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LENGTH: 3578 wordsSYMPOSIUM ISSUE: PRESENTED BY LATINA/O CRITICAL LEGAL THEORY, INC.: CONNECTING PLACE, IDENTITY, & POLITICS: **Cluster Introduction:** Space, Subordination, and Political Subjects**NAME:** Tayyab **Mahmud** ⁿ¹**SUMMARY:**

... CONCLUSION Over the course of its evolution, the LatCrit movement has prompted scholarship that has ventured into areas not often accommodated by mainstream legal scholarship. ... Modern geography was in the vanguard of colonial disciplines that located racialized and colonized bodies in "moral and legal no man's land where universality finds its spatial limit." ... By highlighting the constitutive role of subjection in the production of the subject, Silva underscores the critical role of violence in this process. ... It is only by the erasure of this back story that mythologies of liberal progression, Hegelian self-realizing of the transparent subject, and Cartesian self-determined entity could be produced and sustained. ... By keeping in sight the global unfolding of modern colonialism and its aftermath, Silva builds the case that the prototype of modernity's political subject, the modern European subject, far from being self-determined, is "an effect of its exteriority, something that derives its particularity from the productive fissures between it and co-existing modern (indigenous or racial) others." ... It is engulfed in operations of modernity, located in zones of exception, and positioned in states of subordination. ... Monzon sees operations of megacities tangled with stratified citizenship and fragmentation of identity, with the result that formal citizenship does not translate into equal opportunity to exercise rights of citizenship. ... While localism accentuates the linkage between race and class, it largely negates influence of gender on political outcomes. ... Turning to the question of class, the authors note that the self-understanding of the rural working class in the U.S. is captured in the discourse of frontier, individualism, self-reliance, anti-liberalism, and anti-intellectualism, and narrow readings of Christian values.

HIGHLIGHT:

"A place on the map is also a place in history."

Adrienne Rich ⁿ²

TEXT:

[*15] Master narratives of any era reflect the limit horizons of that era--the hegemonic ontological categories that over time so imprint the imaginary that even critique remains imprisoned in the professed normalcy of those categories. This imprisonment curtails the transformative potential of critique. To remain vigilant about such limit horizons, much less overcome them, is a formidable task. Nevertheless, this task must mark the agenda of critical knowledge-production that aims to animate transformative praxis.

Modern master narratives and their attending regimes of knowledge production tend to treat space as "dead, the fixed, the undialectical, the immobile." ⁿ³ Instead, it is time that holds sovereignty in the modern scheme of things. A linear, progressive, and Eurocentric history is modernity's primary frame of reference for experiencing time and constituting social orders. ⁿ⁴ Due to its constitutive role, this schema has profound implications for the study of agents and structures of subordination and resistance. The design of the linear universal history serves as the primary scaffolding for the construction of modernity and of its "others." ⁿ⁵ Identity is, of necessity, constituted in the field of difference and distinction. In the grammar of Eurocentric modernity, Europe's ⁿ⁶ "others" represent Europe's past, while Europe becomes the aspiration, the tomorrow, of the "others." The "others" of Europe in this scheme signify a lack and a lag, and they are supposed to, in time, catch up. ⁿ⁷ Until then, they are deemed languishing in the "waiting room of history." ⁿ⁸ In

the frame of homogenized histories, this lag became [*16] the license for colonial rule to "help" the other catch up.⁹⁹ This divide between Europe and its racialized and colonized "others," and its attending temporal frame, the imperial universal history, also furnishes the constitutive grounds of modern law.¹⁰⁰ The challenge for critical scholarship and progressive forces is to chart a course of inquiry and praxis unadulterated by the straitjacket of Eurocentric historicity.

One productive line of departure is to bring space into play--to locate constructs and phenomena in their particular spatial grounds and embodiments.¹¹¹ This turn to space holds great promise for the study of law.¹¹² The point of departure here is the premise that legal and social orders have an unavoidable spatiality. Law, a social artifact, in order to function, has to be positioned and deployed upon spaces and bodies. While drawing boundaries is an inaugural function of geography, policing boundaries is a routine function of the law.¹¹³ Consequently, a mutually constitutive role of human and spatial geography on the one hand and law on the other is unavoidable. Modernity and colonialism unfolded this symbiotic relationship on a global scale. While colonialism sutured together the "territorialist and the capitalist logics of power" on a worldwide scale,¹¹⁴ modern geography played a key role in the production of the otherness of Europe's "others."¹¹⁵ While physical mappings made the colonized subject visible and fixed, cultural geography rendered her irredeemably "other."¹¹⁶ In the process, geography helped put down many markers of modern constructions of race by helping to suture bodies and consciousness with space.¹¹⁷ In this process, "[g]eography was not merely engaged in *discovering* the world; it was *making* it."¹¹⁸ Modern geography was in the vanguard of colonial disciplines that located racialized and colonized bodies in "moral and legal *no man's land* where universality finds its spatial limit."¹¹⁹ Furthermore, the formative role of geography in the concurrent constructions of the nation, the state, and the empire, and their attendant technologies of governance, is an indispensable part of the story of the flowering of modernity.¹²⁰

