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WELCOME TO THE THIRD WORLD: REFLECTIONS ON THE ANNIVERSARY OF THE *BOSTON COLLEGE THIRD WORLD LAW JOURNAL*

RODOLFO MATA* and LAWRENCE FRIEDMAN**

I. INTRODUCTION

The conventional history of the Third World begins “with the first white explorer, continues with the consolidation of white rule and white governance, and marks the waning days of white rule and then compares the regressive successor, native regimes with the preceding white rule.”¹ Though Third World historiography usually refers to European colonialism and its consequences, at a higher level of abstraction the Third World formula is no less applicable to modern circumstances following a similar pattern.² For example, the fundamental malaise of today’s inner city is little different from that which afflicted countries under colonial rule: as control falters, the economically able flee the city, leaving only the remains of systemic neglect in their wake. In this sense, the Third World is considerably more than a specific location, and the cry of New York City’s mayor in *Bonfire of the Vanities*—“It’s the Third World down there!”—has never been more apropos.³

The point here is a simple one: though the historical circumstances from which the term “Third World” derives may be receding, the term’s intrinsic meaning transcends time and place, encompassing the equivalent of colonial oppression in contemporary contexts.⁴ To

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¹ James M. Doyle, *Into the Eight Ball: The Colonialists’ Landscape in American Criminal Justice*, 12 B.C. THIRD WORLD L.J. 65, 90 (1992).

² See *id.*

³ TOM WOLFE, *BONFIRE OF THE VANITIES* 7 (1987).

⁴ Race relations in the United States provide but one example of the persistence of the colonial “state of mind.” Though equality is among the most preeminent of modern American values, a systemic inequality—comparable in its origins and effects to colonial constructs—still

be sure, the Third World still refers to regions where people struggle against the legacies of colonial indulgence. But the term has lost its meaning with respect to ranking spheres of global influence: geographically, we now refer to the Third World only for convenience, recognizing that the descriptor is no longer entirely accurate since the "second [world] collapsed and the first lost its power to set the globe's agenda."⁵

The founders of the *Boston College Third World Law Journal* anticipated a world in flux when they crafted a flexible definition of Third World, a definition that succeeding editorial boards have expanded and refined still further. The founders established the *Journal* as a forum for discussion of Third World legal issues, with the term "Third World" describing all categories of people, cultures, and institutions that share a common history of colonialism by European powers; that are oppressed generally and identify with those who suffered under colonialism; and that fall within the first two groups and also strive for the elimination of social and economic inequalities.⁶ In this, the *Journal's* fifteenth year, it seems appropriate to review its beginnings and the continued vitality of its mission. Such a review is especially appropriate in light of the *Journal's* recent re-examination of its name and origin.

II. THE NAME CHANGE-REAFFIRMATION PROCESS

In November 1992, the *Third World Law Journal's* then-Board of Editors and staff began a formal, open process of examining the *Journal's* name. The *Journal* identified four factors contributing to the perception that the name was no longer suitable. First, it was observed that increasingly, the term "Third World" has been used to connote international issues and peoples, as opposed to domestic issues and peoples. Second, many people believed the term had become pejorative in the eyes of the developing world. Third, as noted above, the term is of questionable utility given the end of the Cold War and the sudden shifts in geo-politics. Finally, many *Journal* editorial boards discovered that the name is often misunderstood by outside authors,

pervades American society. As Derrick Bell has observed, "the real problem of race in America is the unreconciled contradiction between our commitment to equality and our preservation of the subordinate status of blacks. . . ." *Foreword: The Civil Rights Chronicles*, 99 HARV. L. REV. 4, 12 (1985). Clearly, the American experience demonstrates that the "Third World" knows no temporal or geographical limitations.

⁵ Clifford Geertz, *Life on the Edge*, N.Y. REV. OF BOOKS, April 7, 1994, at 3 (book review).

