

U.C.L.A. Law Review

An Un-American Story of the American Empire: Small Places, From the Mississippi to the Indian Ocean

Vasuki Nesiah

ABSTRACT

This intervention gestures to histories of American empire from a perspective born outside America's shores—in other words and other worlds, an un-American story of American empire. Seen from elsewhere, American empire appears both intimate and distant, at once singular and multiple, a vast terrain and a small place. For instance, how can we supplement a story of race and racial capitalism that includes the received parameters of the American story of race, but is not bracketed within them. Among other things, it may entail continued work drawing the shape of our blinders by developing a genealogy of the categories of race and colonialism in ways that speak to their dynamic and unstable histories. Even in our own work as Third World Approaches to International Law (TWAIL) and Critical Race Theory (CRT) scholars, the categories of race and colonialism can be rendered rigid and reified. Understood in binaries of the West and the rest, or of whiteness and the other, these can present as stable, dichotomized, transhistorical categories recognizable across place and time. To rethink possible futures from the margins would require not only challenging Eurocentricism, but also revisiting, decentering, and reinventing established approaches to challenging Eurocentricism themselves.

AUTHOR

Vasuki Nesiah is Professor of Human Rights and International Law at The Gallatin School, NYU. She has published on the history and politics of human rights, humanitarianism, international criminal law, global feminisms, and decolonization. Her current project, *Reading the Ruins: Slavery, Colonialism and International Law*, focuses on international legal history, including reparations claims. Recent publications include the coedited *Bandung, Global History, and International Law*. Forthcoming publications include *International Conflict Feminism* with University of Pennsylvania Press. She is a co-founder of Third World Approaches to International Law (TWAIL).

This discussion is based on my in-person address as the designated respondent to the keynote address by Professor Aziz Rana at the *UCLA Law Review's* 2020 Symposium *Transnational Legal Discourse on Race and Empire*. I have developed and edited the transcript of my address for publication with the kind support of *UCLA Law Review's* editors; it has benefited especially from the careful attention of Senior Editor Nicole Hansen. My thanks also to Professor Rana for a riveting and



insightful talk, and to Professors Aslı Bâli and Tendayi Achiume for their inspired convening of a Critical Race Theory (CRT)–Third World Approaches to International Law (TWAIL) conversation.

“[S]igns in the heavens, signs that walk the earth!
Blind as you are, you can feel all the more
what sickness haunts our city.”
—Oedipus to Tiresias, The Blind Seer of Thebes¹

Dominium mundi, the medieval concept of supreme imperial authority, was constituted through internal contestation between political and clerical authority, and fought over in Roman law and Canon law. The two contenders for *dominium mundi* were, at once, braided together and in tension with each other. There is a parallel here with the story that Aziz Rana tells of American empire and the tension between twin claims that are also braided in mutually reinforcing myth and muscle—namely, claims to empire on the basis of liberal humanitarianism, democracy, and human rights on the one hand, and claims to empire on the basis of military expansion, economic dominance, and the so called war on terror on the other. As competitive co-travelers, these twinned sources of authority have been at the heart of American imperial might at home and abroad. In Rana’s account, the contemporary moment’s unraveling of American empire is partly a story about how these contradictions came to a head—of how the authoritarianism of imperial hard power made the mythologies of soft power difficult to sustain. This is true for both dimensions of American empire that he identifies—namely, the settler colonial magic thinking about the promise of liberal constitutionalism as well as the country’s aspirations for global primacy. Rana’s account does much to illuminate and clarify the scope of the American empire in this historical moment, while also offering a sharp and cogent articulation of the stakes of Critical Race Theory (CRT) and Third World Approaches to International Law (TWAIL) in understanding and navigating present conditions. His work offers compelling examples of the potential of thinking within both of these traditions to analyze the American imperial project and liberal humanitarianism’s loss of legitimacy, as well the opportunities that are opened by these developments.

Against that backdrop, and building on Rana’s masterful analysis of American empire and the opportunities that inhere in its unraveling, this Article functions as a supplement—a supplement from the South if you will. It gestures to histories of American empire from a perspective born outside America’s shores—in other words and other worlds, an un-American story of American empire.

