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MARGARET CHON*

*Acting Upon Immigrant Acts: On
Asian American Cultural Politics***

by Lisa Lowe

A Review Colloquy

How might a literature professor converse with a law professor about law?

Selecting what I think are some of the more extraordinary excerpts from Professor Lowe's seven densely and finely-crafted essays, I meditate on each from the perspective of critical race theory and other legally grounded paradigms. Rather than narrate a linear critique of Professor Lowe's book, I try to construct a partial, if artificial, colloquy. By doing this, the reader can sample the richness of Lowe's text, while gauging my reactions. With this form, I hope to emulate what she simultaneously analyzes and practices—challenging stable literary conventions (such as a book review published in a law review) through new, synthetic, and interrogative cultural practices.

I

IMMIGRATION, CITIZENSHIP, RACIALIZATION

[I]mmigration law reproduces a racially segmented and stratified labor force for capital's needs, inasmuch as such legal disenfranchisements or restricted enfranchisements seek to resolve such inequalities by deferring them in the promise of equality on the political terrain of representation. The state governs through the political terrain, dictating in that process the forms and sites of contestation. Where the political terrain

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** LISA LOWE, *IMMIGRANT ACTS: ON ASIAN AMERICAN CULTURAL POLITICS* 22 (1996).

can neither resolve nor suppress inequality, *it erupts in culture*. Because culture is the contemporary repository of memory, of history, it is through culture, rather than government, that alternative forms of subjectivity, collectivity, and public life are imagined. This is not to argue that cultural struggle can ever be the exclusive site for practice; it is rather to argue that if the state suppresses dissent by governing subjects through rights, citizenship, and political representation, it is only through culture that we conceive and enact new subjects and practices in antagonism to the regulatory *locus* of the citizen-subject, by way of culture that we can question those modes of government.¹

Lowe highlights the forcible separation of interlinked spheres of economy, polity, and civil society—a separation that law enforces and reinforces.² American immigration and naturalization law has constructed and continues to construct the Asian immigrant as the American Oriental: one who is forever foreign and therefore subject to heightened national security concerns (evidenced, for example, by the plenary power doctrine or by the internment of Japanese-American citizens). While capital has periodically required infusions of Asian immigrants for specific economic niches, law has constituted the Asian immigrant as a permanent outsider (or always tentative insider) to the American political system, and thus has played a determinative role in deferring the promise of political equality guaranteed to all citizens under our democratic system of government. These insights are commonplace to any race scholar familiar with the history of Asian exclusion via immigration and naturalization laws; they are borne out by the lobbying that surrounded the 1996 amendments to the immigration laws, in which we witnessed such acts of representative democracy as Bill Gates having a heart-to-heart with Alan Simpson about the need to preserve an immigration category for highly skilled technical computer industry workers.³ Indeed, although money generally “talks” across borders, even the infusion of Asian capital into the American economy has not in-

¹ LISA LOWE, IMMIGRANT ACTS: ON ASIAN AMERICAN CULTURAL POLITICS 22 (1996).

² As Rosemary Coombe notes, “[s]cholars of law and society have long argued for new paradigms for imagining relationships between law and society, including the necessity to stop conceiving these terms as separate entities that require the exposition of relationship as the adequate term of address.” Rosemary J. Coombe, *The Cultural Life of Things: Anthropological Approaches to Law and Society in Conditions of Globalization*, 10 AM. U. J. INT’L L. & POL’Y 791 (1995).

