.org/robokopp/usa/oiwishiw.htm> (last visited December 26, 2013). Some of the lyrics are noted as:

O, I wish I was in the land of cotton
 Old times there are not forgotten
 Look away! Look away! Look away! Dixie Land.
 In Dixie Land where I was born in
 Early on one frosty mornin'
 Look away! Look away! Look away! Dixie Land.
 Chorus:
 O, I wish I was in Dixie! Hooray! Hooray!
 In Dixie Land I'll take my stand
 To live and die in Dixie
 Away, away, away down south in Dixie!

Id.

The source above reports the story as:

“Dixie Land, or Dixie, as it is generally called, the most popular song of the South, was written by Daniel D. Emmett, of Ohio. In 1859, Mr. Emmett was a member of “Bryant’s minstrels”, then playing in New York. One Saturday evening he was asked by Mr. Bryant to furnish a new song to be used in the performances the following week. On Monday morning, Mr. Emmett took to

will rise again,” brings a strong cry to resist this old painful Dixie⁵ that once enslaved humans and maintained White supremacy.⁶ Regardless of the emotion excited by the chant about the Deep South rising again, one thing is clear. The chant “The south will rise again!” does not generate uniform feelings of cross-cultural understanding, needed diversity, and full racial equality.⁷

The theme of LatCrit 2013 was, “Resistance Rising: Theorizing and Building Cross-Sector Movements.” Theorizing about cross-sector movements is an engaging, fun, intellectual exercise founded, perhaps, on a hope seen in the aspirations of the preamble to the U.S. Constitution.⁸ But, achieving cross-sector

the rehearsal the words and music of Dixie. The song soon became the favorite all over the land. In 1860, an entertainment was given in New Orleans. The leader had some difficulty in selecting a march for his chorus. After trying several he decided upon Dixie. It was taken up by the people, sung upon the streets and soon carried to the battlefields where it became the great inspirational song of the Confederate Army.” *Id.*

See also JABARI ASIM, *THE N WORD: WHO CAN SAY IT, WHO SHOULDN'T, AND WHY 75-77* (Houghton Mifflin Co., New York, 2007) (providing more on minstrel shows, Dan Emmett (author of Dixie), and parody shows about Blacks performed by Whites in Blackface).

⁵ See Angela Mae Kupenda, *Loss of Innocence, in LAW TOUCHED OUR HEARTS* 36, 39-41 (Mildred Wigfall Robinson & Richard J. Bonnie eds., 2009) (telling the story of how her brother and other Black high school football players were punished in 1971 for refusing to stand at attention as the predominantly White high school's band, wearing its confederate style band uniforms and carrying a confederate flag, marched into pep rallies playing *I wish I were in Dixie*).

⁶ Even more recent presidents supported these southern ideals of the old south. See, e.g., Lani Guinier, *Keeping the Faith: Black Voters in the Post-Reagan Era*, 24 HARV. C.R.-C.L. L. REV. 393, 394 n.5 (1989) (discussing how conservative Republican President Ronald Reagan reminded Americans of his hope that “the South will rise again”); Ahmad R. Smith, *Saving Jamal to Save America: Presidential Authority to Decriminalize the Future Male Majority*, 49 GONZAGA L. REV. 83, 117 (discussing the Reagan legacy, and other presidential legacies, and the negative impact on Black and Latino/a communities). See also *Arkansas, Alabama, Mississippi continue to Honor Robert E. Lee on Martin Luther King Day*, FOX NEWS (Jan. 21, 2009), <http://www.foxnews.com/story/2008/01/21/arkansas-alabama-mississippi-continue-to-honor-robert-e-lee-on-martin-luther/> (showing that even for the celebration of the national holiday birthday of Dr. Martin Luther King, three states, including my home state, in the Deep South celebrate on this date also a holiday for Robert E. Lee, commander of the Confederacy).

⁷ See Rigel C. Oliveri, *Between a Rock and a Hard Place: Landlords, Latinos, Anti-Illegal Immigrant Ordinances, and Housing Discrimination*, 26 VAND. L. REV. 55, 81 n. 109 (2009) (affirming that the chant for the south of ole has also been used against Latinos).

⁸ The text of the preamble of the U.S. Constitution provides, “We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.” US. CONST. pmb. *But see* Barbara Charline Jordan, *Statement on the Articles of Impeachment* (July 25, 1974),

movements is more difficult, especially when opposition to success is based on a fear of the success of those movements.⁹ This is because conflict to cross-sector engagement in liberation is generated by a fear of cross-cultural understanding, and not by a fear of cross-cultural *mis*understanding.¹⁰

A fear of cross cultural understanding, and the resulting systemic changes, leads some to the manipulation and mischaracterization of backgrounds and cultures to foster continued misunderstanding. Many oppressed White and nonwhite southerners seem to automatically yield to this manufacture of artificial differences. These manipulated differences result in even the oppressed¹¹ fearing and resisting cross-cultural understanding, although such understanding could greatly improve their very lives and the status of their communities. In spite of those who fear it, vigorous and spirited cross-cultural understanding in the Deep South is the non-violent tool of this century¹² that can facilitate better lives for the many.