There is an old South Asian parable of blind men touching and feeling out different parts of the elephant to read the animal. They tell one another stories

1. SOPHOCLES, *Oedipus the King*, in THE THREE THEBAN PLAYS: ANTIGONE, OEDIPUS THE KING, OEDIPUS AT COLONUS 155, 176 (Robert Fagles trans. Penguin Classics 1984) (1982).

about the nature of the behemoth on the basis of the distinctive small place² that each touches and feels; thus each seems to describe a different creature. Their stories extrapolate from their experience of the elephant, not realizing it is such a vast and multifaceted beast. In fact, the core of all their stories may have been correct, if partial and incomplete; moreover, what is most compelling about their stories is what it each story conveys about the particular shape of each of their blindness. This parable captures some of the ways in which we can tell the story of American empire. What Professor Rana's analysis gives us is the vision of American empire that emerges when we are touching the rise and consolidation of its formidable power and, concomitantly, its decline. He highlights and frames the larger political-economic structures of world and national order as well as their enabling mythologies. Thus he describes relentless imperial ambitions, the horrors they have wrought, and the struggles they have catalyzed. Equally, and simultaneously, we could supplement Rana's story from the perspective of the numerous small places that constitute empire, highlighting the instabilities and multiplicities that characterize empire and imperial magical thinking in terms of how it presents here, how it is contested there, how the discourses of empire are vernacularized in this place, and how they generate yet another accent in another place. Not just unidirectional from center to periphery, American empire is also constituted and destabilized through the complex, ambiguous, and ever shifting dialectic of historical circumstances and political projects through which the subjects of empire engage the world, and, in that process, shape it. For instance, if I pause with one element of this multiplicity, it would be to tell the history of the United States in the Philippines not only as a story about the projection of American imperial interests, but also as a story that can be understood only in relation to the history of the Philippines's domestic dynamics. This may include a story about local elite interests and their continuities and discontinuities with global capital; this may include a story about the history and role of the Catholic Church in the Philippines, and its complicated marriage with social movements and secular institutions; this may include a story about the spread of communism, Islam, and the grievances of the rural poor; and indeed, this will include many other stories not touched on here. These stories speak not just to those aspects of the Philippines that become visible through the lens of American power, but also to those that had their origins in complex local conditions, the specifics of local

2. I use the phrase "Small Place" as a nod to Jamaica Kincaid's book, *A SMALL PLACE* (1988); "small places" is a satire about and against imperial ambition, and its parochial world view alongside the expansive scope of its predatory impact.

histories, and their own plural trajectories, including those that may have been shaped by, acquiesced to, negotiated with, or resisted American power.

One branch of those struggles in the Philippines snaked through the American court system in a tort action by Filipino human rights victims against the Marcos family and his assets in the United States and elsewhere on the basis of the 1789 Alien Tort Claims Act.³ The action came to its juridical denouement in a California courtroom in December 1996 where the court ordered a \$1.9 billion verdict against the Marcos estate for the Filipino human rights victims who brought the case to court. The ruling was declared “ground breaking” and an important precedent for cases that were pending at the time against other human rights abusers, including the Bosnian Serb leader, Radovan Karadžić. Professor Diane Orentlicher described the finding that Marcos can be held accountable for “command responsibility” to be “a real landmark, a watershed in international justice” that “resolves doubts about whether a political leader [from another country] has responsibility and can be held accountable in a U.S. court for the acts of his subordinates who he had a duty to control.”⁴

And this is just one instance of many through which struggles in other countries came to influence American law, and set a precedent for complex tort actions on human rights grounds in American courts. This is a story of empire as a small place itself, for instance, in this instance it is constituted through movement back and forth from Manila to California, the Philippines to America, metropole to periphery, and back again.

The parable of the blind men and the elephant is often cited to support the claim that each blind man is missing something, that each one’s vision is distorted by the fact that they can only encounter, touch, and feel a small place rather than the whole. Yet seeing what appears (from the seat of empire) to be the whole elephant may also entail a different kind of blindness—“seeing like an empire” may be akin to what is invoked by James Scott in *Seeing like a State*.⁵ To approach the

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3. Ferdinand Marcos was the President of the Philippines for 20 years, from 1965 to 1986. One of the most corrupt heads of state in the world, he held onto power through support from the US abroad, and dictatorial abuses at home. See Ruben Carranza on lessons that can be learnt from the cases aimed at recovering Marcos money for victims of human rights and corruption, as well as other cases from elsewhere in the global south. Ruben Carranza, *Transitional Justice, Corporate Responsibility and Learning From the Global South*, MANIFESTO (Apr. 28, 2015) <http://jamesgstewart.com/author/ruben-carranza/> [https://perma.cc/MB3Z-TD5D].
 4. Henry Weinstein, *U.S. Court Upholds Damages Against Marcos*, L.A. TIMES (Dec. 18, 1996, 12:00 AM) <https://www.latimes.com/archives/la-xpm-1996-12-18-mn-10301-story.html> [https://perma.cc/7HTK-GNXX] (quoting Diane F. Orentlicher).
 5. JAMES C. SCOTT, *SEEING LIKE A STATE: HOW CERTAIN SCHEMES TO IMPROVE THE HUMAN CONDITION HAVE FAILED* (1998).