³ See Mary Ann Gwinn, *Skilled Foreign Workers: Boon or Threat? Congress Plans Crackdown to Save U.S. Jobs*, THE SEATTLE TIMES, February 28, 1996, at A3.

sulated Asian *Americans* from the charge of being foreign, as the wide-ranging conflation of Asian Americans' "sinister" donations with those of Asian nationals to the Democratic National Committee indicate.⁴

What interests me about Lowe's passage, however, is her claim that political demands that are unmet on the terrain of formal political participation will then "erupt into culture." Lowe's view of law is that it represents a set of juridical forms that at once constitute and are constituted by culture. Law may be inherently conservative, but it also provides a ground for possible antagonism against its own regulatory practices. If so, then unmet demands for political equality should erupt as well into law. That is in fact what is occurring in various domains such as critical race theory, which interrogates, among other things, the concept of color-blind constitutionalism.⁵

Also arresting about this passage is the seeming convergence between Lowe's progressive critique of the law and other, libertarian perspectives on the law. Under the latter set of critiques, the law is dangerous because of the potential for the state (which has a monopoly on formal law) to suppress dissent among antagonistic political subjects. An impulse toward democratic freedom threads together these two quite different ideologies.⁶ The convergence suggests the possibility for alliances across quite distinctive ideological frameworks on specific issues. Indeed, immigration law has been a site for otherwise disparate ideological convergences: Asian American civil rights groups and conservative free-market think tanks aligned on one side and environmental groups, conservative xenophobes and traditional liberal civil rights groups on the other.⁷

⁴ Frank H. Wu & May L. Nicholson, *Have You No Decency? An Analysis of Racial Aspects of Media Coverage on the John Huang Matter*, *ASIAN AM. POL'Y REV.* Spring 1997, at 1-3; Phil Tajitsu Nash & Frank Wu, *Asian Americans Under Glass*, *THE NATION*, March 31, 1997, at 15.

⁵ Neil Gotanda, *A Critique of "Our Constitution is Color-Blind,"* 44 *STAN. L. REV.* 1 (1991); see generally Introduction to *CRITICAL RACE THEORY: THE KEY WRITINGS THAT INFORMED THE MOVEMENT* (Kimberlé Crenshaw et al. eds., 1995).

⁶ I argue elsewhere that the two impulses can lead to quite different political results. Margaret Chon, *Radical Plural Democracy and the Internet*, 33 *CAL. W. L. REV.* 143 (1997).

⁷ See, e.g., Steven A. Holmes, *The Strange Politics of Immigration*, *N.Y. TIMES*, Dec. 31, 1995.

II

CANON, INSTITUTIONALIZATION, IDENTITY: ASIAN
AMERICAN STUDIES

[Monique Thuy-Dung Truong's short story "Kelly"⁸] is suggestive about the process through which the students' conformity to those narratives is demanded and regulated: the historical narrative about victors and enemies elicits an identification of the male student with that victorious national body, and in that process of identification, the student consents to his incorporation as a subject of the American state. . . . I would argue that the subject position of the American student/citizen is coded, narrated, and historically embodied as a masculine position.⁹

As I was photocopying in a local store recently, I overheard a conversation between the white male proprietor and his Japanese-American male customer. Both seemed to be in their early fifties. The proprietor, exasperated with the demands of his customer, mentioned to him—apropos of nothing—that it was Pearl Harbor Day. Later, a young Japanese-American woman came in. The proprietor immediately engaged her in a conversation laced with sexual double entendre—a conversation that she did not start or want, judging from her polite but distant reactions.

I was in my third year of teaching law when I fully realized how dynamics like these were operating inside my classroom. I identified quite strongly with the social and cultural hegemonic position of the predominantly white male legal profession. I enjoyed muscle-bound legal repartee. I was modeling this to my students, showing them what some of my professors, employers and colleagues had shown me. However, many of my students were not receiving this information in the same way that I had received the "neutral wisdom" of my mostly white male elders. My students—even my female students—were feeling emasculated by my apparent joy in pushing them through legal argument. An Asian American female—the epitome of passivity—was figuratively wearing black leather, carrying a whip, and

⁸ "Mrs. Hammerick . . . Boiling Spring Elementary School . . . I was scared of her like no dark corners could ever scare me. You have to know that all the while she was teaching us history . . . she was telling all the boys in our class that I was Pearl and my last name was Harbor. They understood her like she was speaking French and their names were all Claude and Pierre. I felt it in the lower half of my stomach, and it throbbed and throbbed." Lowe, *supra* note 1, at 37.