<http://www.americanrhetoric.com/speeches/barbarajordanjudiciarystatement.htm> (stating in the hearings before the House Judiciary Committee on the impeachment of former President Nixon that "We, the People" did not include her as a Black woman). Specifically her influential and powerful speech included:

Earlier today, we heard the beginning of the Preamble to the Constitution of the United States: "We, the people." It's a very eloquent beginning. But when that document was completed on the seventeenth of September in 1787, I was not included in that "We, the people." I felt somehow for many years that George Washington and Alexander Hamilton just left me out by mistake. But through the process of amendment, interpretation, and court decision, I have finally been included in "We, the people." *Id.*

⁹ Cf. Justin Townley, *Is the Color of the Economic Crisis the Color of Presidential Fear*, 22 BERKELEY LA RAZA L.J. 51, 53 (2012) (arguing White racial fear is incited and used to attempt to sabotage the Obama presidency).

¹⁰ At one point I thought that perhaps some Whites in the Deep South avoided cross-cultural understanding because they did not want to go through the inevitable conflict that precedes real understanding. See Angela Mae Kupenda, *Diversity: Do You Really Want It?*, 21 LAW & INEQ. 415, 416-417 (2003). But, I have come to believe that, to the contrary, some Whites in the Deep South actually fear cross-cultural understanding itself. Thus they resist exposure to those who are different and resist challenging their own biased views. Unfortunately, Whites can avoid being in situations where Whiteness is the minority. See Stephanie M. Wildman, *Revisiting Privilege Revealed and Reflecting on Teaching and Learning Together*, 42 WASH. U. J.L. & POL'Y 1, 12 (2013). This is the case for now while Whites are the majority group. *But see* Smith, *supra* note 6, at 87 (questioning the impending reactions of Whites when they are no longer in the majority).

¹¹ Cf. Angela Mae Kupenda, *The State as Batterer: Learning from Family Law to Address America's Family-Like Racial Dysfunction*, 20 U. FLA. J.L. & PUB. POL'Y 33, 45 (2009) (the majority is actually oppressed when you include the various oppressions suffered by White women, nonwhite citizens and noncitizens, the aged regardless of race, young nonwhites, the poor, those with disabilities, non-heterosexuals, and so on).

¹² See, e.g., John Robert Lewis, *The King Legacy*, 30 VT. L. REV. 349, 353 (2006) (explaining that non-violent tools take time and much discipline, but

Hence, this essay is a shout out against the present structures. These present structures reflect a lack of cross-cultural understanding and feed a misunderstanding among the many that results in better lives only for the few who reign supreme.¹³ Hopefully, if enough shout out against these structures based on misunderstanding, they will go tumbling down¹⁴ or will at least crack.

With cross-cultural coalitions, resistance to suppressive domination can indeed occur even in the Deep South and, my hope, even in my home state of Mississippi. The Reverend Dr. Martin Luther King once gave a shout out to Mississippi as a place where he also hoped freedom would someday ring. Specifically King stated, "I have a dream that one day, even the state of Mississippi, a state sweltering with the heat of injustice, sweltering with the heat of oppression, will be transformed into an oasis of freedom and justice."¹⁵ Once this transformation occurs even in Mississippi then, yes, the South will rise again; but it will definitely be a free and liberated new South, which will be a different one from the South of Ole.¹⁶

can provoke some progress).

¹³ See Angela Mae Kupenda, Book Review, in Law And Politics Book Review, Rule of Law Post 9/11 Issue, (Oct. 2013) (reviewing Conor Gearty, *Liberty & Security*(2013)), *available at* <http://www.lpbr.net/search/label/Rule%20of%20Law%20Post%209%2F11>. Gearty's book explores, asks and answers, whether liberty and security are "to be for the all or just the few"? This review also proposes how Gearty's book can be utilized to consider the rule of law and its application in a study of resistance to South African apartheid, of the Civil Rights movement in the Deep South, and even in movements in American societies of today. *Id.*

¹⁴ See, e.g., *Joshua* 6:1-20 (King James) (stating people marched around the city, then shouted, and the walls came tumbling down).

¹⁵ MARTIN LUTHER KING, JR., *I HAVE A DREAM: WRITINGS AND SPEECHES THAT CHANGED THE WORLD* (JAMES M. WASHINGTON ED.) 104 (HarperSanFrancisco 1992) (from King's "I Have a Dream" speech delivered in 1963).

