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ARTICLE: LACRIT V SYMPOSIUM; CLASS IN LATCRIT: THEORY AND PRAXIS I A WORLD OF ECONOMIC INEQUALITY; COMPARITIVE RACIALIZATION; Genealogy of a State-Engineered "Model Minority": "Not Quite/ Not White" South Asian Americans

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**BIO:**

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[\*657]

Review Essay

VIJAY PRASHAD, *THE KARMA OF BROWN FOLK* (Minneapolis: University of Minnesota Press 2000. Pp. xv, 253)

"Heights is for Whites."

White teenagers after the beating death of a South Asian in Jersey Heights, New Jersey, October 1987. n1

"It is merely in the night of our ignorance that all alien shapes take on the same hue."

Perry Anderson n2

Introduction

Nearly a century ago, addressing the fissures of race that run deep in the terrain styled the United States of America, W.E.B. Du Bois asked Africans (dis)located here, "How does it feel to be a problem?" n3 Vijay Prashad, addressing South Asian Americans, asks "How does it feel to be a solution?" n4 He then proceeds to show how the answer to this question is tangled in a web woven of histories, cultures, economies, and political projects. On this wide canvas, he brings into sharp relief desires and anxieties of a set of immigrants in this "land of immigrants" as they negotiate new ways of life underwritten in subtle and not so subtle forms by hierarchical constructions of race. Prashad's project is an ambitious [\*658] one, and he delivers. His is not a disengaged, cold, or distant reporting. Passion, engagement, and purposefulness, clad in humor and irony, animate his penetrating analysis. Law review scholarship, often rendered lifeless by its wooden form and guarded substance, would do well to take note of his readable and lively style, explicit identifications, and multilayered canvas. For critical legal scholars in general, and critical race scholars in particular, this remarkable book implicitly forwards agendas of productive inquiry. For activists of racial justice and human liberation, it is a call for action.

I. Identity Formation and the Grammar of Imperialism

The anti-essentialist project of critical social inquiry teaches us that identities, of immigrants or otherwise, are protean; they are always in the making. The foundation of identity is selfperception rooted in

affiliations and alterity. Adoption and deployment of identity, however, is neither uni-dimensional nor some simple act of unencumbered volition. Contextual determinants, both material and discursive, demarcate the spatial and temporal frameworks, within which identities are constituted. Within such frameworks identities are forged along the fault lines between operations of power and strategies of resistance. This process, of necessity, is a dynamic one. Prashad's project is to lay bare the genealogy and anatomy of the "model minority" discourse, whereby particular identities are assigned to, and often adopted by, various social groups. South Asian Americans are one such group. Prashad, himself a South Asian, in a succinct distillation of the "model minority" syndrome, asks how, as "brown folk[,] we can live with ourselves as we are pledged and sometimes, in an act of bad faith, pledge ourselves, as a weapon against black folk." n5 In the search for an answer, Prashad takes us on a journey though the interconnected thickets of American Orientalism, South Asia's colonial encounter, racialized immigration regimes of the U.S., dynamics of class formation, "model minority" mythologies, and the challenges and prospects of racial justice and human dignity.

#### A. Universalism and Its "Others"

Prashad identifies appropriation of South Asian desis n6 for the "model minority" discourse as resting on two images: one, of being inherently hard-working high achievers; and two, of being spiritual and pliant. The two images then form the composite stereotype of yet another "not-white-but-good" immigrant community. This stereotype furnishes white [\*659] supremacist ideology with yet another weapon to assign degradation of African Americans to their supposedly inherent incapacities and deficiencies. To excavate the genealogy of this discourse, Prashad first turns his searching analysis to the career of American orientalism.

Hegemonic self-understanding of the U.S., buttressed by "manufactured consent," rests on the notion of American exceptionalism. n7 This belief posits that American history and society are immune from the foundational problems that plagued the "Old World," particularly entrenched class divisions and colonialism. The historical record that the U.S. is itself a colonial settler state, whose foundations rest on genocide of indigenous peoples and slave labor from Africa, and whose extra-continental colonial expansion and entrenched imperial hegemony have given it a defining mould, is largely unacknowledged. n8 After all "forgetting . . . is a crucial factor in the creation of a nation." n9

Prashad catalogues a representative sampling of American socio-historical thought, which for over four hundred years has maintained a purportedly ontological divide between the "East" (the Orient) and the "West" (the Occident). n10 The Orient is seen as "poor and unfree, with an especial endowment of ahistoricalness." n11 These immutable and timeless deficiencies of the Orient were seen as the natural consequence of racial incapacities. For example, Ralph Waldo Emerson, that canonical American essayist of the human condition, had no doubt that "it is race, is it not? that puts the hundred millions of India under the domination of a remote island in the north of Europe." n12 The "West," and of course America, is seen as everything that the "East" is not: rich, free, and dynamic--attributes often seen as issuing from natural endowments of a superior race.

It is in and through this discourse that America partook of the mutually constitutive role of colonialism and modern Europe, whereby many [\*660] foundational constructs of modernity--reason, man, progress, and the nation--were developed in contrast with a racialized "non-Europe," with the later posited as not quite human, irrational, and outside history. Prashad recognizes that this process created "a marked (not quite) human subject, one who is like the Subject of so much European philosophy, but such a choice is not available as long as 'race' continues to be a searing category through which we are so habitually forced to live." n13

Any explicit and detailed analysis of modernity clothed in purportedly universal ideas of equality, freedom, rule of law, and representation is not Prashad's project. But his encapsulation of American Orientalism substantiates Denise da Silva's evocative location of modernity's promise of universality as

always positioned against "the other side of universality . . . a moral and legal no man's land, where universality finds its physical limits . . . a region of modern space that lies beyond the domain of 'Universal Justice'." n14 This ever-present "no man's land" adjacent to grounds of universality was built upon the foundation of posited essential difference. n15 Universality could relate to those excluded from its reach only by positing them as qualitatively different; as "not-quite-human." n16 The very scaffolding of the identity of modern, civilized, and disciplined Europe rests upon grounds of difference from the "not-quitehuman Others." n17 Implicated here are foundational norms of cognition and eligibility embedded in modernity's universality that render the category of "human" recognizable only in counterdistinction to a persistent category of "not-quite-human." In order to appreciate the underlying architecture of these norms and the myriad ways in which they continue to furnish the scaffolding for cultural practices and public policies, it is indispensable that we locate the genealogy of modern universality in the colonial career of modernity.

The rise and consolidation of modernity and colonial expansion of Europe being temporally coterminous, the "axiomatics of imperialism" inform the foundational vocabularies of modern universality. n18 As a result, modern universality rests upon a conceptual partitioning and corresponding transformation of human populations into a divide between, as [\*661] Jean-Paul Satre put it, "men" and "natives." n19 The canonical "dark-skinned savage," constituted as the "not-quite-human" "Other," furnished the grounds to constitute the universal subject of modernity, i.e., the civilized, rights-bearing European. n20 In this maneuver, one can see in operation ostensive self-definition by negation, the assumption of identity by reference to what one is not. n21 This inaugurates modern constructions of race and the braiding of the latter with truncated operationalizings of universality. This mutually constitutive relationship leads Peter Fitzpatrick to posit that modern construction of race produces universality and supplies the grounding for modern law. n22 Undergirding the posited divides between culture/nature, civilized/savage, progressive/stagnant, modern constructions of race supply the common conceptual denominator that inform global distributions of privilege and subordination. n23

The global reach of this posited essential difference issued from the fact that colonialism lies at the heart of the construction of modern Europe. n24 Modernity's promise of equality, liberty, and representation could co-exist with colonial subjugation only by constituting the colonized as fundamentally different from the colonizer, as "not-quite-human," with race supplying the dividing marker. n25 The rule of essentialized racial difference, the animating principle of colonialism, furnished the grounds for exclusions built at the very heart of liberalism, the hegemonic political ideology of modernity. n26 It is important to underscore [\*662] that exclusions based on race are not incidental and exceptional to modern universality and liberalism. While deployment of racial difference facilitates specific regimes of exclusion, the positing of originary racial difference is a strategy of engulfment foundational to the construction of the modern subject and the architecture of modern law. n27 Consequently, any inquiry of race positioning and race relations in the United States, such as the one Prashad undertakes, must address the "political horizon of Western culture, namely imperialism." n28 More specifically, we need to locate the intersections of immigration regimes and race relations within the hegemonic "epistemic graphing of imperialism." n29

#### B. Modern Power/Knowledge and Racing n30

Hegemonic modern discourses posit race as a preconceptual, pre-political category. This elides the fact that race as constituted today is a modern category, one that partakes of the distinctive feature of modernity: the interpenetration of power and knowledge. Race, as an operational category of power/knowledge, constitutes a particularized variety of a modern subject amenable for appropriation and positioning in modern material and discursive structures. In the modern imagery, the category of race helps suture history and science, time and space, nation and the rights-bearing subject. n31 Modern power/knowledge constitutes and deploys race as a suturing category that connects body, place of origin, and consciousness to facilitate assignment of eligibility for rights-bearing subjecthood. It may be productive to designate this process as racing: the constitutive process that connects the body and place of

origin with consciousness, thereby constituting subjects available for insertion into hierarchical grids of domination and subordination. In this process subjection and marginalization is rationalized and legitimated on grounds of professed biological and immutable characteristics of the subordinated. n32 [\*663] Racing, then, is a modern technology of power/knowledge that facilitates insertion of the body into the population in a subordinated position, with such positioning assigned to "natural," pre-political deficiencies. This insight can furnish a very productive point of departure for the critical projects of anti-essentialism and anti-subordination: when you want to see racism, look for racing not race. The concept of racing underscores that the law does not act upon pre-formed subjects; it inescapably partakes of the process where subjectformation and subjection are inescapably intertwined. n33 Critical legal scholars must remain mindful of the facts that all human ideas and that all fields of knowledge are structured by "the laws of a certain code of knowledge." n34