[*17] The unavoidable relationship between space and identity, the formative role of law in this relationship, and the global canvas on which this saga unfolds is a relatively new area of inquiry in the American legal academy. The three contributions to this cluster add a new dimension to the preoccupations of LatCrit scholarship by bringing into sharp focus the relationship between space, identity, and regimes of governance. They build on LatCrit's foundational principles of anti-essentialism and antisubordination and engage LatCrit's methodological guidelines of particularity, intersectionality, and multidimensionality to lay out productive agendas for further inquiry.¹²¹ They bring to the table issues with which progressive scholarship must contend in order both to understand and to help transform prevailing social orders.

GLOBALITY, VIOLENCE, AND POLITICAL SUBJECTS

In a bold intervention that takes on both liberal and leftist theorists, Dr. Denise Silva makes a plea for a radical critique against the formulations of the political subject that remain imprisoned in the grammars of Eurocentric universality. She argues that for radical theory and praxis it is critical that globality replace historicity as the privileged context--a call to decenter time in favor of space.

Silva uses the 2005 election of Evo Morales as the president of Bolivia to interrogate the theoretical constructions of the modern political subject suspended between universality and cultural difference. She argues against a position about cultural difference shared by neoliberal and leftist approaches--the treatment of difference as a question of exclusion from the universal. She argues that difference is produced and sustained within configurations of universality.

To explain her vantage point, Silva trains her sight on the global juridical frames that emerged over the last generation--consolidation of unregulated capitalism, multicultural pluralist democracy, and accelerated state violence. The result is the rollback of workers' rights, redesigning of terms of [*18] eligibility for citizenship, and the production of the racial subaltern as criminal. This throws a new light upon the relationship between the subject and subjection. The critical lesson here is that the subject does not exist prior to being subjected, but is rather produced by it. The "other" embodying difference, therefore, should not be deemed as excluded from operations of power. Rather, the "other" is produced as an effect of these operations and remains integral to them. By highlighting the constitutive role of subjection in the production of the subject, Silva underscores the critical role of violence in this process.

In Bolivia, indigeneity of the majority of the population and the critical role of coca production and its use in indigenous communities helped bring to the fore the violence of neoliberal reordering. Indigeneity became a mark of removal from territory, appropriation of resources, and political subjugation; all three processes are marked by violence. It is only by the erasure of this back story that mythologies of liberal progression, Hegelian self-realizing of the transparent subject, and Cartesian self-determined entity could be produced and sustained. By keeping in sight the global unfolding of modern colonialism and its aftermath, Silva builds the case that the prototype of modernity's political subject, the modern European subject, far from being self-determined, is "an effect of [its] exteriority, something that derives its

particularity from the productive fissures between it and co-existing modern (indigenous or racial) others." ⁿ²² The point is that distributions of eligibilities among modern political subjects are constituted on the grounds furnished by the racialized colonial encounter and the condition of post-coloniality.

Conventional social contract theory, a foundational building block of the modern imaginary, relegates pervasive violence to the pre-contractual Hobbsian state of nature--a state superseded by the establishment of legal and political order. The privileging of globality, Silva argues, will help us see violence as not something that merely precedes the institution of political order but rather produces the order and remains integral to it. It [*19] also helps us place indigeneity center stage which, in turn, refers back to the centrality of territory in the very design of modern law and state. Silva helps us appreciate that inscription of the law over colonized bodies and spaces subscribed to an enduring grammar of modernity's engagement with alterity. Contrary to the teachings of conventional sociologies of difference when addressing questions of, for example, race, gender, and sexuality, this grammar is not one of exclusion from power. ⁿ²³ Rather, power's engagement with alterity forms a three-pronged matrix: engulfment, exception, and subordination. The "other" does not exist prior to the engagement with social and political order; it is not "discovered," left out, or left alone, excluded from operations of power. Rather, the "other" was and is produced by and through the engagement. It is engulfed in operations of modernity, located in zones of exception, and positioned in states of subordination. This subordination in/as exception concurrently produces the "other" and the identity of the modern self.