¹⁶ Eliminating the routine use of the chant in desegregated schools has been a long, arduous journey. See *Chancellor Wants Song Halted*, ESPN COLLEGE FOOTBALL, (Nov. 10, 2009), <http://sports.espn.go.com/ncf/news/story?id=4643111> (describing that in 1997, pursuant to student initiative, waving of confederate flags at games ended at the University of Mississippi (Ole Miss) which was integrated earlier by James Meredith in the sixties; in 2003, mascot eliminated that resembled slavery plantation owner; and in 2009, University of Mississippi Chancellor attempted to halt at football games the Dixie song that led to the shouted chant, "The South will rise again"); see also Ronald J. Krotoszynski, Jr., *The Argot of Equality: On the Importance of Disentangling "Diversity" and "Remediation" as Justification for Race-Conscious Government Action*, 87 WASH. U. L. REV. 907, 951 n. 170 (2010) (explaining more on chant and racial climate).

As indicated above, the chant and confederacy symbols had persisted through even recent years. The University of Mississippi's law school had its first Black male graduate in 1968 and its first Black female graduate in 1971. See Michael H. Hoffheimer, *John Robin Bradley: Biographia Literaria*, 82 MISS. L.J. 751, 760 n.25 (2013). I lived on campus and served as one of the

This essay, considering lessons from LatCrit that can facilitate the rising of a new south, will be divided into three parts. Part one will consider my initial lesson learned from my migration story to, and of, LatCrit. Part two examines in more depth the internal conflict that hinders the South in its advancement. Nonwhites are expected to understand the White ruling group and its dominant culture. The White ruling group, however, seems to resist acquiring cross-cultural learning. This resistance to understanding ensures the maintaining of White superiority based on an internalized, falsehood that White is indeed better and hence different to the core.¹⁷

Part three will consider how this insistent, relabeled, resistance to understanding has led to the complicity of nonwhites, especially in the Deep South. Once regarded as potential vehicles of enlightenment,¹⁸ some young Black professionals often find their thirst for fuller racial equality unquenched and their potentially strong voices silenced in order to fit within the White dominant culture and blend beneath the White dominant gaze. This leads to separation between some older Blacks, who participated during the years of a direct action movement, and some younger Blacks, who hope to progress through their assimilation into a culture and a way of life that oppressed and continues to do so.

In conclusion, specific lessons learned from LatCrit will be urged. This essay is hoping to evoke the missing sentiment of understanding and equality by signifying that the south that will rise again will be a south that is transformed, as Dr. King said “into an oasis of freedom and justice,”¹⁹ by moving out of its fears of understanding and moving to a far greater level of cross-cultural understanding.

II. MIGRATING TO LATCRIT 2013, IN CHICAGO

From the beginning of the LatCrit conferences, many

first Black professors in the School of Business there in the mid-eighties, and the chant was still enduring.

Although the University of Mississippi proudly hosted a presidential debate in 2008, when President Barack Obama was reelected in 2012, racist shouts were heard from protestors on campus that night. *Racial slurs yelled at Ole Miss Obama Protest*, CBS NEWS (Feb. 8, 2013), <http://www.cbsnews.com/news/racial-slurs-yelled-at-ole-miss-obama-protest/>.

¹⁷ See generally Angela Mae Kupenda, *To Whom It May Concern: Re: Brown III*, 27 N.C. CENT. L.J. 216, 223 (arguing that White presumed superiority leads to a less successful country, as does Black presumed inferiority).

¹⁸ See cf. Steven H. Hobbs, *An Entrepreneurial Perspective on the Business of Being in our Profession*, 40 FORDHAM URB. L.J. 395, 426 n.134 (2012) (discussing W.E.B. Dubois' charge to the talented tenth).

¹⁹KING, *supra* note 15, at 104.

participants invited me to attend, but I did not. Having lived across the country but having grown up in Mississippi where the predominant racial conflict was posed as between Black and White, I knew I stood to learn much about Latinos/as' culture and history that I was sorely missing in my education and experience. Still I wondered if I would be an intruder, or an outsider.

Finally, I attended my first LatCrit Conference in 2009 and I have been a regular attendee and participant ever since.²⁰ Often I bring some of my students, so they too may participate and learn.²¹ The year of 2013 was no different as I embarked on a journey to LatCrit; me a Black female law professor in my fifties with my Taiwanese male law student who is much younger.

My Asian student and I have worked together many times at Mississippi College School of Law on class lessons and on research and writing projects. We had traveled together before, too. It has been obvious to me that some other travelers, especially White people in southern airports and cities, watch the two of us and openly express audible curiosity about our multi-cultural and multi-generational conversational exchanges and lack of obvious awkward tension in our cross-sector communications. I always answer the questions from these Whites clearly, patiently, and at length. My enduring hope is that the White curious ones will see the value of, and cease to fear, cross-cultural understanding. In spite of our prior journeys together, this trip to LatCrit in Chicago was noticeably different.