A question remains: under what "code of knowledge" can universality coexist with its raced other side while professing fidelity to ideas of Enlightenment? The answer is suggested by the observation that Enlightenment's "untruth consists . . . in the fact that for it the process is always decided from the start." n35 Here one is confronted with "the willed (auto)biography of the West that still masquerades as disinterested history." n36 Universality is tainted by the consolidation of History--the unilinear, progressive, Eurocentric, and teleological history--as the dominant mode of perceiving and experiencing time and being. n37 The problem of order in modernity is one of "time-space distancing--the conditions under which time and space are organized so as to connect presence and absence." n38 Modernity's complicity with colonialism, however, forces it to assign the "other" to a "space without places, time without duration." n39 In History, the canonical progeny of the colonial career of modernity, time overcomes space--a process whereby, in time, the distant "other" is supposed to become like oneself. n40 The "other's" present [\*664] becomes Europe's past, while Europe's present becomes the "other's" future. History furnishes the foundational grammar of colonialism/imperialism: What can be, and what cannot be, properly spoken of, conceptualized, even thought, within the ontology and epistemology of progressive, linear time, and the difference between civilized Europe and its uncivil "other." Linear History choreographs "the mirror dance of colonial meaning-making," n41 and enables "the linear, progressivist claims of the social sciences--the major imperializing discourses." n42 The grammar of History furnishes the license for Europe to "save" and "uplift" the "other." It defines the "world-historic mission," the "burden" of the sovereign, rights-bearing subject of History, the European, to civilize the "other" and bring it into History. n43

Linear History, the self-professed condition that makes modernity possible, designates the nation-state as the agency that will realize modernity. The very birth of nationalism was "coeval with the birth of universal history." n44 The nation, however, is a "capital paradox of universality." n45 While universality imagines the nation as unbound, its actualization situates it in particularities of belonging. Consequently, the process of nation-building is a process of exclusion; coherence of the nation rests on exclusion of what is its "other;" destruction or domestication of the alterity of the "other." n46 Due to this compulsion, "the discourses of race and nation are never very far apart." n47 Where nation-building rests on "othering" of difference, this "othering" in the final analysis is raced--the body, the place of origin, and consciousness are sutured to [\*665] assign eligibility to membership in the nation (i.e., citizenship), the key to representation and the protections of the law. In this light, the concept of racing helps us appreciate that "'race' is a relational concept that does not have fixed referents. It reminds us that "naturalization of social phenomena and the suppression of the historical process which are introduced by its appeal to the biological realm can articulate a variety of different political antagonisms." n48

### C. American Orientalism and the Exotic "Other"

American orientalism catalogued by Prashad has to be located in the context of the grammar supplied by History and by universality coterminous with its racialized other side. It is this grammar that facilitated

pervasive deployment of modern categories of race, racial difference and race types, and the essential difference between Europe(an) and its "others."

This grammar enabled Thomas Jefferson, the author of the American Declaration of Independence, to pronounce that an "unfortunate difference of color, and perhaps of faculty, is a powerful obstacle to the emancipation of these Negro people." n49 James Madison, a founding father of the republic, deploys this grammar to opine that "the freed blacks ought to be permanently removed beyond the region occupied by, or allotted to a White population. . . . If the blacks, strongly marked as they are by Physical & lasting peculiarities, be retained amid the Whites . . . [they will] always secretly confederate against the ruling and privileged class; and be always uncontrolled by some most cogent motives of moral and respectable conduct." n50 Abraham Lincoln, the celebrated emancipator of slaves, uses this grammar to declaim that "I will say then that I am not, nor ever have been in favor of bringing about in any way the social and political equality of the white and black races . . . that I am not nor ever have been in favor of making voters or jurors of negroes, nor of qualifying them to hold office, nor to intermarry with the people; and I say in addition to this that there is a physical difference between the white and black races which I believe will for ever forbid the two races living together on terms of social and political equality." n51

In *Plessy v. Ferguson*, this grammar facilitated the U. S. Supreme Court's pronouncement that "the object of the [14th A]mendment was [\*666] undoubtedly to enforce the absolute equality of the two races before the law, but, in the nature of things, it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality, or a commingling of the two races upon terms unsatisfactory to either." n52 Validating the fruits of the modern constructions of race, the Court declared that "legislation is powerless to eradicate racial instincts, or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation. If the civil and political rights of both races be equal, one cannot be inferior to the other civilly and politically. If one race be inferior to the other socially, the constitution of the United States cannot put them upon the same plane." n53

Prashad recognizes "the resilience of race in our lives cannot be easily dismissed in favor of an imputed universalism," n54 an understanding that both undergirds and is substantiated by his study. While South Asia, or India as it was known then, found itself positioned on the racialized other side of universality, Prashad effectively brings into focus another constant theme of American Orientalism, namely to see India as mysterious and spiritual. Here the exoticised "other" was posited as desirable. Alongside the "ahistorical" and materially degraded India lay another India: "the real India was the spirit . . . [which may furnish] the solution to modern alienation." n55 If the "soul" was a casualty of modernity, it could be rejuvenated "through an engagement with this thing called 'India.'" n56 This engagement, indeed, was orchestrated without much delay, but only on the margins of "real" life. The "oriental menagerie" n57 was the site, with morbid pleasure the mode and self-confirmation the product. Prashad takes us on a tour of the circus, the vaudeville house, the Great Asiatic Caravan, Museum, and Menagerie of 1849, the Congress of Nations of 1874, the Ethnological Congress of 1884, and, of course, Hollywood, to see India as, in the Detroit Journal's words, "a land of ghastly and beautiful mysteries." n58 Here, one was supposed to see the non-Christian Indians' "essentially depraved natures," n59 so much in need of Christian salvation and the manifestly destined despotic paternalism of colonialism, that world-historic "white man's burden." The resilience of these images and longevity of this discourse still shines through travel [\*667] guides, development models, and the neoliberal restructuring projects orchestrated by managers of globalization. n60

But even in the clamor of de-humanizing spectacles, one could hear the faint voices of struggles for human dignity and solidarity from both sides of the divide. Prashad notes that, where The Nation wondered when "our impressions of the East will cease to be derived from the 'Arabian Nights,'" n61 an Indian activist dedicated his 1873 tract to the "good people of the United States," hoping that the struggle against slavery will be taken up by his compatriots "as their guide in the emancipation of their Sudra [oppressed castes]

Brethren from the trammels of Brahmin thralldom." n62 Du Bois saw parallels between the struggles of African Americans and the colonized people of India, and reminded Indians that, "European exploitation desires the black slave, the Chinese coolies and the Indian laborer for the same ends and the same purposes, and calls them all 'niggers.'" n63 Supporters of Irish independence and founders of the American Civil Liberties Union joined Indian revolutionaries to found the Friends of Freedom for India in 1920. The seeds of solidarity of desis with the oppressed and the marginalized in America had been sown, even if in temporarily infertile soil.

The demand for India's mysterious spirituality as an antidote for alienation spawned by materialism survived the freak shows peddled as science fairs. If a glimpse of Bhagwan Shree Rajneesh, as he rode by in the "pick of the day" from his Rolls Royce stable, did not uplift your spirit, you could always consult Deepak Chopra's practical guide on "spiritual laws of success." n64 Prashad, armed with wit, humor, and above all remarkable facility for social inquiry, turns to uncover the genealogy and function of this phenomenon. Labeling it "New Age orientalism," n65 he locates its origins in the post-World War II period when the American [\*668] economic juggernaut and imperial hegemony ran into demands for racial justice, gender equality, youth autonomy, and sexual liberation. While the truly marginalized joined the struggle and built solidarities, others chose to step out to the sidelines and turn inward. The later, mostly white and affluent, sought remedies for alienation induced by material abundance--remedies that would not threaten their privileges, but would help drown the noise of protest from the other side of the tracks. Enter yoga, EST, TM, Zen, Krishna Consciousness, organic food stores, and of course, India. Prashad zeros in on Deepak Chopra, the latest poster boy of this reactionary move. Prashad succinctly distills the Chopra remedy: "work hard and be as self-interested, selfindulgent, and selfish as possible." n66 Never did the contemporary hegemonic forces find a more slick message or a more sly messenger. While celebrating consumer indulgence, Chopra wants the dispossessed to take responsibility for their own predicament: if you don't have access to medical coverage, turn inward and purify your soul. No threat to designer stores in shopping malls, Chopraism "allows the isolated individual to forget the historical production of inequality and of suffering and, tragically, to take complete responsibility for the detritus history." n67 Prashad shows how Chopra borrows uncritically from an eighth century B.C. text, misogynist in content and belonging to an era of hierarchically fixed status groups. The product, then, is a "snake oil" of "escapism that not only trivializes the conundrums of the people in the United States but . . . also mocks the real crises of people in South Asia." n68

Prashad's critique of Chopra raises a question about our evaluation of passages between the "West" and the "rest," between "here" and "there." The problematic issue is not the very act of "going" or "coming," but the terms on which one does so. Under the dictates of modernity's world-historic mission, one is supposed to go "there" to make "there" like "here," to "save-helpuplift" the "natives." This passage has assumed many guises over time--"saving souls," "civilizing mission," "diffusion of modernization," "promotion of human rights," "neo-liberal restructuring," and "globalization." On with the march of History, orchestrated by the ever-sovereign, always eligible, subject of History. On the other hand, people come from "there" to "here" to usually "save-help-uplift" themselves, not the "natives." In this passage there is no illusion of being the sovereign agent of historical change. Problematic passages from "there" to "here" issue when they form part of the project to deploy labor power of "others" in the "West"--slaves from Africa, coolies from China, and indentured labor from India. There is a desirable mode of passage from "here" to "there," too. Many go "there" to help [\*669] themselves. They go in search of a virgin beach, an exotic aroma, an oriental rug, erotic sex, even friendship and solidarity. Conversely, when one "comes" from "there" to "here" in order to "save-help-uplift" the "native," morbidity issues quickly: Bhagwan Shree Rajneesh and Chopra furnish examples of such passages. So the principled position should be that any passage between "here" and "there" is fine as long as the project is not to "save the natives," as long as one does not appropriate all agency either under the delusion of being the sovereign subject of History or of being the sole custodian of any secret elixir of life.