⁶ See Bernard W. Greene, *Toward a Definition of the Term Third World*, 1 B.C. THIRD WORLD L.J. 13, 23 (1980).

potential subscribers, students, and faculty unfamiliar with the *Journal's* use of the term. Thus, the goal of the name change-reaffirmation process was either to reaffirm the *Journal's* original name, or to rename the *Journal* to better describe its scope, mission, and content.⁷ The *Journal's* investigation ultimately resulted in the reaffirmation of the present name.⁸

In a memorandum announcing the final results of the process, the editorial board and staff articulated three reasons for the reaffirmation. Briefly, the memorandum indicated that the original name best reflected the scope of the *Journal* as envisioned by its founders.⁹ Second, because the term "makes some people uncomfortable and others empowered," the original name is usefully provocative in ways unique to that term.¹⁰ Finally, the name continues to allow for editorial freedom and creativity.¹¹

During the name change-reaffirmation process, many people participated in the *Journal's* investigation by way of oral and written correspondence. In addition to contributing to the debate and discussions about the name, several participants indicated that they perceived the process as an attempt to change the *Journal's* mission. Some of these same participants suggested that the process was a part of a gradual erosion of the *Journal's* original mission through a change in scope that began roughly at the time the *Journal* attained "law review" status at Boston College Law School.¹² These arguments generally focused on issues of race, which many considered the *Journal's* original defining character. The issue having been raised, it offered the editorial board

⁷ See Memorandum from John Updegraph to *Third World Law Journal* Editors and Staff, Oct. 21, 1992. Unless otherwise stated, all memoranda and letters referred to herein are on file at the offices of the *Third World Law Journal*.

⁸ See Memorandum from *Third World Law Journal* Board of Editors to Friends of the Journal, May 31, 1993. Previous *Journal* administrations had also discussed the *Journal's* name. Concerns regarding the adequacy of the name of the *Journal* can be traced as far back as 1985, when an interoffice memorandum referred to the problem of defining the purpose of the *Journal* and recommended slight changes to the title as a possible solution. History of the Debate, Feb. 27, 1993.

⁹ Memorandum from *Third World Law Journal* Board of Editors to Friends of the Journal, May 31, 1993. The three alternative names eventually rejected were the *Boston College Civil and Human Rights Law Journal/Review*, *Boston College Journal of Law and Social Justice*, and *Boston College Third World and Civil Rights Law Journal/Review*.

¹⁰ *Id.*

¹¹ *Id.*

¹² See Letter from Richard D. Stevens to *Journal* Members, Faculty and Alumni, Feb. 27, 1993. In April 1985, the editorial board, on behalf of the *Journal*, requested "a change in status from 'journal' to 'review'" because the *Journal* was producing a publication of sufficient quality, and would be able to maintain that quality into the future. Memorandum from Elizabeth Lentini and An-Ping Hsien to Publications Committee, April 10, 1985.

and staff an opportunity to educate themselves about the origins of the *Journal* and its scope.

III. THE *JOURNAL'S* MISSION AND SCOPE

The *Journal's* mission—to provide a forum for Third World issues¹³—and its scope are functions of how “Third World” is defined. Thus, the *Journal's* scope is intimately linked with the meaning of the term “Third World.” Significantly, Bernard Greene directly addressed the task of defining the term “as it will be used by the [*Boston College Third World Law Journal*] in the *Journal's* first published article, *Toward a Definition of the Term Third World*.¹⁴ Greene stated that the term was used “both to identify a general ‘problem area’ and to give encouragement to students of the three minority organizations on campus to work on this ‘problem area.’”¹⁵ He indicated that the *Journal's* usage would encompass both international and national “Third World” concerns.¹⁶ Greene then distilled a “working definition” composed of three parts.

First, the term encompasses a “geo-political dimension.”¹⁷ This dimension includes those notions of the world today defined variously as “underdeveloped nations,” “developing nations,” and “the South.”¹⁸ These nations often share a history of colonialism, most frequently as dependents of major European powers.¹⁹ The nations of modern Africa, Latin and South America, as well as most of Asia, fall into this category.²⁰ Third World nations may be characterized “as being opposed to power blocs . . . being resentful . . . of imperialism, being underdeveloped economically, and suffering from illiteracy and domination of political life by small western-oriented and educated elites.”²¹

¹³ See Maurice Hope-Thompson, *From the Editors*, 1 B.C. THIRD WORLD L.J. 1, 2 (1980).