Perhaps it was different as the travel from Mississippi to Chicago reminded me of the path that Blacks took during the

²⁰ I have also published in the symposium journal issues. See Angela Mae Kupenda, *(Re)complexioning a Simple Tale: Race, Speech, and Colored Leadership*, 48 CAL. W. L. REV. 399 (2012) (published in LatCrit XVI Symposium issue); Kupenda, *The Struggling Class*, *supra* note 1 (published in LatCrit XIV Symposium Issue).

²¹ Works by my former students have also been published in LatCrit Symposium issues. Townley, *supra* note 9 (published in LatCrit XV Symposium Issue); Talibah-mawusi Smith, *When the Well Runs Dry, Dig Deeper: The Case for Funding the Public Library, A Necessary Resource for Minorities*, 22 BERKELEY LA RAZA L.J. 137, 137-154 (2012) (published in LatCrit XV Symposium Issue). The young people who have attended with me have included: females and males; Democrats and Republicans; a mixture of various racial heritages, including Blacks, Whites, Native Americans, Chinese, and Taiwanese; various economic classes; those who practice religious beliefs and those who do not; and, current students and attorney alums. Our Latino/a student population at my school is very small and so far, noticeably and unfortunately, I have not had the wonderful opportunity to bring any Latino/as with me to LatCrit. Sadly, our permanent faculty does not include any Latino/as. We also do not have any Native Americans on the tenure track faculty. Our faculty includes two Black women, who are tenured and were hired in the early nineties. One Asian woman was recently tenured. Our first Black male tenure track professor will begin in the fall of 2014. Recently we were happy to learn that our first Black Dean (a Black female) will take office in the fall of 2014.

great northern migration that carried so many to settle north of Mississippi in St. Louis, Chicago, Detroit and other northern cities.²² My newlywed parents left Mississippi in the early 1950s, right after their simple wedding on my mother's parents' front porch, seeking a better life in Chicago, traveling by train²³ and then living in boarding houses in the city up north. My parents, in their youthful giddy years, had hoped that in Chicago they would feel free and not stifled by the overt racism of my parents' rural, and yet beloved, home communities.²⁴

Perhaps a collective unconsciousness²⁵ of my parents' excited journey and hopes is why, when I walk through the streets of the windy city of Chicago, I feel liberated and free, and not as microscopically obvious and self-controlled as I feel often on the campus of the southern predominantly White law school where I teach.²⁶ I wonder if, even at this conference enjoying the

²² NELL IRVIN PAINTER, *CREATING BLACK AMERICANS: AFRICAN-AMERICAN HISTORY AND ITS MEANINGS, 1619 TO THE PRESENT* 174-77 (Oxford 2006) (discussing the great migrations of Blacks from the Deep South).

²³ My father, and even my mother, were likely sitting in the segregated Jim Crow cars on the train. *Cf.* *Plessy v. Ferguson*, 163 U.S. 537 (1896) (upholding separate but equal on the railroad trains). *See generally* Angela Mae Kupenda, Letitia Simmons Johnson, and Ramona Seabron-Williams, *Political Invisibility of Black Women: Still Suspect But No Suspect Class*, 50 WASHBURN L.J. 109, 114 n.34 (2010) (*citing* PAULA GIDDINGS, *WHEN AND WHERE I ENTER: THE IMPACT OF BLACK WOMEN ON RACE AND SEX IN AMERICA* 22 (1984) (describing how there were separate cars for "ladies," but the norms of the Old South instructed that Black ladies were not allowed to travel with White women in these smoke-free more pleasant cars)).

²⁴ *See* Angela Mae Kupenda, *The Struggling Class: Replacing an Insider White Female Middle Class Dream with a Struggling Black Female Reality*, 18 AMERICAN UNIVERSITY J. GENDER, SOC. POLY & LAW 725, 729 (2010) (stating that her parents had not remained in Chicago, but had returned to their families and communities, including the racial struggles in Mississippi).

²⁵ Some psychologists contend that in addition to a personal unconscious, there is a collective unconsciousness that contains "a reservoir of images derived from our early ancestors universal experiences. This inherited unconscious includes deep-rooted spiritual concerns and explains why people in different cultures share certain myths and images. . ." DAVID G. MYERS, *EXPLORING PSYCHOLOGY* 307 (Worth Publishers, New York, 1990). Others have written about collective unconsciousness as a way to explain some of the, perhaps unintentional, racism by Whites. *See, e.g.*, Patricia Broussard, *Black Women's Post-Slavery Silence Syndrome: A Twenty-First Century Remnant of Slavery, Jim Crows, and Systemic Racism—Who will Tell her Stories?*, 16 J. GENDER RACE & JUSTICE 373, 420 (2013) (writing about the collective unconscious as a reason behind racism by Whites); Francisco Valdes and Sumi Cho, *Critical Race Materialism: Theorizing Justice in the Wake of Global Neoliberalism*, 43 CONN. L. REV. 1513, 1546-47 (2011) (describing how the White population has been always conscious of their racial identity); Charles R. Lawrence, III, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317, 322-23 (1987) (explaining that "decisions about racial matters are influenced in large part by factors that can be characterized as neither intentional. . . nor unintentional").