world as if we were seeing like an empire allows us to see the projection of American ideological, military, and economic hegemony, but it might also entail a certain blindness to a story where America is not the principal protagonist or where power and influence is primarily unidirectional. In that sense this intervention would like to rewrite the lesson of the elephant parable as not a repudiation of blindness, but a lesson about recognizing and thinking with the shape of our different blinders. For instance, seeing the world like the blind men who are touching the small places of empire may shift our perspective away from the register of world history, but it might also sharpen our lenses in seeing what is revealed by legal and political struggles elsewhere. Namely, it retells the story of empire as a story of multiple plots in small places; this is an unraveling, if you will, of empire as a universal and universalizing proposition. For instance, the story of antiterror laws, laws targeting minority populations, and the criminalizing of dissent in Myanmar, Egypt, and Turkey is a story about American empire, but it is also about nationalist militarisms, religious pluralisms, the intersection of interethnic injustices and authoritarian rule, and more. The story of privatization of water and struggles over the corporatization of public utilities in Nigeria, Bolivia, and South Africa is a story about American empire, but it is also about the diverse infrastructures of public utilities and how they engage with people's relationship to land and the environment, the work of racial hierarchies and representations as they have shaped the reach of indigenous knowledge systems, the legal architectures of corporate authority, structural adjustment austerity policies, and more. The story of personal debt and changes in financial regulation in Sri Lanka, Lebanon, and Nicaragua is a story about American empire, but it is also about economies emerging from the shadow of war, the way domestic class relations have articulated in law reform and the deregulation and restructuring of the developmental state, the marriage of political and economic elites, and more. The story of laws advancing a carceral feminist vision in Colombia, India, and Rwanda is a story about American empire, but it is also about very different struggles regarding gender relations, the relationship between law and social movements, transnational feminist solidarities and tensions, the historic role of the courts in political battles about gendered injustices, and more. The different geographies of domestic law in contexts that range from the Philippines to Nigeria, Sri Lanka to Lebanon, Egypt to Colombia, are not incidental, but central to how empire travels, how it is challenged and reproduced through mimicry and mimesis.⁶ In that sense, this "supplement" can be seen as a supplementary research

6. See HOMI K. BHABHA, *THE LOCATION OF CULTURE* 121–31 (2012).

agenda but the stories it tells are not supplementary to American empire but fundamentally imbricated with it.

These thick histories, simultaneously local and transnational, complicate the story we tell about American empire not to make it more complete, but to do a different kind of conceptual unravelling of empire as also a small place, not empire as overdetermining structure but as a heuristic, or even a question. These plural, multivocal constructions and contestations of empire from the margins of a universalist history represent empire through blinders that are shaped by contingency and instability, rather than blinders that are shaped by aspirations for a universal history.

The shape of our different blinders in telling the story of America in the singular voice of universal history and in the voice of plural global histories has stakes not only for our past, but also for our future. By seeing like an empire, we can take heart in the futures opened up by the decline of the American empire's constitutive mythologies—from constitutionalism to global primacy. As we look down from the vantage point of empire, the ground below us seems to give way; we are unmoored. For those who once subscribed to the possibilities of cosmopolitan humanism, this is the moment after faith. How do things look, however, for those who had no faith to begin with? Many who participated in the world of American empire and international law did not participate because they believed in the promise of liberalism, but because they realized, to paraphrase Marx, that even if you want change you do not necessarily make change in conditions of your own choosing. As Siba Grovogui reminds us, people elsewhere have always had visions of worlding and world order; even when we are in the shadow of empire,⁷ we work our way to the light filtering in between those shadows, to see and work with knowledge systems and meanings that can illuminate and inflect alternative futures. If we do not do that, if we stay with the weight of colonial and racial oppression, we unwittingly risk reproducing what has been referred to as epistemicide, the destruction of alternative knowledges and meanings. Indeed, if we do not claim that liminal space between dominance and