MEGACITIES, REPUBLICANISM, AND CITIZENSHIP

Jose Maria Monzon explores the role of megacities in the Global South and particularly their impact on republican governance. He argues that megacities act as microstates within states, have an inordinate influence over public policy, and enjoy cultural hegemony on account of their leading role in cultural production and education policy. He traces the emergence and consolidation of private property and attending legal norms that facilitated the unfolding of capitalism as a global system. Large cities in this context emerge as the locale of finance capital and industrial production. Different classes were to live in the same city but not in the same quarters. The very design of modern megacities came to reflect the social divides, primarily those of class and race. As mass consumption becomes the engine of capital accumulation, the citizen is reconstituted as a consumer. To channel the consumer towards desired consumption, suitable cultural education becomes a critical social function. For urban elites, given their [*20] hegemony over cultural production, consumerism becomes an opportunity to consolidate their dominance. Production of citizen-as-consumer engenders an incipient information economy, and megacities become pivotal to the production and circulation of information.

Monzon also brings into relief the fact that the conception of territorial sovereignty yields to operations of megacities, as the latter injects the global into the national on terms not subject to national regulation. Accelerated global-information flows that attend the unregulated global financial capital still need territorial grounds to operate. As a result, megacities are likely to retain their choke-hold over "national" economies, politics, and culture. Republican governance increasingly becomes a mirage, as control over life becomes the province of the masters of megacities. Monzon sees operations of megacities tangled with stratified citizenship and fragmentation of identity, with the result that formal citizenship does not translate into equal opportunity to exercise rights of citizenship.

Monzon helps us discern the constitutive impact of global political economy over specificities of social existence and choreographies of political orders, and necessitates a reexamination of the Westphalian order that aimed to coordinate states and territories, making each state the sole sovereign of its territory. ⁿ²⁴ The lesson for us is that we need to focus on the global order of "layered versions of sovereignty" ⁿ²⁵--differing levels of internal and external self-determination for different territories and peoples, differential sovereignties, and the attending sliding scale of legal eligibility and personality for territories and people.

LOCALISM, FAMILIARITY, AND RURAL POLITICS

Jacquelyn Bridgeman, Gracie Lawson-Borders, and Margaret Zamudio set out to explore how rural America filtered race, class, and gender in the 2008 U.S. presidential election. They focus on the Mountain West ⁿ²⁶ and assert that localism is the primary prism that refracts questions of race, gender, and class in rural settings. While localism accentuates the linkage [*21] between race and class, it largely negates influence of gender on political outcomes. The authors further assert that while sparsely populated rural areas are largely ignored in American national elections, Obama's fifty-state election strategy changed this dynamic.

They start from the premise that the racial history of the Mountain West is significantly different from that of rural areas in the South and the East. This is because these states joined the Union after the slavery issue had been settled,

they remain predominantly white, and non-whites in these states are primarily Native American and Hispanic American. The authors examine the role race appears to have played in the rural Mountain West to extrapolate why there appeared to be minimal "Bradley effect" in the 2008 presidential election. They point out that while these states are predominantly Republican, they have often elected Democrats to statewide offices. Knowing someone personally appears to be the decisive factor in electoral choices. Race, in this context, operates under the guise of familiarity.

Turning to the question of class, the authors note that the self-understanding of the rural working class in the U.S. is captured in the discourse of frontier, individualism, self-reliance, anti-liberalism, and anti-intellectualism, and narrow readings of Christian values. In this context, the self-portrayal of Sarah Palin as a moose-hunting frontier woman helped rural Mountain West communities bond with her. Here the authors see race doing its work under the guise of class. They remind us that historically in the U.S., white working-class identity was forged in counter-distinction with the blackness of slaves. They argue that as a result of the historic trade of "whiteness in exchange for class solidarity,"ⁿ²⁷ race became the dividing force amongst the working class and resulted in the failure to build a national social welfare policy comparable to that of Western Europe. The authors argue that this "false consciousness" of the American working class, particularly in rural areas, precludes support of social and economic welfare agendas and immigration reform.

[*22] Turning to gender, the authors claim that this factor, too, is primarily refracted by the prism of localism in rural settings. They draw this conclusion partly from anecdotal evidence from the caucus process during the primary elections. The authors conclude that generalizations about rural areas are hazardous. They characterize their arguments and observations about localism as a hypothesis and hope that this will spark a dialogue about issues and regions often ignored.