²⁶ *See, e.g.*, Angela Mae Kupenda, *Making Traditional Courses More*

anticipation of walking the streets of Chicago about sixty years since my parents did, the liberation I feel is similar to the liberation my parents had hoped to find for themselves and their children they hoped to, and did, have.

As we traveled to LatCrit in Chicago, I also thought a great deal about my student and his conference presentation about Asians in Mississippi. His educational objectives to learn more about Asians in America, and especially in the Deep South, had added to my cultural understanding, too. I learned that many years ago, post-slavery, many Chinese immigrants traveled to the fertile soil of the, still called, plantations²⁷ of the Mississippi Delta in the early 1900s to make a fortune and then to return back to their continent.²⁸ Although many of the Delta Chinese had tried to blend with the White powerbase, they had found racial oppression instead in Mississippi.²⁹ While many Asians had financially profited from opening and locating grocery stores within Black neighborhoods, the Delta Chinese had sought social separation from Blacks and had nurtured a desire for their children to be educated with and to become a part of the White community.³⁰ The Delta Chinese did not succeed in blending with the White community, nor did they seem to choose to blend with the Black community. Moreover, many Delta Chinese found that no matter how long they stayed in Mississippi, they would still be regarded as foreigners³¹ and still be situated standing alone in the gap between the Black and White divide.³² These thoughts gave me new ways of thinking about nonwhite groups, and the lack of, and fear of, cross-cultural understanding even across these oppressed groups, and especially in the Deep South where Whiteness seems to still demand supremacy in its economic, legal, and political structures.

Thinking about cultural differences and lack of understanding cross-culturally, perhaps made this conference also different as the cultural environment of the conference was as remarkable as the provocative and informative sessions. For example, at one of the

Inclusive: Confessions of an African American Female Professor Who Attempted to Crash All the Barriers at Once, 31 U.S.F.L. REV. 975, 975-92 (Summer 1997) (describing her experience teaching in a predominantly white law school and her goal of incorporating diversity within the classroom).

²⁷ See Jou-Chi Ho, *The Call for, and Role of, Asian Lawyers in the Deep South*, 12 SEATTLE J. FOR SOCIAL JUSTICE ____ (forthcoming 2014, LatCrit Symposium Issue) (draft on file with author, at page 12-14).

²⁸ *Id.*

²⁹ *Id.*

³⁰ See, e.g., *Gong Lum v. Rice*, 275 U.S. 78, 85-87 (1927) (upholding Mississippi's regarding of a Chinese student as Black, as a sufficient basis to deny Chinese schoolchild access to White only school, although the state law only referred to Black students as being barred from White only schools).

³¹ Ho, *supra* note 27, 16-17.

³² *Id.*

LatCrit plenary sessions, the banquet room was a diverse sea of various cultures, colors, races, ages, dress and hair styles, accents, religions, languages, economic classes and backgrounds. Standing back and looking at, and listening to glimpses of cozy conversations from those in the room, one could discern that it included Latina/os, Native Americans, Blacks, Asians, Middle Easterners, Whites and mixtures of heritages, too. This scene was indeed a glorious experience, where it seemed that no one was an outsider, and cross-cultural understanding abounded. While a variety of cultures was obvious, an understanding seemed to fearlessly permeate.

Observing the beauty of this cross-cultural session experience made me puzzlingly wonder why some people in the south (and other places³³) are so fearful of this splendid cultural diversity and thus resist seeking and experiencing cross-cultural understanding. This fear of understanding and resistance of this understanding hinder the social and economic progress of the Deep South. Perhaps then, lessons learned from LatCrit can indeed help the South to rise again by rejecting its seemingly ingrained fear of, and solid resistance to, cross-cultural understanding.

III. ACKNOWLEDGING THE IMBALANCE OF CULTURAL INFLUENCE

According to the dictionary, “culture” refers to shared beliefs, values, attitudes.³⁴ The term is synonymous with mores, traditions, customs, or way of life. Having an “understanding” is synonymous with being considerate of, kind toward, accepting of, perceptive of, and appreciative of. I think these synonyms without more comment makes it obvious that most Whites in the Deep South do not have a cultural understanding of nonwhites, although even the Supreme Court has held that achieving cross-cultural understanding is compelling and important for our survival as a country.³⁵ Understanding the culture of Whites, the

³³ Fisher v. Univ. of Texas, 133 S. Ct. 2411, 2415-22 (2013) (involving a white plaintiff challenging diversity initiatives in Texas); Grutter v. Bollinger, 539 U.S. 306 (2003) (similar in Michigan); Parents Involved in Community Schools v. Seattle School Dist. No. 1, 551 U.S. 701 (2007); University of California v. Bakke, 438 U.S. 265 (1978); see generally Angela Mae Kupenda, *On Teaching Constitutional Law When My Race is in Their Face*, 21 LAW & INEQ. 215 (2003) (describing students revisiting diversity in mid-west and north); Angela Mae Kupenda, *Diversity: Do You Really Want It*, 21 LAW & INEQ. 415 (2003) (depicting faculty resisting diversity in northeast).