7. B. Creutzfeldt, *Theory Talk #57: Siba Grovogui on IR as Theology as Theology, Reading Kant Badly, and the Incapacity of Western Ideas to Travel Very Far in Non-Western Contexts*, THEORY TALKS (2013) https://www.files.ethz.ch/isn/168715/Theory%20Talk57_Grovogui.pdf [<https://perma.cc/5F4J-R56Y>]. Grovogui describes how his book, *BEYOND EUROCENTRISM AND ANARCHY* (2006), was responding to a long-held claim in African Studies about African participation in World War II—namely, that “Africans went to defend France, *because France asked them to*.” *Id.* at 7. Grovogui says he is responding to how this notion has become the common sense explanation for African participation in the war, because nobody could imagine that “Africans . . . understood that they had a stake in the ‘world’ under assault during World War II They didn’t do it for France, because it’s a colonial power, they did it for the world.” *Id.* at 7.

hegemony, we may inadvertently contribute to rendering the “freedom dreams” of the oppressed unthinkable.⁸ From the perspective of anti-imperial struggles, the future of the world after the decline of American empire may not be only about the ashes of liberal humanitarianism—although it is that too of course—but also the ashes of received notions of the nation state, modernity, and development that came to define and often cabin postcolonial futures. To rethink possible futures from the margins would require not only challenging Eurocentricism, but also revisiting, decentering, and reinventing established approaches to challenging Eurocentricism themselves.⁹

The task here is what Wayne Yang has described as “theoriz[ing] in the break”—theorizing from a place that is not legible to the blinders of universal history.¹⁰ Let me explain what I mean by this thinking with the protests we see today in the streets of Delhi and Hong Kong, Lebanon and Chile, Iraq and Paris. These protests sometimes (in Iraq for instance) explicitly reference American empire, but they are also about a range of other structural crises and political promises, local, regional, and global. They are also about the nested temporalities of these crises—the immediacy of current government policies in these contexts, the longer time frame of the world order that was the legacy of the last century, the even longer time frame of world orders that are the legacies of slavery and colonialism, and the even larger epochal temporalities of the Anthropocene and the ravages of climate change. To some extent, the alternative knowledges that are activated in the margins of empire emerge from the shadows not because of optimism, but because of despair. Indeed, some of these struggles have emerged precisely in the interstices of the loss of faith—not just in a collective future, but in the future as such. From the perspective of those seeing from the margins, if there is no promised future to lose then we might as well die with dignity rather than be conscripted into our annihilation in slow violence. Disillusionment with the world’s nonresponse when the Uyghurs faced state repression was reported to be pivotal in driving protesters to the streets of Hong Kong; they had no faith in a world manifesting such indifference, so they turned to their own resources to take

8. ROBIN D. G. KELLEY, *FREEDOM DREAMS: THE BLACK RADICAL IMAGINATION* (2002). In speaking to the notion of ‘unthinkability’ I draw from Michel-Rolph Trouillot’s discussion of the ways in which the Haitian revolution was ‘unthinkable’ in imperial Europe in *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 1995).

9. Michael Fakhri made a point in similar vein in his remarks as a Commentator on the first panel of this symposium, titled *Transnational Perspectives on Race and Empire at the Intersection of Third World Approaches to International Law and Critical Race Theory*.

10. As with this book, Wayne Yang occasionally writes as La Paperson. *LA PAPERSON, A THIRD UNIVERSITY IS POSSIBLE* 19 (2017).

on a fight against heavy odds.¹¹ Protestors in Cairo at the end of 2019 were no longer brought out by the heady optimism of Tahir square in 2011; rather, they protested out of a sense that there is a war against them even if they do not come to the streets—if there is no safe space why not at least fight for the dignity of choosing risk?

What does theorizing in the break entail then from the perspective of the blind men in the small place of empire? Among other things, it may entail continued work drawing the shape of our blinders by developing a genealogy of the categories of race and colonialism in ways that speak to their dynamic and unstable histories. Even in our own work as TWAIL and CRT scholars, the categories of race and colonialism can be rendered rigid and reified. Understood in binaries of the West and the rest, or of whiteness and the other, these can present as stable, dichotomized, transhistorical categories recognizable across place and time. Here, even as we, as legal scholars, explore the synergies of CRT and TWAIL, I think we can also learn from the complementary intellectual traditions of racial capitalism, world systems theory, and subaltern studies in developing a more fluid, historical, and systemic understanding of race and colonization—traditions that have a larger presence in disciplines other than law. For instance, as Paul Gilroy has reminded us, “Racism does not, of course, move tidily and unchanged through time and history. It assumes new forms and articulates new antagonisms in different situations.”¹² Cedric Robinson tells us that even before so-called “modern” histories of colonization and slavery, there was racialization within Europe.¹³ Moreover, that this was a colonial process not unlike that which we associate with European colonization of the Global South—military conquest, land appropriation, exploitation, and more.¹⁴ Indeed, as discussion in this Symposium has already touched upon, whiteness travels in the Global South in ways that cannot be reduced to bodies and systems that are seen as inheritors of Euro-American empire—for instance, a philosophy and practice of governance that rhymes with white supremacy is present in the Narendra Modi government in India and in the Netanyahu government in Israel and Palestine.¹⁵

11. See, e.g., Zeynep Tufekci, *The Hong Kong Protesters Aren't Driven by Hope*, ATLANTIC (Nov. 12, 2019), <https://www.theatlantic.com/international/archive/2019/11/escalating-violence-hong-kong-protests/601804> [https://perma.cc/ED34-5RUV].