CONCLUSION

Over the course of its evolution, the LatCrit movement has prompted scholarship that has ventured into areas not often accommodated by mainstream legal scholarship. The LatCrit movement has been mindful that theory "is exactly like a box of tools" that we can use "to move 'obstacles' or 'blockages' and to lever open discursive space for political/intellectual work."ⁿ²⁸ The three papers in this cluster live up to this agenda. They engage with issues of space, identity, and the formation of the political subject in diverse special settings. Dealing, in turn, with the global, national, and local scales, they alert us to operations of power that often escape analyses that focus on formal legal structures. The authors underscore particularities of different spatial settings and the myriad of ways race does its work in any polity. One can be confident that many trajectories of further inquiry suggested by these interventions will be taken up by others.

Legal Topics:

For related research and practice materials, see the following legal topics:
 GovernmentsFederal GovernmentElectionsInternational LawAuthority to RegulateGeneral Overview

FOOTNOTES:

n1 Professor of Law, and Director, Center for Global Justice, Seattle Univ. School of Law.

n2 ADRIENNE RICH, BLOOD, BREAD, & POETRY: SELECTED PROSE 1979-1985 212 (1986).

n3 MICHEL FOUCAULT, POWER/KNOWLEDGE: SELECTED INTERVIEWS AND OTHER WRITINGS 1972-1977 70 (Colin Gordon ed., 1980).

n4 *See generally* GEORG WILHELM FRIEDRICH HEGEL, *THE PHILOSOPHY OF HISTORY* (J. Sibree trans., 1956) (The canonical exposition of this master narrative). For a critique, see ROBERT YOUNG, *WHITE MYTHOLOGIES: WRITING HISTORY AND THE WEST* (1990).

n5 Fitzpatrick describes the process evocatively:

Enlightenment creates the very monsters against which it so assiduously sets itself. These monsters of race and nature mark the outer limits, the intractable "other" against which Enlightenment pits the vacuity of the universal and in this opposition gives its own project a palatable content. Enlightenment being is what the other is not. Modern law is created in this disjunction.

PETER FITZPATRICK, *THE MYTHOLOGY OF MODERN LAW* 45 (1993).

n6 The term "Europe" is used here not to designate a particular geographical space or a particular people, but rather as the designated universal subject of history. In this tenor, Europe includes European settler societies around the world. While the term evokes a singularity, we must remain alert to diversities within it, remaining mindful of "its peculiar historicity, the mobile powers that have constructed its structures, projects, and desires." TALAL ASAD, *GENEALOGIES OF RELIGION: DISCIPLINE AND REASONS OF POWER IN CHRISTIANITY AND ISLAM* 23-4 (1993).

n7 *See* JOHANNES FABIAN, *TIME AND THE OTHER: HOW ANTHROPOLOGY MAKES ITS OBJECT* (1983); ERIC R. WOLF, *EUROPE AND THE PEOPLE WITHOUT HISTORY* (Univ. of California Press 1982).

n8 DIPESH CHAKRABARTY, *PROVINCIALIZING EUROPE: POSTCOLONIAL THOUGHT AND HISTORICAL DIFFERENCE* 8 (Princeton Univ. Press 2000).

n9 *See* UDAY SINGH MEHTA, *LIBERALISM AND EMPIRE: A STUDY IN NINETEENTH-CENTURY BRITISH LIBERAL THOUGHT* (1999); Tayyab Mahmud, *Colonialism and Modern Constructions of Race: A Preliminary Inquiry*, 53 U. MIAMI L. REV. 1219 (1999).

n10 *See* FITZPATRICK, *supra* note 5; PETER FITZPATRICK, *MODERNISM AND THE GROUNDS OF LAW* (2001).

n11 *See* HENRI LEFEBVRE, *THE PRODUCTION OF SPACE* (Donald Nicholson-Smith trans., 1991); EDWARD W. SOJA, *POST-MODERN GEOGRAPHIES: THE REASSERTION OF SPACE IN CRITICAL SOCIAL THEORY* (1989); DEREK GREGORY, *GEOGRAPHICAL IMAGINATIONS* (1994).

n12 *See* NICHOLAS K. BLOMLEY, *LAW, SPACE, AND THE GEOGRAPHIES OF POWER* (Michael Dear et al. eds., 1994); *THE LEGAL GEOGRAPHIES READER* (Nicholas Blomley, David Delaney & Richard T. Ford eds., 2001).