³⁴ MERRIAM-WEBSTER DICTIONARY, <http://www.merriam-webster.com/dictionary/culture?show=0&t=1405366513>

³⁵ Grutter, 539 U.S. at 341-44. See also Angela Mae Kupenda, *The Obama Election and a Blacker America: Lawfully Creating Tension for Change*, 1 FAULKNER L. REV. 187, 206-07 (2010).

A number of Justices on the United States Supreme Court have noted that cross-cultural understanding is critical for white students as well. It is most interesting, that while in 1954 when the Court ruled in Brown that separate

dominant group, has been widespread and mandatory for even the survival of nonwhites. Nonwhites through history had to understand White fears and values to avoid a lynching and to just hold a job, even if the work was menial and the pay was low. However, the dominant group has spent far less time wanting to understand the cultures of nonwhite groups.³⁶

Our casebooks and historical texts speak volumes of the efforts of those widely recognized as the founding fathers to implement and maintain a White culture and to diminish all of the other rich cultures that existed prior to the arrival of Whites on this continent and those from nonwhite cultures who arrived on this continent later, even some by force.³⁷ While even our highest Court has recognized the value of understanding other cultures, acquiring this understanding has been suppressed over the ages through separation and denigration, and at times economic exploitation, without understanding, of those who are not White.

This reluctance to understand is quite unfortunate for the good of the whole. For example, in Mississippi, many people, though of different races, share commonness based on the music or

was inherently unequal for black school children, in 2003 the Court in *Grutter v. Bollinger* held cross-cultural understanding for whites critical for the national defense.

Moreover, proper education is critical for white children in the long-term. As white children grow into adulthood, they will be the ones who will choose to either further equality or continue inequality. For example, in a recent discussion about academic matters, I heard a white male law professor casually state in the hallways, "I don't know anything about Chinese people." A few years earlier that same colleague said to me, "I don't know anything about blacks, as I was raised only among whites." This honest admission is good, but the admission without action suggests a complacency and justification for opposing positions. Even if taken subconsciously or in ignorance of the affected groups, the educational effect is dramatic. It not only affects the individual life of a white person without some cultural understanding, but it also can affect many people who cross his or her path. Educators who shelter students from exposure to America's cultural underpinnings under serve many students over the course of their educational careers. This has the potential to cause harm to the individual and to society; it causes delay in achieving America's goal of equality. *Id.* at 206 (footnotes omitted).

³⁶ See Beverly I. Moran, *Disappearing Act: The Lack of Values Training in Legal Education-A Case for Cultural Competency*, 38 S.U. L. REV. 1, 31-32 (2010) (noting that the need for "cultural competency has received scant attention from the new law school curriculum reform movement"). The American Medical Student Association refers to cultural competency as "a set of academic and personal skills that allow us to increase our understanding and appreciation of cultural differences between groups." *Id.* at 32.

³⁷ Even today, there are moves to eliminate other nonwhite histories from textbooks and to whitewash various courses. See generally Richard Delgado, *Precious Knowledge: State Bans on Ethnic Studies, Book Traffickers (Librotraficantes), and a New Type of Race Trial*, 91 N.C. L. REV. 1513 (2013) (describing the attempt by some to prevent ethnic studies and any books about ethnic issues in schools).

the food, or even the common poverty. Mississippi is still facing numerous economic challenges if it ever wants to rise again, including its ranking as to: being one of the most impoverished states,³⁸ low overall educational performance and poor policy,³⁹ reluctant health measures,⁴⁰ and high rates of crime and incarceration.⁴¹

The majority in Mississippi, regardless of cultural or racial identity, are oppressed. Nonwhites, White women, the poor Whites, the disabled, and the aged together make up the majority of Mississippians, and the continuous oppression rooted in White supremacy permeates into each subgroup. Due to lack of mutual understanding, cross cultural understanding, and common goals, the conflicts exceed the similarities between each subgroup, resulting in another form of oppression between them. Furthermore, the state is rooted in the ole days. After all, almost a hundred years since the Thirteenth Amendment abolished slavery, the state didn't finally ratify the Thirteenth Amendment into its constitution until the year 2013.⁴² While there are negative images attached to the state, Mississippi also has a lot to offer in order to rise again. For instance, Mississippi is a place of creativity and culture, especially known for its music and literature. What keeps the state from rising again seems to be deeply rooted in the fear of the ruling class, as cross-cultural understanding that would indeed lead to a new, different, and better society with more widespread economic enjoyment.