⁹ *Id.* at 56.

standing in front of the classroom. I jokingly referred to this as my “nasty, brutish and short-tempered” semester, referring not to how I actually conducted the classroom but to how I was perceived. It was a turning point for me.

Some have difficulty accepting what is an unnerving excess of material difference (Asian American femaleness) flowing from the culturally specific location (white male) of the law professor. Even when my students stubbornly cling to the ideology of color-blindness, I am forced to reject it in order to reach them. The poignancy to me of Truong’s story, however, lies in her relative powerlessness. If I, as the putative authority figure in a classroom, can be felled by these invisible structures, how can Truong, or other Asian American female students, begin to claim agency within a law classroom?

III

HETEROGENEITY, HYBRIDITY, MULTIPLICITY: ASIAN AMERICAN DIFFERENCES

By “heterogeneity,” I mean to indicate the existence of differences and differential relationships within a bounded category—that is, among Asian Americans, there are differences of Asian national origin, of generational relation to immigrant exclusion laws, of class backgrounds in Asia and economic conditions within the United States, and of gender. By “hybridity,” I refer to the formation of cultural objects and practices that are produced by the histories of uneven and unsynthetic power relations; for example, the racial and linguistic mixings in the Philippines and among Filipinos in the United States are the material trace of the history of Spanish colonialism, U.S. colonization, and U.S. neocolonialism. Hybridity, in this sense, does not suggest the assimilation of Asian or immigrant practices to dominant forms but instead marks the history of survival within relationships of unequal power and domination. Finally, we might understand “multiplicity” as designating the ways in which subjects located within social relations are determined by several different axes of power, and are multiply determined by the contradictions of capitalism, patriarchy, and race relations, with, as Hall explains, particular contradictions surfacing in relation to the material conditions of a specific historical moment. Thus, heterogeneity, hybridity, and multiplicity are concepts that assist us in critically understanding the material conditions of Asians in the United States, conditions in excess of the dominant, “orientalist” construction of Asian Americans.¹⁰

¹⁰ *Id.* at 67 (citations omitted).

In this extremely influential essay, Lowe aggressively expands the vocabulary with which we can describe racial formations and groupings. She also unflinchingly poses, and then attempts to answer, one central dilemma of Asian American identity politics: If identity is based on a shared set of homogeneities, then the Asian American identity may not be an identity at all. The different locations that constitute this identity—ethnicity, class, generation, gender, and so on—can belie the racialization process of American Orientalism. Her answer is that an American identity is constructed out of heterogeneity rather than homogeneity.

Indeed, some Asian American critical race theorists have begun the work of articulating an Asian American racial identity that interrogates intra-group differences as well as responsibility among different racial groups.¹¹ Others have proposed that we move from identity politics to political identities.¹² Still others attempt to incorporate specific gender, sexual orientation, or religious locations within a larger Asian-American category.¹³ This particular symposium issue seriously examines globalization as it intersects with racialization within the borders of the U.S. Each of these projects acknowledges the provisionality of the Asian-American identity, even as that identity forms an important basis for theorizing about race.

IV

IMAGINING LOS ANGELES IN THE PRODUCTION OF MULTICULTURALISM

Sa-I-Gu collects heterogeneous interviews with Korean immigrant and Korean American women speaking about the Los Angeles crisis in the aftermath of the King verdict. . . . The statements of both women articulate the desire to grasp an explanation of the convergence of racism and capitalism from their location as immigrant women, as much as their “*confusion*” attests to the unavailability of this convergence.¹⁴

¹¹ See, e.g., Eric K. Yamamoto, *Rethinking Alliances: Agency, Responsibility and Interracial Justice*, 3 UCLA ASIAN PAC. AM. L.J. 33 (1995).