## II. Modern World-System's First "Model Minority"

Prashad then turns to the genealogy of affixing the "model minority" label onto South Asians in America. This is not an unbroken story of some unilinear "natural" progression. His rendering of this fractured tale substantiates that constructions, adoptions and deployments of identities are not simple acts of unencumbered volition, but emerge along the fault lines between operations of power and strategies of resistance. This process, of necessity, is a dynamic one. South Asians are no exception to the rule that identities are protean and are always in the making. n69 Contests about identity implicitly rehearse two different approaches of conceptualizing identity. One approach posits identity as consisting of "one, shared culture, a sort of collective 'one true self, hiding inside the many other, more superficial and artificially imposed 'selves,' which people with a shared history and ancestry hold in common.'" n70 The result is an understanding of identity as stable, trans-historical, and unchanging. A more productive approach posits similarities of identity trumped by differences, discontinuities, and fractures. Rather than excavation of any essence, then, locating identity entails a re-telling of the past. Under this approach, "far from being grounded in a mere 'recovery' of the past, which is waiting to be found, and which, when found, will secure our sense of ourselves into eternity, identities are the names we give to the different ways we are positioned by, and position ourselves within, the narratives of the past." n71 Seen through the latter lens, insertion of South Asia into the modern global world system furnishes the primary coordinates to locate diasporic South Asian identities. [\*670]

### A. The Colonial Indentured System and South Asian Identities n72

Prashad alludes to, but does not examine in any detail, the global forces of accumulation and migration unleashed by capitalism as it reached beyond its European origin to bring the whole world under its sway. South Asia has been historically known for its continental expanse and kaleidoscopic diversities. In the pre-modern milieu, affiliations of identity were grounded within particularities of narrow spatial contexts. Family, clan, tribe, caste, religion, region, occupation, etc., furnished the primary coordinates of a sense of belonging. As colonialism linked South Asia to an increasingly global economy, with outmigration of labor from the region being the pivotal component of this linkage, an alternative identity, one sutured with the subcontinent of origin, came to be dominant in the diaspora. This process gave a foundational and lasting form to a composite "Indian" identity. The construction of this identity is also the story of the modern world system's first "model minority." The indenture system, "a new system of slavery," n73 furnished the particular context for this process of identity formation and deployment. n74

The indentured system formed part of unfree labor systems deemed "an anomalous necessity" n75 of the global expansion of capitalism and the resulting articulation of varied modes of production. It served as a bridge between slavery and "free" contract labor. Slavery was abolished in the colonies of Europe in a first half of the nineteenth century. This resulted in a crisis in the plantation colonies in the Caribbean, South Pacific and Africa, where profitability issued from a favorable ratio between abundant land and slave labor. The solution was found in the indenture system, whereby South Asia was to furnish laborers that "cost not one-half [\*671] that of a slave." n76 In the one hundred years between 1830 and 1930, over 30 million South Asians were dispatched to other British colonies as indentured labor. n77 In order to deploy South Asian labor as a means of control and subordination of the recently freed slaves of African origin, a prototype of the "model minority" discourse was inaugurated. While Africans were increasingly portrayed as lazy, unreliable, violent, and unable to understand and honor contracts, South Asians were extolled for their docility, industriousness, family ties, and fidelity to contracts. However, these constructions of subjects and identities remained contingent and responsive to availability of alternative labor sources and patterns of negotiation with conditions of production adopted by different groups. Once hitherto purportedly submissive and docile South Asian indentured labor fashioned strategies of resistance and selfpreservation, n78 they were quickly designated as being effeminate, filthy, avaricious, and unreliable. n79 As new opportunities to recruit "coolies" from China unfolded, South Asians were positioned unfavorably in the colonial imaginary in distinction with the "fully alive to the necessity of authority . . .

tractable and manageable" n80 Chinese. Here one can discern racing in operation, with contingency and contradiction always attendant: the behavioral characteristics assigned to different labor groups were posited as natural and immutable; suturing of body, mind, and place of origin to assign eligibility and exclusion. The fact that the assigned characteristics and resulting identities were subject to repeated reconstructions did not impede entrenchment of the racially informed ideology of biological determination. [\*672]

This rapid rise and fall of the modern world system's first "model minority" within the political-economy of plantation colonies left a lasting imprint on South Asians, particularly those in the diaspora. An imprint that partook of grammars of modernity and "epistemic graphing of imperialism." n81 Within the heart of the colonial indentured system, modern constructs of race, culture, and nation furnished the building blocks to forge a composite "Indian" identity. n82 Identity rests upon alterity--one is the other of the other. In pre-colonial South Asia, identities coalesced around spatially limited differences such as family, clan, language, religion, region. Labor drawn from the kaleidoscopic heterogeneity of South Asia was positioned similarly in the global economy through the indenture system. Material and discursive structures accompanying the indenture system reconstituted the heterogeneity of South Asian labor as a singularity. Diversity of identifications also yielded to a collective identity forged in resistance to a shared experience. Thus, both technologies of power and strategies of resistance attending the indenture system furnished the field of possibility for a composite "Indian" identity.

#### B. Global Political-Economy and Construction of Identities

In the global political-economy, the composite "Indian" identity was constituted and sustained particularly by the positioning of South Asians as sandwiched between white colonial settlers and the "natives." Racial hierarchies informed by the grammar of History and colonial technologies of divide et impera combined to design this positioning. In Africa, the Caribbean and South Pacific, South Asians were deployed as "colonial auxiliaries," "colonial middlemen," an "ethnic group" occupying an intermediate niche in the economy as traders, shopkeepers, moneylenders, and professionals. n83 South Asians were also often positioned at the middle rungs of colonial administrative apparatuses with tripartite salary structures. As legislative councils were formed in some colonies to placate demands for representation, white settlers, South Asians, and the "natives" were often allocated one-third of the seats each, in complete disregard to their respective numbers. Colonial reconstruction and recognition of differentiated customary laws for different "racial groups" again set the "Indians" apart from the "natives." These colonial regimes of governance, on the one hand, furnished the framework for systems of apartheid, and on the other, sowed seeds of lasting conflict and resentment between "Indians" and the "natives." The fusion of orientalist constructions of India with racialized global placements of labor had a defining effect: "Gradually the word 'Indian' came to imply 'race', even [\*673] before it clearly meant 'nation.'" n84 As a result, conflicts of interest between "Indians" and the "natives" engendered by colonial technologies of control came to be constituted and exacted as racial animus between the two groups. These conflicts continue to animate many a polity in the Caribbean, South Pacific, and Africa. A telling example of this phenomenon is the chronic and continuing constitutional crisis in Fiji, animated by political conflicts between ethnic Fijians and ethnic Indians. n85

As I turn to the induction of South Asian Americans in the American "model minority" discourse of the late twentieth century, this encapsulation of the earlier "model minority" career of South Asians in the global colonial order should help us appreciate the purposes, processes and consequences of such positionings. It reminds us of "the need to think beyond narratives of originary and initial subjectivity and to focus on those moments or processes that are produced in the articulation of cultural difference." n86 Labor migrations orchestrated by colonialism as part of the global economy, in particular the indentured system, gave foundational and lasting form to a composite "Indian" identity. This identity, enveloping the heterogeneity of South Asians, continues to animate the reception of South Asians in diaspora, particularly in Europe and in European colonial settler societies like the United States.

### III. South Asians Come to America

In the U.S., reinforcement of the composite "Indian" identity issued through interpellation by the primary American structure of recognition, racial difference assigned on grounds of visible physiological (phenotype) features. This suturing of bodies with their place of origin was further accomplished by American immigration regimes, operating as "one of the central disciplinary arms of the U.S. state." n87 Prashad picks up the story at the turn of the nineteenth century when South Asians started coming to the U.S. in any appreciable numbers. n88 During the hay day of Indian indentured presence in the Caribbean, between late 1800s and early 1900s, a few thousand Indians, mostly Sikhs from the Punjab, came to the West Coast and were engaged as farm labor. Confronted with anti-miscegenational [\*674] legal frameworks and social conventions aimed at "protecting" white women from nonwhites, many married Mexican women, adding another hue to the mosaic of South Asian presence in the U.S. n89 Their attempts to normalize this presence were thwarted by a racist social milieu and legal regimes aimed at stemming the perceived "tide of Asiatics." In response to the arrival of the Punjabi immigrants, the Japanese and Korean Exclusion League changed its name to the Asiatic Exclusion League. The rise of Asian exclusionary forces fostered the first anti South Asian riots, first in Washington (1907) and then in California (1910). n90 The victims of these riots were overwhelmingly those immigrants who had entered the agricultural labor force or were engaged in lumberyards and railroad construction. The few South Asian professionals and businessmen did not confront similar hostility. n91 This was an early example of the intersection of race and class in the lives of South Asians in the U.S., which was to have profound implications for the fashioning of the "model minority" discourse in the twentieth century. Far from being a model for anything, at this point, as Prashad reports, California Bureau of Labor Statistics concluded that "the Hindu has no morals. . . . He is the most undesirable immigrant in the state. His lack of personal cleanliness, his low morals and his blind adherence to theories and teachings, so entirely repugnant to American principles, make him unfit for association with American people." n92

Public policy mirrored the racist and nativist tenor of the society. The Alien Land Act of 1913, the National Origin Act of 1914, and the "Pacific Barred Zone" of the 1917 Immigration Act combined to effectively shut the door on immigration from South Asia. n93 In response to the Ozawa Case, n94 where the U.S. Supreme Court decided that a Japanese native was not eligible for citizenship because he was not "Caucasian" [\*675] and therefore not "white," some South Asians claimed eligibility on account of being Caucasians; a claim resting on pronouncements of Arian race theorists. n95 The Supreme Court, speaking through Justice Sutherland, held in *United States v. Bhagat Singh Thind*, n96 that "in accordance with the understanding of the common man from whose vocabulary they were taken," the words "white persons" meant Caucasians from Northwestern Europe. Consequently, immigration from South Asia was reduced to a trickle, and, until the mid-1960s, the very small South Asian presence in America remained marginal and largely invisible.