n13 See Cornelia Vismann, *Starting From Scratch: Concepts of Order in No Man's Land*, in WAR, VIOLENCE AND THE MODERN CONDITION 46 (Bernd Huppau ed., 1997).

n14 GIOVANNI ARRIGHI, THE LONG TWENTIETH CENTURY: MONEY, POWER, AND THE ORIGINS OF OUR TIMES 54 (1994).

n15 See generally GEOGRAPHY AND ENLIGHTENMENT (David N. Livingstone & Charles W. J. Withers eds., 1999); D.R. STODART, ON GEOGRAPHY AND ITS HISTORY (1986).

n16 See JOHN PICKLES, A HISTORY OF SPACES: CARTOGRAPHIC REASON, MAPPING AND THE GEO-CODED WORLD (2004).

n17 See GEOMODERNISMS: RACE, MODERNISM, MODERNITY (Laura Doyle & Laura Winkiel eds., 2005).

n18 DAVID N. LIVINGSTONE, THE GEOGRAPHICAL TRADITION: EPISODES IN THE HISTORY OF A CONTESTED ENTERPRISE 168 (1992).

n19 Denise Ferreira da Silva, *Toward a Critique of the Socio-Logos of Justice: The Analytics of Raciality and the Production of Universality*, 7 SOC. IDENTITIES 421, 422 (2001).

n20 See FELIX DRIVER, GEOGRAPHY MILITANT: CULTURES OF EXPLORATION AND EMPIRE (2001); GEOGRAPHY AND EMPIRE (Anne Godlewska & Neil Smith eds., 1994); Neil Smith, *Geography, Empire and Social Theory*, 18 PROGRESS IN HUMAN GEOGRAPHY 550 (1994).

n21 For foundational principles and methodological frames of LatCrit, see generally Margaret Montoya, *Foreword--LatCrit at Ten Years*, 26 CHICANO-LATINO L. REV. 1 (2006); Elizabeth M. Iglesias & Francisco Valdes, *LatCrit at Five: Institutionalizing a Postsubordination Future*, 78 DEN. U. L. REV. 1249 (2001); Francisco Valdes, *Foreword--Poised at the Cusp: LatCrit Theory, Outsider Jurisprudence and Latina/o Self-Empowerment*, 2 HARV. LATINO L. REV. 1 (1997); Francisco Valdes, *Foreword--Under Construction: LatCrit Consciousness, Community, and Theory*, 85 CAL L. REV. 1087 (1997); Francisco Valdes, *Latina/o Ethnicities, Critical Race Theory, and Post-Identity Politics in Postmodern Legal Culture: From Practices to Possibilities*, 9 LA RAZA L.J. 1 (1996).

n22 Dr. Denise Ferreira da Silva, *An Outline of a Global Political Subject: Reading Evo Morales's Election as a (Post-) Colonial Event*, 8 SEATTLE J. SOC. JUST. 25, 42 (2009).

n23 See generally DENISE FERREIRA DA SILVA, TOWARD A GLOBAL IDEA OF RACE (2007) (an extended critique of the "exclusion" thesis in modern construction of race).

n24 See HENDRIK SPRUYT, THE SOVEREIGN STATE AND ITS COMPETITORS (1994); SIBA N'ZATIOULA GROVOGUI, SOVEREIGNS, QUASI SOVEREIGNS, AND AFRICANS: RACE AND SELF-DETERMINATION IN INTERNATIONAL LAW (1996).

n25 Frederick Cooper, *Alternatives to Empire: France and Africa after World War II*, in THE STATE OF SOVEREIGNTY: TERRITORIES, LAWS, POPULATIONS 94 (Douglas Howland & Luise White eds., 2009).

n26 The Mountain West includes Colorado, Wyoming, Montana, Utah, Idaho, and New Mexico.

n27 Jacquelyn Bridgeman et al., *Representative Democracy in Rural America: Race, Gender, and Class through a Localism Lens*, 8 SEATTLE J. SOC. JUST. 81, 94 (2009).

n28 Gilles Deleuze, *Intellectuals and Power: A Conversation between Michel Foucault and Gilles Deleuze*, in MICHEL FOUCAULT, LANGUAGE, COUNTER-MEMORY, PRACTICE: SELECTED ESSAYS AND INTERVIEWS 205, 206 (Donald F. Bouchard ed., Donald F. Bouchard & Sherry Simon trans., 1977), quoted in DAVID SCOTT, REFASHIONING FUTURES: CRITICISM AFTER POST-COLONIALITY 96 (Sherry B. Ortner et al. eds., 1999).