

# Global Capitalism and Nationalist Backlash: The Link Between Markets and Ethnicity

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Over the last decade or so, lawyers and legal academics have been called upon to help restructure the fundamental institutions of the developing world to an extent unprecedented since decolonization after the Second World War. This restructuring of economic, political, and legal institutions has been driven by two principal goals: marketization and democratization. In fact, these two forces, markets and democracy, have come to be seen as global solutions to the intransigent problem of development.<sup>1</sup>

But there is another force, much older and often darker, that plays an equally elemental role in shaping the societies of the developing world (and for that matter, the developed world): the force of ethnicity, or ethnic hatred.<sup>2</sup> To date, there has been almost no systematic study of the interplay among these three forces: markets, democracy, and ethnicity. It is this interplay that has defined my academic project for the last several years.<sup>3</sup>

Here, I will focus on one piece of that interplay: the link between markets and ethnicity. My thesis is that throughout the developing world, free market policies have historically and repeatedly reinforced the economic dominance of certain resented ethnic minorities (“internal foreigners”). As a result, market-oriented policies have triggered ethnically charged—and therefore extremely potent—nationalist movements, which eventually succeed in bringing about a return to policies of nationalization.<sup>4</sup>

As an aside, I want to stress that the prevalence and visibility of economically dominant minorities in developing countries sharply distinguishes the problems of ethnic conflict in the developing and developed worlds. While some ethnic minorities in the United States have outperformed

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1. See, e.g., JOSEPH E. STIGLITZ, *WHITHER SOCIALISM?* 1-3 (1995); LESTER THUROW, *THE FUTURE OF CAPITALISM* 1-5 (1996); THE WORLD BANK GROUP, *LEARNING FROM THE PAST, EMBRACING THE FUTURE* 10-13 (1994); ROBERTO MANGABEIRA UNGER, *DEMOCRACY REALIZED* 3 (1998).

2. See generally, e.g., TED ROBERT GURR & BARBARA HARFF, *ETHNIC CONFLICT IN WORLD POLITICS* (1994); DONALD L. HOROWITZ, *ETHNIC GROUPS IN CONFLICT* 3-4, 6 (1985).

3. I explore this interplay at much greater length elsewhere. See Amy L. Chua, *Markets, Democracy, and Ethnicity: Toward a New Paradigm for Law and Development*, 108 *YALE L.J.* 1 (1998).

4. See Amy L. Chua, *The Privatization-Nationalization Cycle: The Link Between Markets and Ethnicity in Developing Countries*, 95 *COLUM. L. REV.* 223 (1995).

other ethnic minorities<sup>5</sup>—and by some measures have outperformed the “white” majority<sup>6</sup>—the United States economy is not dominated by any ethnic minority. On the contrary, the core ethnic problem in the United States is one that pits an economically and politically dominant white majority against economically and politically weaker ethnic minorities.<sup>7</sup> Hence the calls for, and now backlash against, market-“correcting” affirmative action policies for black and hispanic minorities.<sup>8</sup> In stark contrast, economic power in most developing countries is disproportionately concentrated in the hands of an ethnically-identifiable minority (again, a foreigner within).<sup>9</sup> This is a structural distinction that critical race theorists need to confront as they look outside of the United States to the post-colonial world.

## I

With that introduction, I would like to draw attention to a phenomenon in the developing world that has been largely overlooked by the architects of today's marketization programs. This phenomenon is the existence of a historical cycle, found throughout the developing world, in which countries have oscillated back and forth between pro-market regimes and anti-market regimes for as long as they have been independent.<sup>10</sup> For purposes of this essay, I will focus on the countries of Latin America and Southeast Asia.

As an illustration, consider the history of Mexico. In Mexico, independence in the late nineteenth century was followed by a long period of economic liberalism: that is, private property regimes generally accompanied by the vigorous promotion of capital investment and, in particular, an

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5. See, e.g., David Brand, *The New Whiz Kids: Why Asian Americans are Doing So Well and What It Costs Them*, TIME, Aug. 31, 1987, at 42.