The Immigration and Nationality Act of 1965, ushered in the second phase of South Asian immigration to the U.S. Prashad shows how this new immigration regime formed part of the American response to Soviet launch of the Sputnik space rockets and a perceived "science gap." Besides, this regime sought to meet the demand for medical personnel to staff the Medicaid and Medicare programs recently put in place. Over the next twentyfive years, the new regime, designed primarily to attract skilled labor from around the world, resulted in a substantial migration of highly skilled South Asians, particularly in the fields of science, engineering, and medicine. For example, between 1966 and 1977, 20,000 scientists with Ph.D.s, 40,000 engineers, and 25,000 doctors came from India alone. n97

Prashad shows how broader global developments informed immigration to the U.S. during this phase. American need for skilled [\*676] workers was met, on the one hand, by Indian investment in scientific education and, on the other hand, by Britain's increasing restrictions on immigration for South Asia. n98 This contributed significantly in making highly skilled South Asian labor available for the American economy. The progeny of the marriage between American "state engineering through immigration controls

and . . . the beneficence of more socialized systems of education in South Asia" n99 was a substantial influx of highly educated, highly paid, professionals from South Asia. They became increasingly visible within their professional and class milieus. This phase came to an end by the late 1980s, as a combination of prolonged recessions and rising anti-immigrant sentiment resulted in restrictive immigration policies.

The Immigrations and Nationality Act Amendments of 1976, the Health Professionals Education Assistance Act of 1976, and the Immigration Act of 1990, erected stringent barriers to immigrants' entry into the labor pool. The immigration of highly educated professionals continued but at a greatly reduced rate. Recently, rising demand for skilled labor in the information technology sector has prompted some temporary modifications in the immigration control regime. By virtue of these modifications, a sizable number of information technology professionals from South Asia came to the U.S. But, by virtue of their mode of immigration and positioning in the economy, they are best seen as part of the second phase migration.

The third, and current, phase found its opening in the family reunification provisions of the Immigration and Nationality Act of 1965. As the skilled immigrants of the second phase secured a footing, the family reunification regime facilitated immigration of their extended families. Just as the immigration of highly skilled labor steadily decreased, immigration of less educated and economically vulnerable South Asians increased. For example, in 1996, of the 65,599 immigrants from South Asia, only 12,315 entered under employer preference provisions, while 47,091 entered under family preference provisions. n100 The third phase also witnessed an influx of political and economic refugees. Expulsion of South Asians from East Asia and dwindling demand for labor in the oil-producing region around the Persian Gulf combined with increased economic transformations and political instability in South Asia to furnish the push factor of this migration. Other than professionals, the third-phase South Asian immigrants, at best, occupied working class jobs. Running cheap motels, small neighborhood stores, marginal gas stations, and taxi-driving came to define their existence. Their socio-economic vulnerabilities started to become visible. For example, among the immigrants from India between 1987 and 1990, eighty percent only had a high [\*677] school education, nine percent were unemployed, and twenty percent lived below the poverty line. n101 Adding to the South Asian presence is a new generation, mostly children of the second-phase immigrants who are born and raised in America. They have become an increasingly visible presence in schools and colleges across the land.

#### IV. Power, Resistance, and South Asian Immigrants

Having identified the three phases of South Asian immigration to the U.S., Prashad turns to these immigrants' engagements with their respective broader socio-political milieus. The first-phase immigrants, few in number and concentrated on California farms, remained socially marginal in their new home. Ostracized by the Whites, many of the men married women of Mexican origin. Their preoccupation remained to gain a toehold to sustain existence in a context of blatant racism and anti-Asian hysteria. Having witnessed the emergence of the nationalist movement in India, living in proximity to the unfolding Mexican Revolution and having struggles of the indenture system under their belt, many responded to legally sanctioned racism and exclusionary regimes through political activism. Protests against exclusion and discrimination, often in concert with other Asian immigrant working class, became common. The high water mark of these struggles was the formation of the Ghadar (Rebellion) Party in San Francisco in 1913 by South Asian immigrants. This political initiative, which drew its inspiration and name from the 1857 anti-colonial rebellion in India, had an agenda of anti-racism and anti-colonialism. Branches of the party soon sprouted among Indian indentured laborers in many plantation colonies and in India itself. In the U.S., the initiative was ruthlessly crushed. n102 Many of its leaders were tried for sedition and deported. Memories of these struggles remain alive among the South Asian farmers in California and South Asian political activists. n103

The second-phase highly skilled immigrants had come of age in South Asia in the period after decolonization. They had been spared discriminations of colonial rule and had not participated in the independence movement. They came to the U.S. starting in the late 1960s, after civil rights legislation had been enacted. They did not have to live under Jim Crow regimes and legally sanctioned racial segregation. Not having participated in, or even witnessed, the civil rights movement, they had had no occasion to build solidarity with other people of color. Their earning capacity, class affiliations, and proficiency in the English [\*678] language facilitated joining the white flight into the security of suburbia, where they settled into a fractured existence. They participated in the "public" domain of employment and wealth accumulation and concurrently retreated to the "private" domain of home and culture. During this phase, in Prashad's words, "the desi sundered the world into two: the outside world, the world of the workplace, is a world of capital that must be exploited as much as possible, and the inside world, the world of home, is a world of culture that must be protected and cherished." n104 The identities of these South Asians were marked by their entering an implicit "social contract with a racist policy by making a pledge to work hard but to retain a social life at some remove from U.S. society." n105

Prashad shows convincingly how their class position and isolation from significant cross-sections of American society facilitated the "most enduring and efficient rite of passage into American culture: negative appraisals of the native-born black population." n106 Anti-Black racism among desis is increasingly being commented upon. n107 Desi racism appears to follow the pattern whereby "some members of recent immigrant communities have used Blacks as a kind of 'welcome mat,' as a way of affirming, through anti-Black hostility, their own insecure sense of American identity." n108 Commentators recognized the debate among South Asians as late as the 1970s about whether or not South Asians should seek or accept a minority status and give up "the emotional and psychological [\*679] advantages of being considered 'Caucasians,' as they were then classified by the Census Bureau." n109

Visibility of South Asians in high-skilled professions quickly gave rise to "the stereotype of the Indian American as techno-migrant." n110 The emerging racist discourse of "model minorities," the post Civil Rights white supremacist device of blaming the victims of racial oppression for their predicament, was quick to designate these South Asians as yet another model for racial minorities, particularly African Americans. Identities are malleable indeed. The South Asian in whose hands "a threshing machine . . . would be like an elephant in the hands of an American," n111 now was posited as one whose "enduring belief is that hard work brings rewards. That is why he pursues higher education . . . and places great value in individual responsibility and entrepreneurship." n112 While Representative Richard Gephardt praised South Asians for being both "'highly talented' and 'very successful,'" n113 for racist ideologues of the Right, who are quick to credit supposedly inherent deficiencies of African Americans for their plight, a new position of attack became available. For Denesh D'Souza, the notorious desi apologist for American racism, the predicament of African Americans had been rendered "more acute by 'the embarrassing fact of Asian American success which has become evident to most people in recent decades.'" n114

Prashad sees through the maneuver, and succinctly brings the bottom line into sharp relief: the "model minority" discourse turns South Asians in America into "not simply a solution for black America but, most pointedly, a weapon deployed against it." n115 Prashad demonstrates how this discourse conveniently ignored the fact that these desi immigrants were screened, selected, and deployed exclusively in high productivity sectors of the economy by a specific legal regime. He is unequivocal that these "attainments are not caused by natural or cultural selection; rather, they are the result of state selection whereby the U.S. state, through the special-skills provisions in the 1965 Immigration Act, fundamentally reconfigured the demography of South Asian America." n116

Before immigration, they mostly belonged to the elite or urban upper middle classes, an affiliation that facilitated access to higher education, English language, and marketable cultural capital. n117 Predictably, many [\*680] among the second phase desis came to subscribe to this racist mythology and implicitly to the reactionary political project of which this myth is a constitutive element. Prashad notes with regret that

many South Asian Americans find merit in the claim that "immigrants of the right sort are a special breed," n118 and imagine themselves positioned "outside the racist hermeneutic circle." n119 Isolation from and even opposition to movements seeking economic opportunity, social justice, and human dignity was the logical outcome. Prashad captures the positioning of second-phase South Asian American in the race matrix of America well:

Desis realize that they are not "white," but there is certainly a strong sense among most desis that they are not "black." In a racist society, it is hard to expect people to opt for the most despised category. Desis came to the United States and denied their "blackness" at least partly out of a desire for class mobility (something, in the main, denied to blacks) and a sense that solidarity with blacks was tantamount to ending one's dreams of being successful (that is, of being "white"). n120

But this state engineered "model minority" remained "not quite/not white." n121 The message from white America was "we want your labor, we don't want your lives." n122 It was from this position that second-phase South Asian Americans signed "a social contract with a racist policy by making a pledge to work hard but to retain a social life at some remove from U.S. society (one that is sanctified as specially spiritual and thus an acceptable, even if lesser, lifeworld)." n123 In this fractured existence, desis "anxious about the capacity of U.S. cultural forms to entrance them . . . cherish what they conceptualize as their cultural forms in the home (and impart these with persistent care to young children)." n124 The desire to turn the [\*681] "private" realm of "home" into a site to stage "authentic" culture quickly trained on "family values." Prashad notes that "many desis concede that the West is superior in the art of technomanagement but hold that it is inferior in the art of family management." n125 The woman is then posited as the repository of "authentic" culture, and her subordination in general, and control over her sexuality in particular, becomes the primary agenda of protecting "family values."