³⁸ Tam Luhby, *Mississippi Has Highest Poverty and Lowest Income*, CNN MONEY (Sept. 20, 2012, 5:59PM), <http://money.cnn.com/2012/09/20/news/economy/income-states-poverty/>.

³⁹ Sarah Carr, *Annual Poll of Education Performance Ranks Mississippi 48th*, HECHINGERED (Jan. 10, 2013), http://hechingered.org/content/annual-poll-of-education-performance-ranks-mississippi-48th_6014.

⁴⁰ Eric Whitney, *Obesity Rate Flat For First Time In Decades, Health Rankings Find*, WASHINGTON POST (Dec. 11, 2013), http://www.washingtonpost.com/national/health-science/obesity-rate-flat-for-first-time-in-decades-health-rankings-find/2013/12/11/6a417116-62ad-11e3-af0d-4bb80d704888_story.html.

⁴¹ Overview of Mississippi Correctional System, NATIONAL INSTITUTE OF CORRECTIONS, <http://nicic.gov/StateStats/?st=MS> (last visited December 17, 2013).

⁴² Stephanie Condon, *After 148 Years, Mississippi Finally Ratifies 13th Amendment, Which Banned Slavery*, CBS News, (Feb. 18, 2013, 10:59AM), <http://www.cbsnews.com/news/after-148-years-mississippi-finally-ratifies-13th-amendment-which-banned-slavery/>.

IV. ACCOMPLICES TO THE CONTINUATION OF THE FEAR OF UNDERSTANDING

Unfortunately people of color are often accomplices to White fear of cross-cultural understanding. By silencing ourselves, we participate in leaving silent places where our cultural experiences or observations may be different from those of similarly situated Whites. I was invited to speak to a group made up of attorneys who would be predominantly White. The committee that invited me was primarily young, Black lawyers. They wanted me and another older Black person to come speak about race to the larger group, and they planned to have a mixed-race social hour after the race panel.

Knowing that there were some disagreements about race between me and some of the younger Black attorneys, I thought it would be constructive to have a panel where not all of the Blacks agree. As this committee had been selected by representatives from the larger group, I also thought it would be helpful for them to be on the panel to build on those relationships they had already started to develop. They all declined to speak about race to their predominantly White organization. I immediately wondered why none of the younger Black attorneys were willing to be a part of the panel. After they resisted vehemently, I really started to wonder about their reasons to decline, although they were on a committee to further diversity in their organization. The younger Black attorneys were forthcoming for explaining why they were willing to be a part of the later social hour, but not a part of the panel on race. At one point some of them even suggested that as the other older Black person could not attend, I could sit in a chair at the front of the room and the predominantly White audience could have a free for all with their questions and comments directed to me about race. One of their White male members was willing to serve as the moderator. Somehow, the thought of a public lynching came to my reluctant mind. I could even see the younger Blacks on the sidelines pointing out that they were not like the old Civil Rights type Black, me.

This invitation, though, gave me much thought and sent me on a quest to better understand why the younger Black attorneys thought I should sit in this race chair where they would not dare sit. I was puzzled both by them, and by my decision to decline the invitation. For the next few weeks, when I privately visited with younger law students and professionals, I posed to them my question: can young lawyers and future lawyers in Mississippi in the year 2012 talk openly about race and other outsider topics? Although the replies I received are not documented in a statistical survey, the anecdotal evidence is telling.

Of the ones surveyed, almost all answered "No" to my question. I want to share some of my replies below. I share these

replies because, to me, they show how complicit we Black and other people of color have become in the struggle of Whites to resist cross-cultural understanding. Even if our diverse faces enter a place, for multiple reasons we resist sharing cross-culturally. Thus, we help to maintain a White dominant culture and we help Whites to resist cross-cultural understanding by our very silence.

Here are my recounts summarizing some of the replies I received to my question: can young lawyers and future lawyers in Mississippi in 2012 talk openly about race and other outsider topics? All of the following are from Black law students and young lawyers, except where especially noted:

-No. Young Blacks risk being ostracized or labeled as a troublemaker, as not a team player, as not progressive, by the majority White lawyers and also by some Black lawyers who are more passive and assimilated.

-No. Whether you speak about race or share culturally depends on whether you want a job in a large firm. If you want a job in a large firm, you must compromise, assimilate to get there. Not speaking about race or not sharing your culture is one compromise. These firms do not want Blacks who speak out on issues of race or other issues.

-No. You try to sweep it under the rug for financial gain and for a reputation of being likeable by the White majority.

-No. Blacks and Whites feel they are doing our state, Mississippi, a favor by not talking about race. By not talking about it you are helping the state's image.

-[from a White law student from the north] No. Young Whites who do want to reasonably discuss these issues are faced with other Whites who speak disrespectfully about racial minorities and who use racial slurs. If you don't correct these Whites, you are part of the problem. If you do correct them, you are always fighting with your friends.