¹⁴ Greene, *supra* note 6, at 13.

¹⁵ *Id.* at 22. At the time, the three groups were the Asian Pacific Law Students Association, the Black Law Students Association, and the Latino Law Students Association.

¹⁶ “[I]nternational and domestic concerns suggest an anguished plea by the ‘Third World,’ both internationally and domestically, for practical and effective measures to improve the conditions under which it lives.” Greene, *supra* note 6, at 22.

¹⁷ *Id.* at 23.

¹⁸ See Winston E. Langley, *The Third World: Towards A Definition*, 2 B.C. THIRD WORLD L.J. 1, 1 (1981); John M. Updegraph, III, Note, *Large-Scale, Capital-Intensive Development Projects in the Third World: Congressional Influence Over Multilateral Development Bank Lending*, 13 B.C. THIRD WORLD L.J. 345, 345 n.2 (1993).

¹⁹ Greene, *supra* note 6, at 23.

²⁰ *Id.*

²¹ *Id.* at 17.

Second, the concept of Third World includes a "psychological dimension," referring to "oppressed peoples generally," wherever they may be.²² These are people "who have come to identify with the struggles of the former colonized nations and see the anti-colonial struggles as organically linked with their own attempts to obtain improvement in their conditions."²³ The implication is that the kind of burdens experienced in colonial regimes could find counterparts in a variety of conditions existing beyond the former colonial states.

Finally, the term "Third World" includes a "programmatic dimension." This dimension consists of persons "in the above two groups who identify with the general concepts of economic and social progress . . . characterized . . . as the New International and Economic Order and related concepts."²⁴ Greene defined the "New International and Economic Order" as the elimination of economic and social inequities between wealthy and poor institutions.²⁵ As with the second aspect of his definition, Greene did not establish narrow "programmatic" parameters, and instead relied on phrases like "groups who identify," "general concepts," and "related concepts" to delineate this "dimension" of the term "Third World." With respect to world affairs, the New International and Economic Order refers to the social and economic gap between developed and developing countries.²⁶ Applied to the United States by analogy, the concept implicates most every domestic and social problem created by economic and social inequities.

A review of other pieces in the *Journal's* first issue shows that some original contributors did emphasize race as a defining element of the *Journal*. For example, in messages from several distinguished members of the legal community commemorating the *Journal's* founding, some praised the *Journal* for providing a forum for "addressing the legal and civil rights concerns of Black, Hispanic, Asian Pacific and Native Americans."²⁷

²² *Id.* at 23.

²³ *Id.* Interestingly, Greene did not further elaborate the boundaries of this second definition, other than to suggest it includes persons who "identify with the struggles of colonialism" and who view the struggles as "organically linked" with their own.

²⁴ *Id.*

²⁵ *See id.* at 18-20.

²⁶ *See id.* at 19. "The purpose of this new order [as outlined by the United Nations in 1976] was said to be the elimination of the widening gap between the developed and the developing countries." *Id.*

²⁷ Letter from U.S. Senator Daniel K. Inouye, 1 B.C. THIRD WORLD L.J. 6, 6 (1980). Then-Dean Richard G. Huber wrote: "For several years a number of students have expressed an interest in creating a law journal that would focus on the problems of minorities in our culture, and the world cultures from which these people came." *Id.* at 5. U.S. Senator Spark Matsunaga stated: "I

Nonetheless, Greene made clear that "the process of the *Journal's* evolution will provide additional predicates for a fuller and more exact definition."²⁸ He did not limit the *Journal's* scope to any particular political ideology or racial groups, and he emphasized the global nature of the scope.²⁹ If the question is whether ethnicity was the consolidating theme of the *Journal*, or merely a powerful and frequent identifier of "Third World" issues, Greene's article would seem to indicate the latter.