Isolated from the profound changes that are unfolding in gender and sexual relations in South Asia itself, n126 the drive for cultural "authenticity" imprisons desis's imagination in the gendered ethos of feudal aristocracies of yesteryears, augmented by orientalist renderings of the same. Frowning upon dating and inter-racial marriage, promotion of "arranged marriage," and the search for a "traditional" (read submissive) wife become the norm. As Prashad points out, "when one accepts that men are culturally authorized to dominate women, it is not far before even violence is sanctioned." n127 The "culture defense" for domestic violence, increasingly heard in the courts of law in relation to many exoticised "others," comes in the train. n128 This imagined "authentic" culture, however, as Prashad rightly observes, "will not be culture as the lives of the people but as something of a fantasy culture, a nostalgia of distance, without the creative contradictions that provide the lively cultural forms negotiated by the peoples still on the subcontinent." n129 Far from recommending a divorce with South Asia and assimilation of desis with mainstream America, an impossible task in itself for anybody "not quite/not white," Prashad suggests that

rather than worrying about importing desi culture tout court, migrants must worry about which aspects of desi culture to select. They need to imaginatively account for the origins of the various "cultural" resources and draw from them with care to solve our contemporary problems. [\*682] There are other visions of the homeland (and consequently of desi culture). n130

He substantiates the last remark by reminding us of the antidiscrimination and anti-colonial struggles of the first-phase desis. After recounting the heroic careers of the leaders of the Ghadar Party, Prashad bemoans how second-phase desis see struggle and radical political activism as being "antidesi." n131 For this group,

desi traditions are imagined to be dedicated hard work and cultural conservatism. The ideas of social justice are rarely considered. . . . Conservative thought is wedded to the idea that history has ended and that now people must get on with the job of making a living and ensuring a similar future for their children. n132

The history of South Asia has a different conclusion for Prashad: "Radicalism is as South Asian as Gandhi." n133

The second-phase desis, partially un-homed in their new home, then reach back to reconnect with the homeland. In recent years, this connection has taken a particularly reactionary form: "the turn to religion, especially a syndicated form of Hinduism." n134 While Prashad focuses on desi Hindus, the same is true of some other religious groups, particularly desi Muslims. n135 The political ascendancy of reactionary religious forces in South Asia is facilitated in no small measure by financial contributions by the well-heeled second-phase desis.

The demographic changes wrought by the third phase is changing all that. The context of the lived experience of the economically vulnerable and more visible desis brings them face to face with issues that second-phase desis were able to avoid. Unemployment, job discrimination, hate crimes, police brutality, lack of access to adequate health care, poverty, and overt racism have become everyday experiences. These problems are accentuated by the "forever immigrant and foreigner" construction that desis share with other Asian Americans. n136 [\*683]

Moreover, the generation born and raised here has felt compelled to give voice to silences within the desi communities that surround issues of gender equity, domestic violence, sexuality, cultural chauvinism, and self-determination. Young desis on college campuses are increasingly exposed to curriculum reform debates, controversies of multi-culturalism, identity politics, resurgent student activism, and innovative strategies to combat racism, sexism, and homophobia. n137 Many live and work in spaces where interaction with other people of color, the working class, and the marginalized is the norm. One outcome is a mushrooming of political initiatives, both organized and informal, to build solidarities with similarly placed non-desi communities, and to design strategies to protect economic, political, and human rights of vulnerable sections of desis. Examples of desi progressive initiatives include organizations like Sakhi, Narika, Manavi, Trikone, New York Taxi Workers Association, SAMAR, and the South Asian Network. While the progressive initiatives are growing rapidly under the leadership of the young and the marginalized, the second-phase desis' practices of isolation, racism, and reactionary political alignments also persist. The economic wherewithal of second-phase desis facilitates their continued control over the mainstream desi media and cultural and political associations. This control ensures that the class interests and political alignments of second-phase desis continue to define the agenda of the desi communities at large. While increasingly challenged by the third-phase desis, the hegemony of second-phase desis remains entrenched.

#### V. Building Solidarities, Achieving Justice

The model minority discourse constructs desis as apolitical and docile. This portrayal conveniently elides the deep roots of radicalism in South Asian history, both as it unfolded in the subcontinent and in North America. Prashad notes salient examples of this phenomena. He highlights the anti-colonial struggle initiated by the Ghadar Party in California in the early 1900s, which quickly spread throughout the plantation colonies of the Caribbean. He lists the progressive initiatives taken by groups of desis in response to political developments in South Asia. Lastly, he identifies desi women, youth, and gay and lesbian organization that are attempting to create social spaces to resist patriarchy, sexism, homophobia, and racism within the desi communities. Prashad underscores the fact that children of desi immigrants are increasingly refusing "to submit to . . . disciplinary regimes set in place for their parents." n138 He notes that the increasing visibility of desis on college campuses has set in [\*684] motion a process of "'reverse assimilation', the rediscovery of one's ethnicity and the urge to engage that difference in one's social life." n139

While all these are positive building blocks, the task remains committing "model minority suicide," n140 and "to forge a politics of identification" n141 with other subordinated groups. Prashad endorses the call for "creation of a 'racial project,' that is 'simultaneously an interpretation, representation, or explanation of

racial dynamics, and an effort to reorganize and redistribute resources along racial lines." n142 Prashad cautions that mobilizing in terms of identities towards collective action is not easy, as prejudices between communities of color are formidable obstacles. The key to building solidarity is participation in political struggle, because "the most profound bonds are built in the heat of the struggle, especially when one demonstrates to the collectivity that one is prepared to share the burden of other's misery." n143

Prashad substantiates this proposition with two examples of successful multi-racial workers' rights actions. In one case, when the Korean owners of a hotel in Los Angeles fired a group of workers in 1992, many of them Latinos, the hotel workers' union formed an alliance with Korean immigrant workers' advocacy group to bring pressure on the hotel owners. The other case is the successful taxi workers' strike in New York during the Summer of 1998, where a rainbow of races, ethnicities, and national origins came together for better working conditions in the "sweatshop on wheels." n144

The key lesson here is that the anti-subordination struggle must move from politics of identity to "a politics of identification." n145 Commitment, sacrifice, and fellowship are the essential building blocks of such a politics. The rapidly changing demographics of the United States furnishes a fertile ground to build such politics. We should celebrate the fact that "the third world, far from being confined to its assigned space, has penetrated the inner sanctum of the 'first world' in the process of being 'third worlded'--arousing, inciting, and affiliating with the subordinated others in the first world." n146 [\*685]

#### Conclusion

The anti-essentialism and anti-subordination tenor of critical legal scholarship is often enriched by empirical and theoretical work in other disciplines. The Karma of Brown Folk can help invigorate the focus of critical legal scholarship on questions of race, culture, language, and nation. This remarkable book underscores that questions of construction and subordination of races must be examined in expanded spatial and temporal frameworks. The global history of the colonial encounter between "the West and the Rest" and its attending grammar of imperialism furnish a productive viewpoint to interrogate the race question in the United States and elsewhere.

Prashad's study of South Asian Americans also demonstrates that all ethnicities, like all cultures, are fractured contested spaces within which hegemonic and subaltern forces engage in perpetual conflict. No ethnic or national group is immune from internal conflicts around questions of race, class, gender, and sexuality. This study reminds us that sustained coalition-building between subordinated groups through joint struggles is indispensable to achieve justice and human dignity.

Prashad's interrogation of immigration regimes and "model minority" discourse substantiates that, when engaging hegemonic mythologies, we must be alert that "bad history is not harmless history but dangerous." n147 Writing counter-histories is an indispensable project of critical legal scholarship. Part of this project is to excavate genealogies of material and discursive structures of domination and to inventory traces of subjection on any legal subject. We must see subjectivities not as a pre-political essence, but rather as constituted by the accumulating processes of sedimentation and accretion of power and resistance. It is through such analysis that we can effectively challenge hegemonic modes of ethical and cultural judgment to their cognitive core: an ontology and epistemology born of historical modernity complicit with colonial subjugation. Such an analysis furnishes a sharp instrument to pierce the veil of racing, in all its forms and at all sites of its operation. The realization that the law is both complicit with racing and a site where power and resistance contend has a particular implication for critical legal scholarship.

