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# Reflections on the Sixth Annual Grotius Lecture by Anna Chua

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# REFLECTIONS ON THE SIXTH ANNUAL GROTIUS LECTURE* BY AMY CHUA

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## I. FIRE AND ICE

Despite all the hype about globalization, especially the celebration of time-space compression, my visa-hungry Indian passport, duly impressed with an imprimatur to visit the "Land of Liberty," did not travel expeditiously from London to Lamington Spa! This explains, without justifying, my absence on this important occasion. It also underscores that there is nothing distinctively, even remotely, post-Westphalian about immigration bureaucracies. It is a matter of some consolation that the cyber world borders are comparatively less constrained in ways that make possible this presentation *in absentia.*

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* Editor's Note: the following is a revised version of a response to the Grotius Lecture presented at the American Society of International Law's ("ASIL") 98th Annual Meeting March 31-April 3, 2004. The Grotius Lecture Series is co-sponsored by the American University Washington College of Law, ASIL, and the International Legal Studies Program. The purpose of the Grotius Lecture Series is to open the ASIL forum to distinguished scholars for the purpose of discussing new and important topics in international law that might not otherwise be heard. It also provides a forum for participants to create an expanded space, giving them opportunities to explore the intellectual underpinnings of timely issues of international law.

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I would like to thank the American Society of International Law for inviting me as a distinguished speaker to the annual Grotius Lecture. Today's Grotius Lecture by Professor Amy Chua marks an important occasion. Hugo Grotius shaped a new order of international law amidst the unfolding of the first phase of modern capitalist globalization.[1] His germinal contributions, despite the originary vicissitude of the beginnings of a new global imperialism, now constitute a common heritage of humankind.[2] Professor Chua addresses us amidst yet another era of globalization as fiercely predatory as the first. Hugo Grotius remained concerned with globalizing free markets in the context of a Westphalian international order. Amy Chua remains engaged with the problematic relation between free markets and democracy in a post-Westphalian reordering of politics, power, and law. Grotius remained preoccupied with the relatively monological, Eurocentric production of public international law. Chua's corpus, however, marks a desperately multicultural production of international developmental law. Both address a universe of policymakers who are relevant to the making and remaking of international law.

All analogies are relevant only to a degree. Hugo Grotius, all said and done, was a millenarian thinker who envisaged progressive futures for international law. Amy Chua paints her landscape in terms of an apocalypse, as suggested by the very title of her recent work: *World on Fire*.[3] Her choice of title, incidentally, reminds me

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1. *See* Christopher A. Ford, Preaching Property to Princes: Grotius, Lipsius, and Neo-Stoic International Law, 28 CASE W. RES. J. INT'L L. 313, 313-14 (1996) (explaining that although Hugo Grotius may not have been the father of international law, his work remains tremendously important, and that he continues to be considered one of history's preeminent international law scholars).

2. *See* HUGO GROTIUS AND INTERNATIONAL RELATIONS 65-93 (Hedley Bull, et al. eds., 1990) (noting that while various scholars have criticized his work, it is germinal to modern thinking about international relations).

3. *See* AMY CHUA, WORLD ON FIRE: HOW EXPORTING FREE MARKET DEMOCRACY BREEDS ETHNIC HATRED AND GLOBAL INSTABILITY 123-125 (2003) [hereinafter WORLD ON FIRE] (addressing the impact and political consequences of globalization). *See generally* Amy L. Chua, *The Paradox of Free Market Democracy: Rethinking Development Policy,* 41 HARV. INT'L L. J. 287 (2000) (expounding upon her view of the conflict between democracy and free-market capitalism); *see generally* Amy L. Chua, *Markets, Democracy, and Ethnicity: Toward a New Paradigm for Law and Development*, 108 YALE L. J. 1 (1998)

of the poet Robert Frost, who spoke about destruction of humanity, first by fire and then by ice. He wrote memorably:

> Some say the world will end in fire,
> Some say in ice.
> From what I've tasted of desire,
> I hold with those who favor fire.
> But if it had to perish twice,
> I think I know enough of hate
>
> To say that for destruction ice
> Is also great
> And would suffice.[4]

*World on Fire* is a kind of never-ending story detailing the ways in which contemporary globalization ignites violent conflagration through a volatile mix of export versions of free market democracy. The dread of conflagration pervasively haunts the author, and now concerns her million readers worldwide. The fire of ethnic hatred jeopardizes human development, and even imperils global stability.