6. As of 1995, the median household income in the United States is \$32,960 for whites, \$19,533 for blacks, \$22,886 for Hispanics, and \$38,347 for Asian/Pacific Islanders. See 472 BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 1995 (1995). The percentage of households in the above categories with monetary incomes above \$100,000 are 6.3%, 1.9%, 2.3%, and 9% respectively. See *id.* There is obvious artificiality in referring to “whites” as an ethnic group in a country such as the United States. Cf. IAN HANEY LOPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* xiv (1996) (noting that “white” refers to a “fluid, unstable category which gains meaning only through social relations and that encompasses a profoundly diverse set of persons”).

7. See Erik Hurst et al., *The Wealth Dynamics of American Families, 1984-1994*, in 1 BROOKINGS PAPERS ON ECONOMIC ACTIVITY 267, 293, 295 fig.3, 306-9, 307 tbl.19, 308 tbl.20 (1998); see also MELVIN L. OLIVER & THOMAS M. SHAPIRO, *BLACK WEALTH, WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY* 1-2, 5, 7 (1995).

8. See, e.g., William Claiborne, *Affirmative Action Ban is Upheld; California Proposition Constitutionally Valid*, WASH. POST, Apr. 9, 1997, at A1; Anne Laurent, *The Great Divide: Fear, Anger and Resentment in the Federal Diversity Crusade*, NAT'L J., Apr. 1996, at 12.

9. See Chua, *supra* note 4, at 21-26.

10. See Chua, *supra* note 5.

openness to foreign capital and influence.<sup>11</sup> This period of laissez-faire was followed by the Mexican Revolution, which culminated with President Cardenas' nationalization of the railroad and oil industries in the 1930s.<sup>12</sup>

This period of nationalization was in turn superseded by another period of free enterprise, from 1940-1958, in which many of the industries previously nationalized—for example, the petroleum and sulphur industries—and foreign investment was once again vigorously courted. This period of privatization was followed by another round of nationalization and statist policies from 1958-1983. The current period is one of economic liberalization in Mexico, in which foreign investment laws are again being rapidly amended to bring foreign capital into the same key sectors: petroleum, mining, communications, transportation, and utilities.<sup>13</sup> A similar pattern of market policies and backlash holds throughout Latin America, and Southeast Asia (although in Southeast Asia one sees fewer oscillations because those countries achieved independence much later).<sup>14</sup>

Recognizing this cyclical phenomenon raises a host of questions that lawyers and economists designing today's marketization programs are not addressing. For example, what are the pressures that have repeatedly caused developing countries to return to nationalization?<sup>15</sup> Have the relevant conditions, both internal and international, changed? Or, are today's privatized and liberalized market regimes subject to the same kind of backlash that has occurred so many times before? I address these questions next.

## II

Why have there been privatization-nationalization cycles in Latin America and Southeast Asia? Part of the answer is fairly obvious. In the past, free-market, pro-foreigner regimes in the developing world have repeatedly benefited foreign investors far more than the local populations. In fact, during past periods of economic liberalization, the vast majority of Mexicans, Peruvians, Indonesians, or Malays experienced little or no benefits from a liberalized market.<sup>16</sup> As a result, politicians, often themselves from the elite class, found that they could mobilize populist support for themselves by playing on these anti-foreigner sentiments. And in fact, in one case after

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11. *See id.*

12. *See id.* at 228-32.

13. *See id.* at 238-56.

14. For empirical support for this claim of cyclicity, see generally *id.*

15. That developing countries repeatedly return to nationalization is particularly intriguing given the dismal record (under any number of economic measures) of nationalization regimes in the developing world. *See* Chua, *supra* note 4, at 51.

16. *See id.*

another, leaders in the developing world came to power on explicitly anti-foreigner, anti-imperialist, anti-market platforms. This was true of Peron in Argentina, Vargas in Brazil, Batlle y Ordóñez in Uruguay, Allende in Chile, Sukarno in Indonesia, and U Nu in Burma (now Myanmar), among others.<sup>17</sup>

But that is only part of the explanation. A parallel dynamic *internal* to developing countries has also played a crucial role.<sup>18</sup> Free-market policies in the developing world, including privatization and liberalized foreign investment regimes, have tended to disproportionately benefit not only Western foreigners, but also certain resented “internal foreigners,” vis-à-vis the rest of population.