-[from a nonblack and nonwhite] No. Racism in private language is prevalent in Mississippi, even among lawyers. So you find yourself silenced to avoid fighting.

-No. You don't know what to say about race and culture. You don't have the language to use.

-No. You cannot speak about race or you will be viewed as not being progressive. Being progressive today means you never mention race, even when racial issues are obvious.

-No. You cannot speak about race or you will be viewed as making an issue about race. You don't want to be pegged. So, you must play like or pretend you are not offended by any negative racial comments.

-No. You cannot speak about race, unless you think carefully and consider who you are talking with. Consider your audience's race, age, social status. You probably cannot speak publicly about race at a Mississippi lawyer event. Maybe you can with younger

people, especially on issues like sexual orientation; younger people seem to be more open. If you do not do a careful analysis before you speak, you will bring harm to yourself.

-No. You cannot or you will be viewed as anti-progressive.

-No. You cannot or you will be labeled as an angry Black man or an angry Black woman.

-[from a noncitizen] No. You cannot if you are a geographic outsider to the Mississippi culture.

Thinking about the dominant White culture and reading the comments above make me say no wonder we lack cross-cultural understanding. Nonwhites have been silenced from sharing; even if they share they may not be heard and may be harmed. As many are silenced, often Whites continue to maintain only stereotypical notions about nonwhites and their cultural experiences. Hence, our state does not rise. Instead, we wallow in misunderstanding and the fear of understanding, rather than rising together, albeit in a different form, in cross-cultural understanding.

Here are the summaries of replies of some of the Black young lawyers and students who did answer differently to the question: can young lawyers and future lawyers in Mississippi in 2012 talk openly about race and other outsider topics?

-Yes, a discussion about race is inevitable, because race matters.

-Yes, because race matters on the national stage, and especially in Mississippi.

-Yes, race cannot be swept under the rug, it is out there and obvious.

-Yes, they must, if we are to progress as a state.

-Yes, we must, as race is all around, in the national spotlight, especially with the upcoming presidential election. Race is the biggest elephant in the room.

-Yes, we must, or we will stifle the progress of our state. Race affects all Mississippians. It affects the state's reputation and progress, so naturally we must discuss it if we want our state to progress.

As to the event where I was invited to sit in a chair alone up front and allow a free-for-all of the predominantly White group of attorneys and judges, the condition I offered was that some of the younger Black and White lawyers would join me on this panel. As they declined, I did, too. I heard that the group of young Black committee members did locate a panel, primarily of other older Black lawyers, to serve. In hindsight, I wonder if I made the right decision. At the time I feared my sitting up front in the race chair would be a spectacle and an opportunity for some Whites to unleash conscious and unconscious racial hatred and for the young Black members to disassociate from an older, perhaps, civil rights mindset, to make themselves more acceptable to the largely White attorneys present, rather than a time of understanding and

sharing. I still regret that I was unable to persuade the young Black committee members in this large predominantly White organization to join me.

Perhaps in addition to engendering cross-cultural understanding across races and cultures, the story above illustrates disconnects, and lack of cultural understanding, even within racial groups. Whites who are in favor of equality fear intruding upon the sensibilities of Whites who make racist remarks. Older Blacks and younger Blacks lack tools for cross-generational cultural exchanges that can make us a more empowered people. Various groups of color have fears about understanding the religions and traditions of others. I believe these disconnects are rooted in fear of change.

The fear is not the fear of cultural misunderstanding, but of understanding. Eliminating, or at least taming, the Deep South fear of cultural understanding could lead to understanding, respect of the dignity of each human, which would have to dismantle White supremacy and the ruling class' continued perpetuation of the suffering of the masses and the privilege of the few. So perhaps the fear is of change, or the fear is of a society based on merit where one's White race does not get an automatic presumption of meritocracy. I think this is one reason why poor Whites in Mississippi continue to vote against their own economic self interest and do not naturally align with others who are suffering. As even the White poor still have Whiteness, seen as different or better, rejecting cross-cultural understanding keeps them from being at the bottom of the supremacy structure.

V. CONCLUSION: LESSONS FROM LATCRIT, RISING RESISTANCE TO HELP A NEW SOUTH RISE

So what are the lessons from LatCrit as to how a new Deep South will rise again from its ashes and take a new form? The concluding lessons are the same of the initial lessons of this essay. Thinking back to LatCrit, I think of that plenary session with all of the rich, diverse cultures present and how we fearlessly learned about each other. A new south will rise again once we get past our fear of cross-cultural understanding. We have nothing to lose but our inefficient ignorance about other groups, and we have everything to gain. Maybe one day, shedding our fears and acquiring this cross-cultural understanding, the Deep South, and even Mississippi "will be transformed into an oasis of freedom and justice,"⁴³ as King imagined.

⁴³ KING, *supra* note 15, at 104.