Amy Chua takes us on a safari of intense human suffering, but importantly, not suffering as a *spectacle*. The stories of murder and mayhem, singly and cumulatively, make a powerful plea for a new type of the Grotian *temperamenta belli*—one that minimizes the unnecessary infliction of human suffering as a sovereign duty under the auspices of a new international law. Overall, the mood, method, and message exemplifying Amy Chua's angst resonates with the same theme of my own work, positing that taking human rights seriously entails taking human suffering seriously.

## II. THE DREAD OF CONFLAGRATION: AN ASIDE ON SYMBOLISM

The "world on fire" is perhaps an apt metaphor. But "fire" is a floating signifier, even an empty one, because many fires conflagrate the world. Amy Chua wishes us, however, to privilege the fire of

(discussing the impact of the imposition of Western democracy and free-market capitalism on the developing world).

4. ROBERT FROST, FIRE AND ICE 17 (1923).

"ethnic envy and hatred among frustrated, impoverished majorities"[5] worldwide that, through the production of "powerful ethnonationalist, anti-market pressures,"[6] results in destruction, "confiscation, instability, autocracy, and mass slaughter."[7] At times, fire is signified by the imagery of domestic appliances, as the world begins to resemble a gigantic "ethnically charged political pressure cooker."[8] Chua also invokes the engineering metaphor, referring to her subject as "the engine of ethnic conflagration;"[9] another dominant metaphor is simply "wages of globalization."[10] I will not pursue these chains of equivalence in the regime of the metaphor, save to say that the dread of conflagration is writ large on Amy Chua's text and corpus. Chua's symbolization is at one with the narrative of barbaric revenge that Umberto Eco so imaginatively relocates for medieval European his recent novel *Baudolino*.[11]

In different symbolizations, across many civilizations and cultures, "fire" also symbolizes the ancient rituals of purity. The classical Hindu religion, for example, has a place in its multitudinous pantheon for the God of Fire, Lord Agni, who devours sinful worlds through his powers to cause conflagrations, often in response to prayers of the pious. The Buddhist monks ignited protest against the Vietnam War by myriad acts of self-immolation. And in the secular, contemporary cosmology, "fire" is a dominating metaphor of anti-golbalization movements, witnessed in the reflections on the "battle of Genoa."[12] I mention these symbolizations to suggest that the metaphor does not always carry with it a dread of conflagration, but often a promise of redemption, no matter how contested across the incommensurability of expressive and ethnical languages. Amy Chua's narratives of catastrophic ethnonationalism forbid a reading

5. WORLD ON FIRE, *supra* note 3, at 16.

6. *Id.* at 16.

7. *Id.* at 125.

8. *Id.* at 124.

9. *Id.*

10. WORLD ON FIRE, *supra* note 3, at 125.

11. UMBERTO ECO, BAUDOLINO (2002).

12. *See generally* ON FIRE: THE BATTLE OF GENOA AND THE ANTI-CAPITALIST MOVEMENT (One-Off Press, 2001) (reflecting on the ideas and actions of the anti-G-8 militant protest demonstrations in Genoa, Italy in July 2001).

of texts and events of interethnic violence as species of collective political violence.[13] For Professor Chua, violent targeting and scapegoating of market-dominant minorities, or ethnic minorities generally, is *per se* a radical evil; it is almost pre-political, pre-rational, and marks reversion to a Hobbesian state of nature. One may understand causes and careers, histories and futures of ethnic violence as pathological, inviting some radical therapy which might restore the normal health of the body politic.