IV. THE *JOURNAL'S* SCOPE AS REVEALED THROUGH ITS HISTORY

Articles published throughout the *Journal's* existence also reflect a scope that comprehends issues facing oppressed peoples in a variety of circumstances. Throughout the *Journal's* history, the *Journal's* editorial boards have maintained a flexible policy with respect to articles published in the *Journal*. Though the three dimensions of Bernard Greene's definition appear in each issue, editors have endeavored to apply Greene's definition in ways at once creative and faithful to the *Journal's* mission.

The first volume included pieces on the law of the sea and taxation in China.³⁰ These articles fell approximately within the geo-political dimension of Greene's definition. In the second volume, the *Journal* published articles addressing the needs of underdeveloped nations,³¹ as well as civil rights domestically.³² Also in that volume, Winston E. Langley articulated another definition of the term "Third World" in his article, *The Third World: Towards a Definition*.³³ Langley suggested the term is defined by both a "condition and an attitude."³⁴ He concluded that "Third World may be defined as a group of states which,

commend you for including in the scope of the *Journal* the existing legal problems of American minority groups as well as those of developing nations." *Id.* at 7. See also Carlos M. Vega, *From the Editor in Chief*, 3 B.C. THIRD WORLD L.J. ii, ii (1982) ("The . . . *Third World Law Journal* was conceived as a forum for scholarly works on topics relating to minorities in our culture and the Third World culture from which these people came.").

²⁸ Greene, *supra* note 6, at 19.

²⁹ *Id.* at 22.

³⁰ Maurice Hope-Thompson, Note, *The Third World and the Law of the Sea: The Attitude of the Group of 77 Toward the Continental Shelf*, 1 B.C. THIRD WORLD L.J. 37 (1980); Jan Ching-An Ting, Note, *Preliminary Notes on Taxation in the People's Republic of China*, 1 B.C. THIRD WORLD L.J. 71 (1980).

³¹ Donald F. McHenry, *The Role of Interdependence in United States Foreign Policy Toward the Third World*, 2 B.C. THIRD WORLD L.J. 29 (1981); Robert B. Seidman, *Law and Development: The Interface Between Policy and Implementation*, 2 B.C. THIRD WORLD L.J. 47 (1981).

³² James W. Henderson, Note, *The Federal Communications Commission's Approach to Minority Ownership of Broadcast Facilities*, 2 B.C. THIRD WORLD L.J. 91 (1981).

³³ 2 B.C. THIRD WORLD L.J. 1 (1981).

³⁴ *Id.* at 3.

because of structural poverty, has tended to reject existing international socio-economic structures, and has instead supported the creation of new ones."³⁵ With this article, the *Journal* began exploring the second—psychological—and third—programmatic—dimensions of Greene's original definition.

These articles demonstrate that the *Journal's* scope, as understood by its initial editorial boards, encompassed a broad range of subjects under the geopolitical, psychological, and programmatic dimensions of the term "Third World." Indeed, founding editor Maurice Hope-Thompson has underscored this point, noting that the term "is descriptive of people in search of liberation and empowerment all over the world."³⁶

The creativity of editorial boards continued during the early course of the *Journal's* development. In the third issue, the *Journal* published articles concerning domestic Third World issues in the form of the affirmative action debate and court-ordered busing,³⁷ as well as an international perspective on approaches to former colonial oppression.³⁸ In this issue, Robert A. Williams, Jr., and James Henderson referred to the "Third World problems" as the "complex matrix of social, economic and political crises confronting minority groups, indigenous cultures and underindustrialized nations."³⁹ They suggested that Third World problems required a new theoretical approach, and discussed as examples domestic and international legal issues that varied from the law of the sea to indigenous persons of North and South America, to landlord-tenant law in the United States. Looking to the first three years of the *Journal's* existence, then, demonstrates that in both word and practice the *Journal* took a broad approach to the exploration of its mission.

Subsequent editorial boards have retained this wide perspective, reflecting a heightened sensitivity to the varied nature of oppression, the second dimension of Greene's definition. From the rights of Native American communities in Canada⁴⁰ to refugees⁴¹ and immigration re-

³⁵ *Id.* at 27.

³⁶ Memo from Maurice Hope-Thompson to Professor Renee M. Landers, April 18, 1991.