While the legal academy remains the primary site of engagement for critical legal scholars, we must ensure that our scholarship and pedagogy also operates beyond the boundaries of the academy. The struggle for peace, justice, and community is not a spectator sport. The privileges that accrue to us on account of being part of the legal academy can be an invaluable resource in building solidarity and coalitions among the subordinated. As we engage with the law in its institutionalized settings, we [\*686] should also hear an

eloquent voice from behind the prison walls: "The solution is not in the courts but in an awake, aware people." n148

**FOOTNOTE-1:**

n1 N.Y. Times, 12 Oct. 1987, at B1, quoted in, Sucheta Mazumdar, Race and Racism: South Asians in the United States, in *Frontiers of Asian American Studies: Writing, Research, and Commentary* 25 (Gail M. Normura et. al. eds., 1989).

n2 Perry Anderson, *Lineages of the Absolutist State* 549 (1974).

n3 W.E.B. DuBois, *The Souls of Black Folks* 4 (A.G. McClug & Co. 21st ed., 1937) (1903).

n4 Vijay Prashad, *The Karma of Brown Folk* viii (2000).

n5 *Id.*

n6 The word *desi* means "of or from the homeland" in several South Asian languages. It derives from the word *des*, which means "homeland." It is now commonly used by South Asians in the Diaspora to identify themselves and each other. I adopt it, Prashad does, and will use it interchangeably with South Asian Americans. See *id.*

n7 See Edward S. Herman & Noam Chomsky, *Manufacturing Consent: The Political Economy of the Mass Media* (1988).

n8 See generally, Howard Zinn, *A People's History of the United States* (1990); Walter Lafeber, *The New Empire: An Interpretation of American Expansion 1860-1898* (1998) (1963); Noam Chomsky, *American Power and the New Mandarins* (1969).

n9 E. Renan, *What is a Nation?*, in *Nation and Narration* 11 (Homi Bhabha ed. 1990). A recent New York Times story reminds us of the continuing career of the United States as a colonial power in reporting on the displacement and "segregation . . . in overcrowded ghettos" of natives of Marshall Islands to facilitate use of the area by American defense establishment. Howard W. French, *Dark Side of Security Quest: Squalor on an Atoll*, N.Y. Times, June 11, 2001, at A3. Beyond being an American preoccupation, forgetting the past may well be dictated by lives engulfed in modernity. As Horkheimer argued in his canonical critique of instrumental reason "machinery . . . requires the kind of mentality that concentrates on the present and can dispense with memory and straying imagination." Max Horkheimer, *Critique of Instrumental Reason* 22 (Matthew J. O'Connell trans., 1994) (1967).

n10 See also Edward Said, *Orientalism* (1978) (for a canonical exposition of orientalism).

n11 Prashad, *supra* note 4, at 12.

n12 5 R.W. Emerson, *The Collected Works of Ralph Waldo Emerson* 26 (1987).

n13 Prashad, *supra* note 4 at ix (citing Walter Rodney, *The Groundings with My Brothers* 16 (1969)).

n14 Denise Frerreira da Silva, *Interrogating the SocioLogos of Justice: Considerations of Race Beyond the Logic of Exclusion* 1-2 (paper presented at 2000 Summer Institute of the Law and Society Association) (manuscript on file with the author).

n15 Ratna Kapur & Tayyab Mahmud, *Hegemony, Coercion, and Their Teeth-Gritting Harmony: A Commentary on Power, Culture, and Sexuality in Franco's Spain*, [5 Mich. J. Race & L. 995, 1014 \(2000\)](#).

n16 Id.

n17 Id.

n18 Gayatri Charkravorty Spivak, *A Critique of Postcolonial Reason: Toward a History of the Vanishing Present* 34 (1999).

n19 Jean-Paul Sartre, *Preface to Frantz Fanon, The Wretched of the Earth* 38 (Grove Press, Inc., 1963) (1961). As Fanon put it: "The colonial world is a world cut in two. . . . The settlers' town is a town of white people, of foreigners . . . . [The native town] is a town of niggers and dirty Arabs . . . . This world divided into compartments, this world cut in two is inhabited by two different species." Id. at 38-40.

n20 Kapur & Mahmud, *supra* note 15, at 1014.

n21 See V. G. Kiernana, *The Lords of Human Kind: Black Man, Yellow Man, and White Man in an Age of Empire* (1969); Hayden White, *The Forms of Wildness: Archaeology of an Idea*, in *The Wild Man Within: An Image in Western Thought From the Renaissance to Romanticism* (Edward Dudley & Maximillian E. Novak eds., 1972).

n22 See Peter Fitzpatrick, *The Mythology of Modern Law* (1992) and Peter Fitzpatrick, *Racism and the Innocence of Law*, in *Critical Legal Studies* 119 (Peter Fitzpatrick & Alan Hunt eds., 1990).

n23 See Anne McClintock, *Imperial Leather: Race, Gender, and Sexuality in the Colonial Contest* (1995); Pierre L. van den Berge, *Race and Racism a Comparative Perspective* (2d ed. 1978).

n24 For a detailed discussion of the role of colonialism in the modern constructions of race, see Tayyab Mahmud, *Colonialism and Modern Constructions of Race*, 53 U. Miami L. Rev. 1219 (1999).

n25 See J.M. Bluat et. al., *1492: The Debate on Colonialism, Eurocentrism, and History* (1992). Modern Europe "came to see itself as a 'planetary process' rather than simply a region of the world." Mary Louise Pratt, *Humboldt and the Reinvention of America*, in *Amerindian Images and the Legacy of Columbus* 589 (Rene Jara & Nicholas Spadaccini eds., 1992).

n26 For these exclusions, see C.B. Macpherson, *The Political Theory of Possessive Individualism: Hobbes and Locke* (1962); Charles W. Mills, *The Racial Contract* (1997); Carol Pateman, *The Sexual Contract* (1988); Uday S. Mehta, *Liberal Strategies of Exclusion*, in *Tensions of Empire: Colonial Cultures in a Bourgeois World* 59 (Frederick Cooper & Ann Laura Stoler eds., 1997).

n27 See Fitzpatrick, *supra* note 22; see also Peter Fitzpatrick, *Modernism and the Grounds of Law* (2001).

n28 Edward Said, *Secular Interpretation: The Geographical Element, and the Methodology of Imperialism*, in *After Colonialism: Imperial Histories and Postcolonial Displacements* 37 (Gyan Prakash ed., 1995).

n29 Spivak, *supra* note 18, at 65.

n30 This subsection draws on part of a previous work by the author and Professor Ratna Kapur. See Kapur & Mahmud, *supra* note 15 at 1014-16.

n31 See Denise Ferreira da Silva, *Race & Nation in the Mapping of the Modern Global Space: A Critique of Sociology of Race Relations* (1995) (Ph.D. dissertation, Univ. of Pittsburgh).

n32 The connection of the law with the body is, of course, a broader one. For example, Giorgio Agamben posits that, "the production of a biopolitical body is the original activity of sovereign power." Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* 6 (Daniel Heller-Roazen trans., 1998). Michel Foucault speaks of "bio-power," a concept he fashioned to address inescapable linkages between micro and macro operations of modern power. See 1 Michel Foucault, *History of Sexuality* (1978). Bio-power, for Foucault, designates a politics concerned with subjects as members of a population, a form of power exercised over persons specifically as living beings. See *id.* This helps Foucault to further develop his position that modernity renders human life a discrete object of identification and regulation, both protected and eliminated by operations of power. See *id.* at 143. Perception and naming of the body are preconditions for its positioning by and subjection to modern power.

n33 In order to highlight the interpenetration of designation and subjection within modern legal regimes, Foucault, for example, eschews the category of "the law," and speaks instead of a "scientific-legal complex" or of a "epistemologocjuridical formation." Michel Foucault, *Governmentality* 6 I & C 5, 23 (Colin Gordon trans., 1979).

n34 Michel Foucault, *The Order of Things: An Archaeology of the Human Sciences* ix (A. Sheridan-Smith trans., 1970).

n35 Max Horkheimer & Theodor W. Adorno, *Dialectic of Enlightenment* 24 (John Cumming trans., Continuum 1993); see also, Depish Chakravorty, *Provincializing Europe* (1999); *Mapping Subaltern Studies and the Postcolonial* (Vinayak Chaturvedi ed., 2000); *Geographies of Resistance* (Steve Pile & Michael Keith eds., (1997).

n36 Spivak, *supra* note 18, at 208.

n37 See generally Robert Young, *White Mythologies: Writing History and the West* (1990).

n38 Anthony Giddens, *The Consequences of Modernity* 14 (1990).

n39 Louis Althusser, *Politics and History: Montesquieu, Rousseau, Hegel and Marx* 78 (Ben Brewster trans., 1972).

n40 See Johannes Fabian, *Time and Its Other: How Anthropology Makes Its object* (1983); Albert Memmi, *The Colonizer and the Colonized* (Howard Greenfeld trans., The Orion Press 3d prtg. 1966) (1957); see also Aime Cesaire, *Discourse on Colonialism* (Joan Pinkham trans., 2nd prtg. 2000) (1955); Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (1995); Ashis Nandy, *History's Forgotten Doubles*, *Hist. & Theory*, Theme Issue 34, May 1995, at 44.

n41 Mary Louise Pratt, *Imperial Eyes: Travel Writing and Transculturation* 136 (1992).

n42 Homi K. Bhabha, *The Location of Culture* 32 (1994).

n43 See generally Francis Barker *Europe and Its Others* (Francis Barker et al eds., 1985); Srinivas Aravamudan, *Tropicopolitans: Colonialism and Agency, 1688-1804* (1999); J.M. Blunt, *The Colonizer's Model of the World: Geographical Diffusionism and Eurocentric History* (1993); V.Y. Mudimbe, *The Invention of Africa: Gnosis, Philosophy, and the Order of Knowledge* (1988); Balachandra Rajan, *Under Western Eyes: India from Milton to Macaulay*

(1999); Hayden V. White, *Metahistory: The Historical Imagination in Nineteenth Century Europe* (1973); Eric R. Wolf, *Europe and the People Without History* (1982).

n44 Partha Chatterjee, *Nationalist Thought and the Colonial World: A Derivative Discourse?* 2 (1993).

n45 J. Derrida, *Onto-Theology of National-Humanism (Prolegomena to a Hypothesis)*, 14 *Oxford Lit. Rev.* 71 (1992).

n46 See Fitzpatrick, *supra* note 22 and Peter Fitzpatrick, 'We Know What It Is When You Do Not Ask Us': Nationalism as Racism, in *Nationalism, Racism and the Rule of Law* 3 (Peter Fitzpatrick ed., 1995.)

n47 Etienne Balibar, *Racism and Nationalism*, in *Race, Nation, Class: Ambiguous Identities* 37 (Etienne Balibar & Immanuel Wallerstein eds., Chris Turner trans., 1991).

n48 Paul Gilroy, *Urban Social Movements, "Race" and Community*, in *Colonial Discourse and Post-Colonial Theory: A Reader* 409 (Patrick Williams & Laura Chrisman eds., 1994).