If ethnic violence is entirely pathological, only equally sick minds may seek to grasp the internal justifications offered and negotiated by the instant or abiding communities of perpetrators of ethnic violence. However, if ignoring the agency of violent perpetrators carries the promise that "we are no longer blind to ethnicity," it also carries the peril that "we may be blinded by it."[14] I do not go so far as to take recourse to the language of Professor Chua's eminent precursor at Yale, Robert Cover, who had the courage to inaugurate the distinction between jurispathic and jurisgenerative forms of violence.[15] But I do wish, at least, to draw attention to internal instrumentalist justificatory strategies. For example, Donald Horowitz's classic study fully exposes the dialectic the "narrow aims" and the "broad effects," tracking the violent oscillation between "demonstration of dishonor and degradation" on the one hand, and the cruelly impossible project of somehow accomplishing "the reduction of ethnic heterogeneity" on the other.[16] The aims and

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13. *See generally* WORLD ON FIRE, *supra* note 3, at 189-258 (discussing ethnonationalism and the spread of free market democracy in the non-Western world, which the author argues has caused ethnic instability and violence).

14. *See* Rogers Brubaker & David D. Laitin, *Ethnic and Nationalist Violence,* 24 ANNUAL REVIEW OF SOCIOLOGY 423, 425-427 (1998) (distinguishing between ethnicity, violence, and ethnic violence) *available at* http://links.jstor.org/sici?sici=0360-0572%281998%2924%3C423%3AEANV%3E2.0.CO%3B2-Z (last visited Oct. 24, 2004).

15. *See* Robert M. Cover, *The Supreme Court 1982 Term Foreword: Nomos and Narrative*, 97 HARV. L. REV. 4, 40-44 (1983) (positing that the jurisgenerative principle does not exist in isolation from violence and that state courts are characteristically jurispathic in their role as interpreters of this principle).

16. *See* DONALD L. HOROWITZ, THE DEADLY ETHNIC RIOT 424 (Portions previously published by World Bank 1999, The City University of New York 1973) (2001) (arguing that in addition to the purposes of killing and infliction of suffering, the two goals of riots are to degrade the victims and to reduce their

effects remain despicable from external ethnical perspectives. This being fully said, the question does arise whether the "world on fire" does indeed "metaphorically mischaracterize vast regions (such as post-communist Eastern Europe and Eurasia in its entirety or all of sub-Saharan Africa) as a seething cauldron on the verge of boiling over or as a tinderbox, which a single careless spark could ignite into an inferno of ethnonational violence."[17]

The *World on Fire* opens itself up to ways of reading that Paul de Man signified, in another hermeneutic context, by the dialectic of "blindness and insight."[18]

## III. SILENCES

Deconstruction problematizes the distinction between *silence* and speech or writing. An astounding silence in Amy Chua's corpus is signified by the lack of, or rare, invocation of the concept of human rights in the fullness of all its logics and paralogics.[19] There are, of course, no easy or compelling ways of reading this silence, because the dread of conflagration obviously relates not just to immense human rights violations, but also to the right to be, and to remain, human. The question, then, is not constituted by silence, but by an anguished quest for ways of interpreting silence. Thus, Professor Chua's discussion concerning the impact of plebiscitary democracy as possibly triggering a scenario notoriously adverse to human rights, and even leading to genocide, raises many critical questions, despite numerously nuanced caveats.

*First*, Chua's presentation of plebiscitary democracy as always

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ethnic heterogeneity). *See also* DONALD L. HOROWITZ, ETHNIC GROUPS IN CONFLICT 229-290 (2d ed. 2000) (discussing the role of ethnicity in the emergence of secessionist movements).

17. Brubaker & Laitin, *supra* note 14, at 424

18. *See generally* PAUL DE MAN, BLINDNESS AND INSIGHT IN THE RHETORIC OF CONTEMPORARY CRITICISM (2d ed. 1983) (reflecting on the essential open-endedness of every text and asserting the reader's role in that open-endedness).