³⁷ Orrin Hatch & William Coleman, *Affirmative Action Debate Still Heated After Fifteen Years*, 3 B.C. THIRD WORLD L.J. 49 (1982); Jane C. Moriarty, Note, *The Jurisprudence of Desegregation: Understanding the Recent Busing Developments*, 3 B.C. THIRD WORLD L.J. 109 (1982).

³⁸ Carlos Fuentes, *A Critical Perspective On United States-Latin American Relations*, 3 B.C. THIRD WORLD L.J. 58 (1982).

³⁹ *Toward A Critical Examination of Third World Legal Issues*, 3 B.C. THIRD WORLD L.J. 1, 1 (1982).

⁴⁰ Harold W. Finkler, *Violence and the Administration of Justice: A Focus on Inuit Communities in Northern Canada*, 4 B.C. THIRD WORLD L.J. 137 (1984).

⁴¹ Elizabeth J. Lentini, Note, *The Definition of Refugee in International Law: Proposals for the*

form,⁴² the *Journal's* editorial boards have selected articles that address a vast spectrum of legal issues. In addition, the editors have continued to recognize the nature of oppression in modern societies, with particular attention to the United States.⁴³ Articles about women,⁴⁴ children,⁴⁵ gays and lesbians,⁴⁶ prisoners,⁴⁷ and the homeless⁴⁸ fall squarely within the second and third aspects of Greene's definition. Recent issues covered by the *Journal* have included topics such as the rights of HIV-positive women,⁴⁹ Native American property rights,⁵⁰ and the use of the First Amendment to protect rap music.⁵¹ The authors of these articles, and the editorial boards who decided to publish them, recognized that there are many categories of persons and institutions that

Future, 5 B.C. THIRD WORLD L.J. 183 (1985); Thomas K. Ragland, Note, *Burma's Rohingyas in Crisis: Protection of "Humanitarian" Refugees under International Law*, 14 B.C. THIRD WORLD L.J. 301 (1994).

⁴² Richard R. Hofstetter, *Immigration Reform: Crisis and Compromise*, 5 B.C. THIRD WORLD L.J. 97 (1985).

⁴³ See Marie Appleby, Note, *The Mentally Retarded: The Need for Intermediate Scrutiny*, 7 B.C. THIRD WORLD L.J. 109 (1987); Kathryn J. Zoglin, *Recognizing a Human Right to Language in the United States*, 9 B.C. THIRD WORLD L.J. 15 (1989); Mark D. Robins, Note, *The Modern Schools of Jurisprudence and Standing to Sue the Government for Failure to Act Against a Third Party: Dissecting Allen v. Wright*, 11 B.C. THIRD WORLD L.J. 165 (1991).

⁴⁴ See, e.g., A.J. Zolan, *The Effect of Islamization on the Legal and Social Status of Women in Iran*, 7 B.C. THIRD WORLD L.J. 183 (1987); Winston Langley, *The Rights of Women, the African Charter, and the Economic Development of Africa*, 7 B.C. THIRD WORLD L.J. 215 (1987); Gita Gopal, *Gender and Economic Inequality in India: The Legal Connection*, 13 B.C. THIRD WORLD L.J. 63 (1993).

⁴⁵ See, e.g., M.F. Davis, *Child Custody in Pakistan: The Role of Ijtihad*, 5 B.C. THIRD WORLD L.J. 119 (1985); R.F. Mills, Note, *The Indian Child Welfare Act of 1978: The Massachusetts Dilemma*, 4 B.C. THIRD WORLD L.J. 205 (1984); Colleen C. Maher, Note, *The Protection of Children in Armed Conflict*, 9 B.C. THIRD WORLD L.J. 297 (1989); Sanford J. Fox and Diony Young, *International Protection of Children's Right to Health: The Medical Screening of Newborns*, 11 B.C. THIRD WORLD L.J. 1 (1991).

⁴⁶ See, e.g., Edward J. Juel, Note, *Non-Traditional Family Values: Providing Quasi-Marital Rights to Same-Sex Couples*, 13 B.C. THIRD WORLD L.J. 317 (1993).