¹² See, e.g., Robert S. Chang, *Reverse Racism! Affirmative Action, the Family, and the Dream that is America*, 23 HASTINGS CONST. L.Q. 115 (1996).

¹³ See, e.g., Colloquy, 81 IOWA L. REV. 1467 (1996).

¹⁴ Lowe, *supra* note 1, at 92 (emphasis added) (“Indeed, the Los Angeles crisis, in which Korean Americans became the recipients of violent anger that might have been ‘better’ directed at white capital in other parts of the intensely spatially segregated city, illustrates precisely how a society, ‘structured in dominance’ as Althusser would say, can mask the interlocking functions of racism, patriarchy, and capitalism

What is the nature of our confusion about race? Like the Korean women in Christine Choy's film *Sa-I-Gu*, legal theorists have been hampered by an "unavailability." The unavailability for the Korean women trying to make sense of the racial violence of the L.A. civil unrest stems from a cultural insistence on not naming the racialized, gendered, and post-colonial nature of American consumer society.¹⁵ For legal theorists writing about race, the unavailability is that of a cultural insistence on not naming the racialized nature of social practices that law both constructs and regulates. Critical race theorists claim that our confusion about race stems in part from our legal culture's insistence on the racial ideology of color-blindness. Color-blindness then disguises the ways in which race manifests itself, and deprives us of the vocabulary to name what is differentially racialized or even racist.

V

DECOLONIZATION, DISPLACEMENT, DISIDENTIFICATION: WRITING AND THE QUESTION OF HISTORY

In alluding to the paradoxical fluency of the colonized subject in the colonial language and culture, Fanon astutely names the twofold character of colonial formation. The imposition of the colonial language and its cultural institutions, among them the novel, demands the subject's internalization of the "superiority" of the colonizer and the "inferiority" of the colonized, even as it attempts to evacuate the subject of "native" language, traditions and practices. Yet the colonized subject produced within such an encounter does not merely bear the marks of the coercive encounter . . . Such encounters produce

not only by ideologically constructing multicultural inclusion but also by separating and dividing the objects of capitalist exploitation—as black youth, as Korean shopkeeper, as Chicana single mother.”)

¹⁵ Some legal scholars have articulated the differentialized space of consumerism. For example, Rosemary Coombe writes that “[w]hen a Songhay vendor dons a hat made in Bangladesh, emblazoned with the slogan ‘Another Young Black Man Making Money,’—while greeting his customers as ‘Brother’ on the streets of Harlem—the cross-cutting significations of this performative add new dimensions to our understanding of racial politics . . . The ironies of its traffic through export processing zones in Asia, factories in New Jersey, wholesalers in Chinatown, West African vendors in Harlem, and the cultural commerce of the African American community compel us to attend to the nexuses of global and local processes and the ambiguities produced there.” Coombe, *supra* note 2, at 827. *Accord* Paul Ong et al., *The Korean-Blade Conflict and the State*, in *THE NEW ASIAN IMMIGRATION IN LOS ANGELES AND GLOBAL RESTRUCTURING* 264 (1994).

contradictory subjects, in whom the demands for fluency in imperial languages and empire's cultural institutions simultaneously provide the grounds for antagonism to those demands.¹⁶

The women in *Sa-I-Gu* spoke Korean, as they attempted to name the cultural practices that constructed them as foreigner, other, outsider, inferior, even colonizing settler—and that made them vulnerable to the street rage. In English, the complacency of colonial narratives can be challenged by non-standard linguistic, rhetorical or discursive devices—executed deliberately by those whose first language might be English but who are marked by the different histories of patriarchy, racism, colonialism, and heterosexism.¹⁷ Legal storytelling is an attempt at these countercultural forms. Although the self-conscious use of “storytelling” is an important tool in the critical race toolkit, stories do both too much and too little. In a larger sense, stories are deployed to buttress myriad ideological positions and intellectual arguments. In a smaller sense, stories are not the trump card—they cannot convince those who are not inclined to listen carefully or those who might be captured by a different ideological identification.