19. *See* UPENDRA BAXI, THE FUTURE OF HUMAN RIGHTS 15-16 (2002) (explaining that "'[h]uman rights' logic or paralogics are all about how one may how one may or ought to construct '*techniques of persuasion (as) a means of creating awareness*'") (alteration in original) (citations omitted).

imposed by the global hegemon demeans and diminishes the struggles of authentic peoples. In effect, though assuredly *not* in authorial intention, authentic peoples' struggles are treated as merely miming the so-called global governance prescriptions. Quite often, these struggles against corruption in high places or for increased democratic accountability arise autonomously, and outside the realm of benign Northern insistence on free market democracy. The Indonesian people's struggle for the restoration of democracy, for example, remains open to such a reading based in the larger political context, going beyond the frame of violence against ethnic, market-dominant minorities. Dignity of discourse at least requires that we do not read the struggles of the non-Euroamerican "other" in quintessentially monological terms.

*Second*, Professor Chua demonstrates that majoritarian populism does, at times, trigger violence against market-dominant ethnic minorities. Worse still, majoritarian populism may foster and foment even genocidal forms of political "ethnicization." Further, the hegemonic imposition of even plebiscitary free market democracy aggravates the potential for ethnic hatred and violence. The question arises how may epistemic communities rethink development policy? How far, if at all, may policy sciences legitimately advocate alternatives inconsistent with human rights values, norms, and standards? Should the foundational entitlement enunciated in Article 28 of the Universal Declaration on Human Rights,[20] read in concert with the United Nations Declaration on the Right to Development,[21] set any meaningful constraints? Is the invocation of a consequentialist ethic justified against the deontological? Put another way, are we justified in saying that plebiscitary democracy may be restricted or halted by measures of global governance, lest democratic forces incite ethnic hatred and even mass slaughter? I know that Professor Chua's analysis and prescription do not quite suggest this, but some textual residue does unfortunately remain,

20. *See* G.A. Res. 217A (III), U.N. Doc. A/810, art. 28 (1948) (stating that "[e]veryone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.").

21. *See* G.A. Res. 41/128, U.N. Doc. A/41/153 art. 1 (1986) (describing the right to development as an "inalienable right").

furnishing a dangerous supplement.

*Third*, how may we feminize the category of economically/market-dominant minorities? Sparsely available literature suggests that the representation of violence is "strongly gendered," and while we have sufficient and harrowing data concerning women as victims of ethnic violence, "more research is needed on the specific roles that women may play in certain ethnic riots."[22] Further, it remains important to mobilize the United Nations Committee of the Convention on the Elimination of All Forms of Discrimination against Women, or "CEDAW Committee," to devise specific efficacious reporting obligations and monitoring mechanisms.

*Fourth,* Professor Chua argues that "the best hope for democratic capitalism in the non-Western world lies with market-dominant minorities themselves."[23] It is rather surprising that she does not focus on specific strategies for human rights education, which is itself now proclaimed a human right.

*Fifth*, Professor Chua explores the troublesome relation between corruption and capitalism. Her description of "crony capitalism" mystifies; given libertarian conceptions of human rights, one could respond by extolling the sanctity—and indeed the constitutive concept of the *sanctum sanctorum* of the right to property—and, necessarily, the human rights of global capital to control and command the means of production.[24] Are the forms of perversions and excesses of "crony capitalism" archived by Professor Chua instances of capitalism gone awry, in the sense that these betray the capitalist logic? Or, are the excesses themselves integrally-constitutive of human rights-violative formations of global capital? Clearly, this irreducibly journalistic term, signifying the "evil" of anti-social privatization of profits in a few plutocratic hands, fails to take into account empirically serious, diverse forms of state capture,

22. *See* Brubaker and Laitin, *supra* note 14, at 444 (suggesting that while women may not take part in violence directly, they may play a role in shaming men into participating in the violence).