12. PAUL GILROY, *THERE AIN'T NO BLACK IN THE UNION JACK: THE CULTURAL POLITICS OF RACE AND NATION* 11 (University of Chicago Press 1991) (1987).

13. CEDRIC J. ROBINSON, *BLACK MARXISM: THE MAKING OF THE BLACK RADICAL TRADITION* (The University of North Carolina Press 2000) (1983).

14. *Id.*

15. I am thinking of comments by Sherene Razack from the floor during the second panel of this symposium titled Emergencies and Crisis.

I want to close by staying with the question of white supremacy. As Rana so compellingly illuminates, CRT and TWAIL can be generative in developing our analysis of the race politics of empire, as well as its unraveling. In the current historical context, when white supremacy is in a moment of prominent revival, but also in a moment of deep crisis, how can we speak to these realities from the perspective of the small places of empire? Seen from elsewhere, American empire appears both intimate and distant, at once singular and multiple, a vast terrain and a small place. For instance, how can we supplement a story of race and racial capitalism that includes the received parameters of the American story of race but is not bracketed within them. In Bandung, in April 1955, President Sukarno's opening address refers to the Bandung Conference as "the first intercontinental conference of coloured peoples in the history of mankind!"—in terms of the nations represented, and in terms of both formal and informal representatives present.¹⁶ To me what captures the conjuncture and challenge here is what we see and do not see of Paul Robeson at the Bandung Conference. African Americans such as Richard Wright attended the conference, but Paul Robeson never made it.¹⁷ The U.S. State Department impounded Paul Robeson's passport because he was under investigation by the House Committee on Un-American Activities for links with Bolshevism and the Russians.¹⁸ For us in our small place, however, what is most relevant is not Moscow and the Cold War, but that Robeson anchors his un-Americanness in Bandung and his solidarity with those challenging the war on the Third World. Robeson sent a recording to the Bandung Conference where he sings "Ol' Man River" to the conference delegates.¹⁹ This is both a displacement of American empire and a challenge to it, making meanings and connections that scramble empire's geographies in ways that are barely audible, but still . . .

That recording, singing through the static to be heard "in the break"; that wired absent presence of Paul Robeson in Bandung, at once barely audible and yet with loud resonance beyond the halls of Bandung in mapping those alternative

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16. President Sukarno of Indonesia, Opening Address at the Asian-African Bandung Conference of 1955 (Apr. 18, 1955) https://www.cvce.eu/content/publication/2001/9/5/88d3f71c-c9f9-415a-b397-b27b8581a4f5/publishable_en.pdf [<https://perma.cc/LU5Z-J8K5>].
 17. RICHARD WRIGHT, *THE COLOR CURTAIN: A REPORT ON THE BANDUNG CONFERENCE* (John Hawkins & Associates, Inc. 1994) (1956).
 18. Carolien Stolte, *Grounded. On Not Travelling in the Bandung Era*, MEDIUM (Mar. 26, 2019), <https://medium.com/afro-asian-visions/grounded-on-not-travelling-in-the-bandung-era-83b3031ed809> [<https://perma.cc/FFK7-2MYZ>].
 19. TODD DECKER, *WHO SHOULD SING OL' MAN RIVER?: THE LIVES OF AN AMERICAN SONG* 45 (2015).

geographies, bringing to life “the intimacy of four continents” in that small place.²⁰ Paul Robeson singing “Ol’ Man River” through the static speaks to this conjuncture of CRT and TWAIL in the junctures and routes through which the Mississippi River flows into the Indian Ocean.

And maybe that alternative provocative geography is the supplement to Rana’s tour de force framing of the possibilities of transnational solidarity that are emerging from the rise and fall of American empire as we sit on the eve of the alternative futures of the world after American empire, a moment that is also the eve of the alternative future of CRT and TWAIL.

20. I take the phrase and its meaning from Lisa Lowe’s book, *THE INTIMACIES OF FOUR CONTINENTS* 1 (2015).