Who are these “internal foreigners?” In Southeast Asia, I am referring principally to the Chinese, known as the “Jews of the Orient.”<sup>19</sup> In countries such as Indonesia, Malaysia, the Philippines, Thailand, and Vietnam, during free market periods, the Chinese minority, who generally make up the commercial class in these countries, tend to prosper disproportionately.<sup>20</sup> In stark contrast, the predominantly rural “indigenous” majorities in these countries remain largely impoverished.

The Chinese are not the only economically dominant minority in Asia. In Burma, as well as in East Africa and in the Caribbean, historically it was the Indian minority who tended under market conditions to be economically dominant relative to the indigenous majority.<sup>21</sup> In Sri Lanka, the Ceylon Tamils, an “outsider” minority historically more educated, prosperous, and “advanced” than the Sinhalese majority, dominated both the economic and political spheres until the mid-1950s.<sup>22</sup> “Market-dominant” minorities—ethnic minorities whose economic dominance will not be dispelled but rather maintained or even reinforced in the near to mid-term future by market-

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17. See Chua, *supra* note 5, at 265.

18. Note that much of the critical work in the development area has focused on the relationship of post-colonial states to their former colonial oppressors. I am focusing now on domestic dynamics.

19. This term is said to have been coined by Thailand's King Vajiravudh. See WALTER F. VELLA, CHAIYO! KING VAJIRAVUDH AND THE DEVELOPMENT OF THAI NATIONALISM 194-95 (1978).

20. In countries like Indonesia or the Philippines, the Chinese constitute only 2-3% of the population but reportedly control up to 70% of the private economy, under any number of indicators. Up-to-date, hard data in this area are scarce. Nevertheless, the available research confirms the continuing economic dominance of the Chinese throughout Southeast Asia. See Chua, *supra* note 4, at 22; see also *A Taxing Dilemma*, ASIaweek, Oct. 20, 1993, at 53 (citing a Sakura Bank-Nomura Research Institute study indicating that in 1991 ethnic Chinese in Indonesia and the Philippines respectively comprised 3.5% and 2% of the population, but commanded 73% and 50% of those countries' listed equity).

21. See Chua, *supra* note 4, at 23-24.

22. See *id.* at 23.

oriented reforms—are often found at the regional level as well.<sup>23</sup> In Bombay, capital of the Indian state of Maharashtra, the “clever and very hardworking” south Indian minority traditionally dominated the powerful private sector vis-à-vis the Maharashtrians.<sup>24</sup> Similarly, in the state of Assam, Bengali immigrants (now roughly forty percent of the population) historically dominated commerce and the professions vis-à-vis the indigenous Assamese.<sup>25</sup> The list goes on.<sup>26</sup>

Consequently, throughout Southeast Asia, movements against the market—in favor of restrictive trade and investment policies, nationalization, and redistribution—have historically been far more expressions of *ethnic nationalism* than of Marxism or socialism. Unlike the experience of the former Soviet Union or China, anti-market programs in Southeast Asia have (without the exception of Vietnam) never sought to eliminate the institution of private property, nor to eradicate all economic classes. On the contrary, such programs have left the market system more or less intact outside of the nationalized industries. In other words, anti-market reactions in Southeast Asia have principally been attempts by certain self-proclaimed “indigenous” groups to reclaim resources and economic power from other groups identified as “foreigners.” These foreigners include not only Western “imperialist” foreigners, but also the “foreigners within.”<sup>27</sup>

For example, in Burma, General Ne Win's nationalization of over 15,000 enterprises in the 1960s and 1970s targeted not only Westerners but Indian proprietors (many of whose families had lived for generations in Burma).<sup>28</sup> Intense violence against the Indian minority accompanied those nationalizations.<sup>29</sup> Similarly, in Indonesia, President Sukarno's sweeping nationalizations in the 1950s and 1960s were directed not just at the Dutch but also, very explicitly, at the country's Chinese minority.<sup>30</sup> In fact, through nationalization and other measures of economic nationalism, Sukarno “indigenized” much of Indonesia's financial, mining, import-export, rice,

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23. Not all economically dominant minorities are market dominant. I discuss the phenomenon of market dominance elsewhere, both generally, see *id.* at 29-33, and specifically in the context of Kazakhstan and Vietnam, see *id.* at 86-88, 101-2.