23. WORLD ON FIRE, *supra* note 3, at 17.

24. *See id.* at 158 (explaining that crony capitalism is usually "a corrupt arrangement between an indigenous autocrat and a market-dominant minority").

influence, and administrative corruption.[25]

Theoretically, scintillating descriptive narratives of this phenomenon in *World on Fire* still short-change us all somewhat, if I may say so with respect. We need to explicate further the causal relationship between ethnic and other forms of collective political violence and the way in which circuits of exchange of violence further state formation. We need to know more about the linkages between political corruption and civic violence. We need to more fully understand Cold War histories, and futures of the new Cold War now in the making, particularly in terms of the generation and sustenance of global, as well as local, social environments for killing.

*Sixth,* Amy Chua correctly asserts that the intransigent problem of political corruption is a distinctive feature of Southern regimes. But how much or what proportion is globally-fostered? How may we relate this to the operative political culture of the Northern hegemon? Even the gentlest thinker John Rawls was constrained to articulate this very distinctive form of Northern governmental structure; thus he stated that

> When politicians are beholden to their constituents for essential campaign funds, and a very unequal distribution of income and wealth obtains in the background culture, with the great wealth being in the control of corporate economic power, is it any wonder that congressional legislation is, in effect, written by lobbyists, and Congress becomes a bargaining chamber in which laws are bought and sold?[26]

The buying and selling of legislation is now rapidly becoming a legitimate global enterprise, as symbolized by the Kofi Annan-led Global Compact, which effectively privatizes a precious invention of a unique common global public good, once upon a time justly known

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25. *See* JOEL S. HELLMAN ET AL., SEIZE THE STATE, SEIZE THE DAY: STATE CAPTURE, CORRUPTION AND INFLUENCE IN TRANSITION (World Bank Policy Research Working Paper No. 2444, 2000) (examining corruption on the basis of data from the 1999 Business Environment and Enterprise Performance Survey) *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=240555 (last visited Oct. 24, 2004). *See also* Kevin Davis et al., *Ethnically Homogenous Commercial Elites in Developing Countries*, 32 LAW & POL'Y INT'L BUS. 331, 335 (2001) (questioning Chua's conclusions regarding the crafting of institutional policies and reforms to protect economic minorities in developing countries).

26. JOHN RAWLS, THE LAW OF PEOPLES 24 n.19 (1999).

as the United Nations.

## IV. IN LIEU OF A CONCLUSION

Nothing said thus far diminishes the warmth of my appreciation of the enduring contribution *World on Fire* makes. Further theoretical debates concerning the politics of recognition and redistribution,[27] state theory in an age of globalization, and analysis of forms of national and international regulatory capture can no longer avoid the concerns Professor Chua highlights. At a more practical level of reshaping international law, the ongoing work of the United Nations Human Rights Commission's Independent Expert concerning the right to development[28] and the Human Rights Commission adoption of Norms for Transnational Corporations and Other Business Enterprises,[29] stands to benefit a great deal from a close reading of *World on Fire*—as, of course, do all transnational advocacy human rights networks.

Both for the dread of conflagration that it invokes, and for the progress it proposes, Amy Chua's text and corpus invite us to recast our imagination of the future of human rights in a world afflicted by a whole variety of political cruelty and set amidst amorphous globalization. Her contribution also raises crucial concerns about future readings of post-September 11 international law and orderings. May I, then, as a denizen of the global South, salute her extraordinary achievement, and in turn, invite many a critical revisitation of her salient thematics.

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27. *See, e.g.*, NANCY FRASER AND AXEL HONNETH, REDISTRIBUTION OR RECOGNITION? A POLITICAL–PHILOSOPHICAL EXCHANGE (Joel Golb et. al. trans. 2003) (featuring a debate over the relationship between redistribution and recognition premised on agreement that an adequate understanding of justice must encompass concerns of the Fordist era struggles over distribution and current struggles for recognition).

28. UPENDRA BAXI, THE DEVELOPMENT OF THE RIGHT TO DEVELOPMENT: UNCONVENTIONAL ESSAYS (forthcoming 2005) (manuscript on file with Author).

29. Upendra Baxi, Market Fundamentalisms and Human Rights: The Proposed Norms for Transnational Corporations and Other Business Enterprises, Keynote Address before the University of Nottingham Student Conference on the Right to Development (March 13, 2004).