n49 Thomas Jefferson, *On Negro Ability* (1784), in 1 *Racial Thought in America: From the Puritans to Abraham Lincoln, A Documented History* 162, 168 (Louis Ruchames ed., 1969).

n50 James Madison, *On Blacks, Slavery and Emancipation* (1819), in 1 *Racial Thought in America*, *supra* note 49, at 283-84 (Louis Ruchames ed., 1969).

n51 Abraham Lincoln, *Negro Rights* (1858), in *Racial Thought in America*, *supra* note 49, at 380, 380-01.

n52 [Plessy v. Ferguson, 163 U.S. 537, 544 \(1896\).](#)

n53 [Plessy, 163 U.S. at 551-52.](#)

n54 Prashad, *supra* note 4, at ix.

n55 *Id.* at 16, 18.

n56 *Id.* at 20.

n57 *Id.* at 21.

n58 *Id.* at 22 (quoting the *Detroit Journal*, Feb. 14, 1894).

n59 *Id.* at 24, (quoting the Rev. Isador Lowenthal, *The Revolt of the Sepoys*, in *Biblical Repository & Princeton Rev.* 30 (1858)).

n60 See generally *Dominating Knowledge: Development, Culture, and Resistance* (Frederique Apffel Marglin & Stephen A. Marglin eds., 1990); Arturo Escobar, *Encountering Development: The Making and Unmaking of the Third World* (1995); James Ferguson, *The AntiPolitics Machine: "Development," Depoliticization, and Bureaucratic Power in Lesotho* (1990); Graham Hancock, *Lords of Poverty: The Power, Prestige, and Corruption of the International Aid Business* (1991); Sharachandra M. Lele, *Sustainable Development: A Critical Review*, 19 *World Dev.* 607 (1991). For perceptive analyses of globalization, see *The Cultures of Globalization* (Fredric Jameson & Masao Miyoshi eds., 1999); *The Globalization Reader* (Frank J. Lechner & John Boli eds., 2000); *Globalization: Theory and Practice* (Eleonore Kofman & Gillian Youngs eds., 1998); Colin Hines, *Localization: A Global Manifesto* (2000); Terence K. Hopkins et al., *The Age of Transition: Trajectory of the World System 1945-2025* (1996).

n61 Prashad, *supra* note 4, at 27 (quoting *Hindu Literature, The Nation*, May 23, 1878).

n62 *Id.* at 26 (quoting Jotibhai Phule, *Collected Works* xxix (1991)).

n63 *Id.* at vii-ix (quoting W.E.B. Du Bois, *Pittsburgh Courier*, May 30, 1938, in 1 *Newspaper Columns* 79-80 (Herbert Aptheker ed., 1986)).

n64 Deepak Chopra, *The Seven Spiritual Laws of Success: A Practical Guide to the Fulfillment of Your Dreams* (1994).

n65 Prashad, *supra* note 4, at 53.

n66 *Id.* at 48.

n67 *Id.* at 59-60.

n68 *Id.* at 48.

n69 As Stuart Hall puts it: "Cultural identities come from somewhere, have histories. But, like everything which is historical, they undergo constant transformation. Far from being eternally fixed in some essentialized past, they are subject to the continuous 'play' of history, culture and power." Stuart Hall, *Cultural Identity and Diaspora*, in *Identity, Community, Culture, Difference* 225 (Jonathan Rutherford ed., 1990).

n70 Stuart Hall, *Cultural Identity in Cinematic Representation*, in *Black British Cultural Studies* 211 (Houston A. Baker, Jr., et al., eds. 1996).

n71 *Id.* at 212.

n72 This subsection draws on parts of a previous work by the author. See Tayyab Mahmud, *Migration, Identity, & the Colonial Encounter*, [76 Or. L. Rev. 633, 636-653 \(1997\)](#).

n73 Hugh Tinker, *A New System of Slavery: The Export of Indian Labour Overseas 1830-1920* (1974).

n74 For detailed accounts of the indenture system, see *After the Crossing: Immigrants and Minorities in Caribbean Creole Society* (Howard Johnson ed., 1988); *Indenture & Exile: the Indo-Caribbean Experience* (Frank Birbalsingh ed., 1989); *Indentured Labour in the British Empire 1834-1920* (Kay Saunders ed., 1984); *India in the Caribbean* (David Dabydeen & Brinsley Samaroo eds., 1987); Bridget Brereton, *Race Relations in Colonial Trinidad 1870-1900* (Cambridge Univ. Press 1979) (1979); Madhavi Kale, *Fragments of Empire: Capital, Slavery, and Indian Indentured Labor Migration in the British Caribbean* (1998); Walton Look Lai, *Indentured Labor, Caribbean Sugar: Chinese and Indian Migrants to the British West Indies, 1838-1918* (1993); J.S. Mangat, *A History of the Asians in East Africa c. 1886 to 1945* (1969); Gyan Prakash, *Bonded Histories: Genealogies of Labor Servitude in Colonial India* (1990); Timothy N. Thomas, *Indians Overseas: A Guide to Source Materials in the India Office Records for the Study of Indian Emigration, 1830-1950* (1985).

n75 Robert Miles, *Capitalism and Unfree Labour: Anomaly or Necessity?* 196 (1987).

n76 S.G. Checkland, *The Gladstones: A Family Biography, 1764-1851* 318 (1971). In a striking parallel to the situation in the Caribbean, in the 1860s following abolition of slavery in the United States, it was contemplated to "flood the U.S. South with South and East Asian workers to shift the blacks from the land and to undermine their power as newly freed peoples." Prashad, *supra* note 4, at 71.

n77 Kingsley Davis, *The Population of India and Pakistan* 99 tbl. 35 (1951); see also C. Kondapi, *Indians Overseas 1838-1949* (1951).

n78 See Kusha Haraksingh, *Control and Resistance Among Indian Workers: A Study of Labour on the Sugar Plantations of Trinidad, 1875-1917*, in *India in the Caribbean* (David Dabydeen & Brinsley Samaroo eds., 1987); Maureen Swan, *Indentured Indians: Accommodation and Resistance, 1800-1913*, in *Essays on Indentured Indians in Natal* (Surendra Bhana ed., 1990).

n79 See Kale, *supra* note 74; Madhavi Kale, *Projecting Identities: Empire and Indentured Labor Migration from India to Trinidad and British Guyana, 1836-1885*, in *Nation and Migration: The Politics of Space in the South Asian Diaspora* (Peter van der Veer ed., 1995). These characterizations built in particular upon colonial constructions of Bengali identity following the 1857 anti-colonial revolt spearheaded by Bengali regiments of the colonial army. Colonial reports in India had suddenly discovered "well-known defects of the national character of the Bengali; . . . his cunning, . . . indolence, . . . procrastination, and . . . proneness to concealment." Report of the Indigo-Commission of 1861, reprinted in *1 Labour Movement in India 1850-1890*, at 27 (S.D. Punekar & R. Varickayil eds., 1989).

n80 Kale, *supra* note 79.

n81 Spivak, *supra* note 18, at 65.

n82 See Mahmud, *supra* note 72, at 639-656, for a detailed account.

n83 See generally Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (1996); Richa Nagar, *Saboteurs? Or Saviors?*, 13 *Samar* 14 (2001); Murad Rayani, *All Aboard the Lunatic Express*, 13 *Samar* 20 (2001).

n84 Peter Robb, *South Asia and the Concept of Race*, in *The Concept of Race in South Asia* 32 (Peter Robb ed., 1997).

n85 See F.M. Brookfield, *The Fiji Revolutions of 1987* *New Zealand L.J.* 250 (July 1988) and *Prasad v. The Republic of Fiji*, *The High Court of Fiji*, Action No. HBC0217.00L, *Pacific Law Materials*, file:///A/PrasadvRepublic.htm.

n86 Homi K. Bhabha, *The location of Culture* 1 (1994).

n87 Chandra Talpade Mohanty, *Defining Genealogies: Feminist Reflections on Being South Asian in North America*, in *Our Feet Walk the Sky: Women of the South Asian Diaspora* 354 (The Women of South Asian Descent Collective ed., 1993).

n88 The first South Asians, who came here in the late 1700s were sailors on ships plying between India and New England. These few "jumped ship, married black women, and disappeared from the historical record." Prashad, *supra* note 4, at 71.

n89 Karen Leonard, *Marriage and Family Life Among Early Asian Indian Immigrants*, in *From India to America: A Brief History of Immigration; Problems of Discrimination; Admission and Assimilation* 71 (S. Chandrasekhar ed., 1982); see also John Kuo Wei Tchen, *New York Before Chinatown: Orientalism and the Shaping of American Culture 1776-1882* (1999); Henry Yu, *Thinking Orientals: Migration, Contact, and Exoticism in Modern America* (2001).

n90 See Shucheta Mazumdar, *Race and Racism: South Asians in the United States*, in *Frontiers of Asian American Studies: Writing, Research, and Commentary* 29 (Gail M. Nomura et. al. eds., 1989).

n91 See *id.*

n92 Prashad, *supra* note 4, at 42-43 (quoting California and the Oriental: Japanese, Chinese, and Hindus. Report of the State Board of Control of California to Gov. Wm. D. Stephens 181 (1920)).

n93 S. Chandrasekhar, A History of United States Legislation with Respect to Immigration from India, in *From India to America: A Brief History of Immigration; Problems of Discrimination: Admission and Assimilation* 11 (S. Chandrasekhar ed., 1982). See also Ronald Takaki, *Strangers From a Different Shore: A History of Asian Americans* (1989).

n94 [Ozawa v. United States, 260 U.S. 178 \(1922\)](#).