VI

UNFAITHFUL TO THE ORIGINAL: THE SUBJECT OF DICTEE

[W]e can understand ideology to be, as Fredric Jameson describes it, an “indispensable mapping fantasy or narrative by which the individual subject invents a ‘lived’ relationship with collective systems.” That is, though the interpellation of the subject takes place in social relations, the process through which the subject is “captured” may be said to rely on a “fantasy” *whose pleasurable erotic force derives from a fiction of identification* (whether of specular duplication, transference, or relation of ego to its counterparts). This fiction, which both reveals and sutures the gap in the lived misidentification of difference as the same, is responsible for the production of universalities, harmonies, and gratifications.¹⁸

¹⁶ Lowe, *supra* note 1, at 97.

¹⁷ Lowe analyzes, for example, the interruption of linear, univocal, historical narrative by the uncontained figure of blood in Theresa Hak-Kyung Cha's *Dictee*; the centering of gossip in Jessica Hagedorn's *Dogeaters*; and the narrative structuring around space rather than temporality in Fae Myenne's *Ng's Bone*. Lowe, *supra* note 1, at 109-27.

¹⁸ Lowe, *supra* note 1, at 151 (emphasis added) (citation omitted).

The ideology of color-blindness provides a fiction of sameness among differences. Part of the battle over this ideology is due to different judgments about the material significance of racial differences. But surely some of the battle must be due to the erotic force that derives from a fiction of identification. Difference can startle and thus create anxiety. Rather than to examine this anxiety, it is altogether easier to pretend that the anxiety does not exist—or better yet, to assume a universal sameness to racializing experiences. Color-blindness is thus a very convenient psychological escape valve, especially for those of us who value harmony and closure.

What happens when an ideology is not totalizing—when the subject is not fully engaged in the fantasy? “Towards the face then again to the papers, when did you leave the country why did you leave this country why are you returning to the country.”¹⁹

VII

WORK, IMMIGRATION, GENDER: ASIAN “AMERICAN” WOMEN

The aim is not to “aestheticize” the testimonial text but rather to displace the categorizing drive of disciplinary formations that would delimit the transgressive force of articulations within regulative epistemological or evaluative boundaries. This mode of reading and reception seeks to situate different cultural forms in relation to shared social and historical processes and to make active the dialectic that necessarily exists between those forms because of their common imbrication in those processes.²⁰

The question of how to read and write legal texts has become increasingly important to me as I continually grasp the implicit force of modernity in structuring legal discourse. While most legal academics explicitly acknowledge the socializing practices of the textual interpretations they inculcate in their students, many simultaneously disclaim that their reading and writing conventions disable them from certain ways of knowing. It is commonplace to complain of those who use too much “postmodern jargon”—as if law is not a paradigmatic example of a profession that polices its expertise through highly specialized and unnecessarily obtuse uses of language.²¹ More importantly, the charge of

¹⁹ THERESA HAK KYUNG CHA, *DICTEE* 57 (1995).

²⁰ Lowe, *supra* note 1, at 157.

²¹ Many legal academics either deliberately misread or joyously ignore signals

“too much jargon” is one that is false. True, there are many passages in *Immigrant Acts* that I had to read twice—or three times or more—in order to appreciate. But the complexity of Lowe’s ideas is necessary rather than obfuscatory.

Lowe’s insights, while difficult at times for me to read, yielded incredible richness. At times, I was moved to my very core by her nuances on what we now glibly refer to in legal studies as “intersectionality.” The responses I record here are only a small fraction of ones that I had while studying her book, and I hope to continue to translate some of the complexity represented by this book into legal academic discourse.

from other disciplines indicating it might be time to emerge out of their highly controlled rhetorical universes.