24. See *id.* at 23.

25. See *id.*

26. See *id.* at 21-26.

27. See generally Chua, *supra* note 4.

28. See *id.* at 253, 270.

29. See *id.* at 253, 270.

30. See *id.* at 253, 270.

batik, and modern industrial sectors—all formerly dominated by Chinese and Europeans.<sup>31</sup>

These examples are typical. If one looks at history, it is clear that ethnic nationalism—not socialism—has repeatedly been the driving force behind anti-market movements in Southeast Asia.

Let me turn now to Latin America. Obviously the social structure in Latin America is very different from that in Southeast Asia. For example, whereas in Southeast Asia economic and political power are divorced—the “indigenous” majority holds political power, while an ethnic minority holds economic power—the dynamic is different in Latin America. In Latin America, political and economic power have historically been concentrated in the same hands.<sup>32</sup>

Nevertheless, what has been happening in Latin America is directly analogous to the dynamic in Southeast Asia. It is true that in Latin America, unlike Southeast Asia, one does not find discrete ethnic groups (for example, Malays, Chinese, and Indians) living and working separately from each other. But you *do* have what sociologists have long recognized as a “pigmentocracy”: that is, a social spectrum, with taller, lighter-skinned, Spanish-blooded aristocrats at one end; shorter, darker, Indian-blooded masses at the other end, and a good deal of “passing” in between.<sup>33</sup>

As a result, in many Latin American societies a significant degree of overlap exists between class conflict and ethnicity.<sup>34</sup> Just as in Southeast Asia, during periods of economic liberalization, a small, ethnically-definable group—here, the Spanish-blooded, Caucasian elite—tends to prosper disproportionately. And again, during periods of nationalization and anti-market reaction, this group comes to be depicted as a “foreigner within,” and nationalizations are directed not just at Western foreigners—but at the internal foreigner as well.<sup>35</sup>

Indeed, nationalization movements in Latin America have repeatedly presented themselves in just such ethnically-tinged, nationalist terms. For instance, the revolutionary movement in Mexico at the beginning of this century was an explicitly nationalist movement with an explicitly ethnic dimension: Indian blood was glorified as the mark of a true Mexican.

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31. *See id.* at 269.

32. *See id.* at 272.

33. *See Chua, supra* note 4, at 271-74.

34. “[This overlap] is quite stark in countries with significant Indian populations—for example, Bolivia, Mexico, Peru, and most Central American countries—and much more muted in relatively “Europeanized” countries such as Argentina, Chile, Uruguay, and Venezuela, which have smaller (and in some cases, negligible) Indian populations and which saw ‘enormous waves’ of immigrants from Europe early this century.” Chua, *supra* note 4, at 25 n.118 (citations omitted).

35. *See Chua, supra* note 5, at 276-79.

Moreover, Cardenas' nationalizations targeted not just Yankees up north—but also internal foreigners as well: the white landowners with their links to foreign capital and their European cultural pretensions.<sup>36</sup> Similarly, in Peru and Bolivia, nationalization programs in the early part of this century were accompanied by slogans like “the only true Peru is Indian Peru” and “the land to the Indians, the mines to the state.”<sup>37</sup>

To summarize, in country after country in Southeast Asia and Latin America, liberal, market-oriented policies have distributed their benefits disproportionately to Western foreigners and to certain resented internal foreigners. As a result, these market policies have fueled backlash reactions culminating in the return of xenophobic, anti-market economic programs.

### III

To return to the present, the real question is whether there is a danger that such backlash and cycling could happen again. I think the answer is clearly yes. In my view, the privatizing politicians of the developing world and their Western partners and policy advisors are paying insufficient attention to history. They are not focusing enough on whether today's sophisticated market innovations are fundamentally different, from a distributional and ethnodistributional point of view, from the past market regimes. Are today's international asset securitizations and telecommunications privatizations structurally any more advantageous to developing country majorities than yesterday's mining concessions? Now, like Enrique Carrasco, I do not believe that the solution is to scrap the market. Instead, today's economic liberalizations and market innovations, to be effective, lasting and sustainable, must focus in a way that they never have on the problems of distribution, nationalism, and ethnicity in the post-colonial world.

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36. *See id.* at 276-77.

37. Frederick Pike, *The Problem of Identity and National Destiny in Peru and Argentina*, in *LATIN AMERICAN HISTORY* 182 (Frederick Pike ed., 1969); MAGNUS MORNER, *THE ANDEAN PAST* 205 (1985).