n95 For the construction and deployment of the Aryan race theory in India, see Thomas R. Trautmann, *Aryans and British India* (1977); Joan Leopold, *British Applications of the Aryan Theory of Race to India, 1850-1870*, 89 *English Historical Rev.* 578 (1974); Mahmud, *supra* note 24. Dr. Thind's claim formed part of the response of some South Asians to the Ozawa Case, namely, "instead of challenging racism, the . . . struggle became an individualized and personalized mission to prove that [they were] of 'pure-blood Aryan stock.'" Mazumdar, *supra* note 1, at 30. In Harold Isaac's perceptive encapsulation "those Indians . . . who really think of themselves as more 'white' than 'whites,' indeed, as descendants from that 'pure Aryan family' of prehistoric time. This endows them with a sort of Mayflower status in relation to 'whiteness' or 'Aryanism' which they deny to many of their own darker-skinned countrymen. This Indian, peculiarly outraged, is not challenging the white man's racism as such. He is crying: 'How dare you assume your air of Aryan superiority over me when I am just as Aryan as you, even more so!' This was the substance of the Indian claim in that 1923 court case . . . and it is still the substance of many an Indian response to American racism." Harold R. Isaacs, *Images of Asia: American Views of China and India* 290 (1972), quoted in Mazumdar, *supra* note 1, at 30. American public policy did not help matters either. The U.S. Immigration Commission in its *Dictionary of Races and Peoples* (1911) broadly defined an "East Indian as any native of the East Indies . . . from the inhabitants of the Philippines to the Aryans of India." H. Brett Melendy, *Asians in America: Filipinos, Koreans, and East Indians* 186 (1977). According to the Commission, any native of India was called "Hindu," while Indian Parsees were viewed as "white." *Id.* at 186, 217-19. The 1930 and 1940 census added "Hindu" to the classifications; the 1950 census placed South Asians in the "white" category; in 1960 and 1970 South Asians were "Other;" 1980 census saw them become "Asian Indian;" for the 1990 census, they were "Asian and Pacific Islander." Sharon M. Lee, *Racial Classifications in the US Census: 1890-1990*, in 16 *Ethnic and Racial Studies* 75 (1993)

n96 [261 U.S. 204 \(1922\)](#).

n97 See Prashad, *supra* note 4, at 75.

n98 See *id.* at 75-77.

n99 *Id.* at xiii.

n100 *Id.* at 79 (reproducing INS, Annual Statistical Reports).

n101 *Id.* at 80.

n102 For a comprehensive account of the resistance struggles of the first-phase South Asians in the North America, see Joan M. Jensen, *Passage from India: Asian Indian Immigrants in North America* (1988).

n103 See, e.g., Amitava Kumar, *Passport Photos* (2000).

n104 Prashad, *supra* note 4, at 104.

n105 Id. at x.

n106 Toni Morrison, *On the Back of Blacks*, Time, Sept. 22, 1993, at 57. This is not to imply that South Asians were immune from prejudice hinged upon difference of skin-color. Quite the contrary was the case. The pre-colonial constructions of caste and its interpenetration with class divides were often coterminous with distinctions of skin-color. See Louis Dumont, *Homo Hierarchicus: The Caste System and its Implications* (Mark Sainsbury et al. trans., Univ. of Chicago Press 1980) (1966); John Brockington, *Concepts of Race in the Mahabharata and Ramayana*, in *The Concept of Race in South Asia* 97 (Peter Robb ed., 1997); Dagmar HellmannRajanayagam, *Is There a Tamil 'Race'?*, in *The Concept of Race in South Asia* 109 (Peter Robb ed., 1997). However, induction of South Asians into modern constructions and deployments of race animated by a global hierarchy of humans postulated by modern constructs of civilization, reason, and History is a qualitatively different phenomena than pre-modern color prejudice. For a perceptive analysis of the difference between pre-modern and modern constructions of race, see the chapter entitled "Race-thinking Before Racism" in Hannah Arendt, *The Origins of Totalitarianism* (1951). For racism within desi communities, particularly as directed against AfricanAmericans, see Mazumdar, *supra* note 1.

n107 See Binita Mehta, *Emigrants Twice Displaced: Race, Color, and Identity in Mira Nair's Mississippi Masala*, in *Between the Lines: South Asians and Postcoloniality* 185 (Deepika Bahri & Mary Vasudeva eds., 1996); Amritjit Singh, *African Americans and the New Immigrants*, in *Between the Lines: South Asians and Postcoloniality* 93 (Deepika Bahri & Mary Vasudeva eds., 1996).

n108 Ella Shohat and Robert Stam, *Unthinking Eurocentrism: Multiculturalism and the Media* 237 (1994).

n109 Singh, *supra* note 107, at 94.

n110 Prashad, *supra* note 4, at 82.

n111 Id. at 32.

n112 Id. at 69.

n113 Id. at 70.

n114 Id. at 4.

n115 Prashad, *supra* note 4, at 4.

n116 Id. at 4.

n117 While Prashad does not focus on the role of English language in facilitating the positioning of South Asian Americans as a "model minority," the issue is increasingly becoming the focus of critical scholars. See, e.g., *The Other Tongue: English Across Cultures* (Braj Kachru ed., 1982); Alastair Pennycook, *The Cultural Politics of English as an International Language (Language in Social Life)* (1994); James Crawford, *Hold Your Tongue*, in *The Latino/a Condition: A Critical Reader* 559 (Richard Delgado & Jean Stefancic eds., 1998); Madeleine Plasencia, "Suppressing the Mother Tongue" - Anti-Subordination and the Legal Struggle Over Control of the Means of Communication, [53 U. Miami L. Rev. 989 \(1999\)](#).

n118 Prashad, *supra* note 4, at 3.

n119 Id. at 94.

n120 Id.

n121 Homi Bhaba, *Of Mimicry and Man: The Ambivalence of Colonial Discourse*, 28 *October* 125, 132 (1984). Bhaba uses Lacan's concept of mimicry to characterize the construction of the colonial other as a subject who becomes recognizably the same as the colonizer but still remains different; hence "not quite/not white." *Id.* at 127. Bhaba also uses the example of Indians who were educated in English, worked in the civil service, and mediated between the colonizers and the colonized. For Bhaba, mimicry by the elite among the colonized was "at once resemblance and menace . . . a process by which the look of surveillance returns as the displacing gaze of the disciplined." *Id.* at 129. In the case of South Asians in the United States, one could argue that it took a whole generation for mimicked resemblance to make the turn towards becoming a menace to white supremacy.

n122 Prashad, *supra* note 4, at 87.

n123 *Id.* at x.

n124 *Id.* at 121.

n125 *Id.*

n126 See e.g., Ratna Kapur, *Imperial Parody*, 2 *Feminist Theory* 79 (2001); Ratna Kapur, *Post-Colonial Erotic Disruptions: Legal Narratives of Culture, Sex and Nation in India*, 9 *Colum. J. Gender & L.* (forthcoming); and Ratna Kapur, *Too Hot to Handle: The Cultural Politics of Fire*, 64 *Feminist Review* 53 (2000). See generally, *Cultural Studies* (Lawrence Grossberg et al eds., 1992). See generally, *Identity, Community, Culture, Difference* (J. Rutherford ed., 1990).

n127 *Id.* at 125.

n128 See Leti Volpp, *Blaming Culture for Bad Behavior*, [12 \*Yale J. L. & Human.\* 89 \(2000\)](#); Leti Volpp, *Gazing Back: Review of Sherene Razack's Looking White People in the Eye: Gender, Race, and Culture in Courtrooms and Classrooms*, [14 \*Berkeley Women's L. J.\* 149 \(1999\)](#) (exploring the uses and abuses of culture in the law, particularly as it affects Asian Americans); Leti Volpp, *(Mis)Identifying Culture: Asian Women and the "Cultural Defense,"* [17 \*Harv. Women's L. J.\* 57 \(1994\)](#); Leti Volpp, *Righting Wrongs*, [47 \*UCLA L. Rev.\* 1815 \(2000\)](#); Leti Volpp, *Talking "Culture:" Gender, Race, Nation and the Politics of Multiculturalism*, [96 \*Colum. L. Rev.\* 1573 \(1996\)](#).

n129 Prashad, *supra* note 4, at 126.

n130 *Id.*;

n131 *Id.* at 131.

n132 *Id.*

n133 *Id.* at 194.

n134 *Id.* at 134.

n135 See Tayyab Mahmud, *Fractured Histories, Contingent Identities: South Asian Muslims in the United States*, in *Muslim Identities in the United States* (Karen Leonard ed.) (forthcoming).

n136 See Robert S. Chang, *Dis-Oriented: Asian Americans, Law, and the Nation-State* (1999); Keith Aoki, "Foreign-ness" & Asian American Identities: Yellowface, World War II Propaganda, and Bifurcated Racial Stereotypes, [4 \*UCLA Asian Pac. Am. L.J.\* 1 \(1996\)](#); Robert S. Chang, *Towards an Asian American Legal Scholarship: Critical Race Theory, PostStructuralism, and Narrative Space*, [81 \*Cal. L. Rev.\* 1241 \(1993\)](#); Natsu Saito, *Alien and*

Non-Alien Alike: Citizenship, "Foreignness" and Racial Hierarchy in American Law, [76 Or. L. Rev. 261 \(1997\)](#).

n137 See Inderpal Grewal, *The Postcolonial, Ethnic Studies, and the Diaspora*, 94 *Social Text* 45 (1994).

n138 Prashad, *supra* note 4, at 193.

n139 *Id.* at 190.

n140 *Id.* at 193.

n141 *Id.* at 194.

n142 *Id.* at 195.

n143 *Id.* at 198.

n144 Prashad, *supra* note 4 at 201.

n145 *Id.* at 196.

n146 Gyan Prakash, *Writing Post-Orientalist Third World Histories: Perspectives from Indian Historiography*, 32 *Comparative Studies in Society and History* 383, 403 (1990).

n147 Eric Hobsbawm, *On History* 277 (1997).

n148 Mumia Abu-Jamal, *Live From Death Row* 102 (1995).