⁴⁷ See, e.g., Richard P. Rhodes, Jr., Note, *Strickland v. Washington: Safeguard of the Capital Defendant's Right to Effective Assistance of Counsel?*, 12 B.C. THIRD WORLD L.J. 121 (1992); Candace A. Mueller, Note, *The Evolving Standards in Prison Cases: An Analysis of Wilson v. Seiter and the Cruel and Unusual Punishment Clause*, 13 B.C. THIRD WORLD L.J. 155 (1993).

⁴⁸ See, e.g., Kathleen M. Quinn, Note, *Connecticut v. Moody and the Expectation of Privacy: The Double-Edged Sword of Advocacy for the Homeless*, 13 B.C. THIRD WORLD L.J. 87 (1993).

⁴⁹ Kathryn Boockvar, *Beyond Survival: The Procreative Rights of Women with HIV*, 14 B.C. THIRD WORLD L.J. 1 (1994).

⁵⁰ Mark D. Poindexter, Note, *Of Dinosaurs and Indefinite Land Trusts: A Review of Individual American Indian Property Rights Amidst the Legacy of Allotment*, 14 B.C. THIRD WORLD L.J. 53 (1994).

⁵¹ Jason Talerman, *The Death of Tupac: Will Gangsta Rap Kill the First Amendment?* 14 B.C. THIRD WORLD L.J. 117 (1994) (arguing that racist application of the Amendment results in rap musicians receiving ineffective protection from censorship and claims of incitement).

“identify with the struggles of former colonized nations” and “the general concepts of economic and social progress,” both nationally and internationally. Again, the words of Maurice Hope-Thompson are illustrative: “the problems confronting AID[S] patients [and] those who are brutalized by the police, etc. . . . are Third World problems and the [*Boston College*] *Third World Law Journal* is the proper forum for their discussion.”⁵²

V. CONCLUSION

The mission of the *Third World Law Journal* is to focus on Third World issues. Its scope covers those issues affecting three sets of persons, cultures, and institutions: those that share a common history of colonialism; those that are oppressed generally and identify with those who suffered under colonial rule; and those that fall within the first two groups and strive for social and economic equity. This definition is but a starting point and barely begins to approach the diversity of issues appropriate to the *Journal*. Within the past fifteen years, we have seen the collapse of the Soviet bloc abroad and the continued marginalization of under-represented groups in the United States.⁵³ Given the human capacity for oppression and subordination, future editorial boards will no doubt discover new categories of persons and institutions that fall within the *Journal's* definition of the Third World.

Though the *Journal* was founded by members of the three ethnic minority groups at Boston College Law School, and frequently addresses issues affecting these groups, it seems clear that the scope of the *Journal* was never intended to be limited strictly to issues facing “peoples of color” per se. In creating the *Journal* and defining “Third World,” the *Journal's* founders did not freeze in time any specific application of that definition, for they recognized that so long as oppression exists, the *Journal's* mission continues. Bernard Greene’s definition is, in many ways, a “living” definition that will necessarily change as the world changes.⁵⁴

⁵² Memo from Maurice Hope-Thompson, *supra* note 36.

⁵³ “[T]he third world . . . is expanding right before our eyes. Certainly the former Yugoslavia and the former Soviet Union cannot pretend to be enjoying ‘first world’ experiences. The Third World covers a huge portion of the human population. The concerns of the *Journal* will always be a mix of law, politics and civil rights/social science.” Letter from Maurice Hope-Thompson to Rodolfo Mata, Feb. 27, 1993.

⁵⁴ Cf. Thurgood Marshall, *Reflections on the Bicentennial of the United States Constitution*, 101 HARV. L. REV. 1, 5 (1987) (suggesting that the U.S. Constitution and Bill of Rights be interpreted as “a living document”).

Today the *Journal* remains true to its original mission. Indeed, so long as the *Journal's* use of the term "Third World" continues to cause people to question and to reconsider existing orders and arrangement—in short, so long as the term continues to make people uncomfortable—then the editors and staff have been successful in furthering the founders' vision.