

BOOK REVIEW**THE RACIAL AND CULTURAL PROFILING OF ASIAN AMERICANS:
A REVIEW OF *CONTEMPORARY ASIAN AMERICA: A
MULTIDISCIPLINARY READER*¹ BY MIN ZHOU & JAMES V.
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I. INTRODUCTION

During this dawn of a new millennium, Asian American student enrollment at American Universities has continued to increase at unprecedented rates.² Currently, Asian Americans account for four percent of this nation's population, but Asian American students represent more than six percent of total college enrollment and a significantly larger proportion at prestigious public and private universities.³ Coinciding with the large presence in academia has been the establishment of a significant number of programs devoted to Asian American Studies.⁴

¹ CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER (Min Zhou & James V. Gatewood eds., 2000).

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² See Min Zhou & James V. Gatewood, *Introduction: Revisiting Contemporary Asian America in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER* 3 (Min Zhou & James V. Gatewood, eds. 2000).

³ *Id.*

⁴ *Id.* at 4.

Since its origins in the 1960s, the goal of Asian American studies was to “reproduce central aspects of the broader movement for social change.”⁵ Historically, Asian American studies have been energized by the “interdisciplinary dynamism” that exists in history, literature, culture studies, sociology, political science and public policy.⁶ Only recently has the field expanded into comparative areas of racial and ethnic relations in America. This expansion is showcased in a recent contribution to Asian American studies: *Contemporary Asian America: A Multidisciplinary Reader*, edited by Min Zhou and James Gatewood.

Three related themes emerge from the writings: (1) the perception of Asian Americans as “foreigners” has imposed and perpetuated the “otherness” on the group; (2) the image of “the yellow peril,” although primarily repudiated in the post World War II period, has been regularly resurrected throughout American history, especially when the United States is at odds with the immigrants’ ancestral homelands in Asia; and (3) the “model minority myth” stereotype has reinforced the “otherness” of Asian Americans. Each article is valuable if for no other reason than that each discusses Asian American issues.

Contemporary Asian America is divided into thirteen sections, beginning with a discussion of the Asian American political movement and the Asian American immigrant experience, and concluding with a look at the new emerging areas of Asian American studies. It focuses on the need to seriously rethink the present black/white paradigm of race jurisprudence and policy making. Demonstrating its inclusiveness, *Contemporary Asian America: A Multidisciplinary Reader* features articles discussing community issues affecting Chinese Americans, Korean Americans, Vietnamese Americans, and Filipino Americans. Also discussed are gender issues unique to Asian American women, interracial marriage, and homosexuality. The anthology’s scope of analysis is wide and representative of the divergent views of Asian American scholars across this nation. It contains thirty-three intriguing essays by Glen Omatsu, Gary Okihiro, Ronald Takaki, Pyong Gap Min, Don Nakanishi, L. Ling-chi-Wang, Dana Takagi, Shirley Hune, Lisa Lowe, and other leading academics on the subject matter. The writings in the anthology provide the necessary foundation for an analysis of the racialization of Asian Americans. Taken as a group, they can be extended to provide additional insights.

The independent and distinct analyses offered in the anthology culminate with Shirley Hune’s valuable contribution in the book’s latter half. In her provocative essay, Shirley Hune calls for the rethinking of race. Hune forcefully argues that theoretical paradigms should be shifted to better articulate and reflect the multiplicity or racial dynamics that have moved beyond the black-white di-

⁵ *Id.* at 4.

⁶ *Id.* at 6.

chotomy, and that more attention must be paid to the differential power and agency of communities of color in the United States.⁷ Hune notes five “paradigmatic shifts” that are relevant to Asian American Studies: (1) “the shift from a dichotomous black-versus-white race relations model;” (2) “the shift from a static model that views race as a fixed category based on genetics” and biology; (3) “the shift from a model that reduces Asian American communities to victims of circumstances;” (4) “the shift from a model that treats the Asian American community as homogeneous” and monolithic; and (5) “the shift from a national model that looks at the Asian American community as a singularly Asian American experience within the confines of the nation-states, to a transnational perspective.”⁸ Unlike the anthology, which uses Hune’s piece as an ending note, I would like to use it in this review as a starting point to address three points: (1) the Asian American experience demonstrates that racism and discrimination has never been an exclusively black/white issue; (2) the present equal protection analysis of racial discrimination in this country is an inadequate and outmoded framework, given its reliance on a bipolar understanding of race; and (3) any inclusion of Asian Americans in the debate over affirmative action reveals that race is a social construction which can be disingenuously deployed for political gain.

II. ASIAN AMERICANS AND “FOREIGNNESS”

History has shown that the American legal system has played a central role in the racialization of Asian Americans as outsiders. Numerous immigration laws, based upon race and national origin during the nineteenth-century, were directed at Asian immigrants,⁹ creating racial barriers to naturalization.¹⁰ Significantly, within the process, Asian American were racialized as foreign born outsiders.¹¹

⁷ *Id.* at 41.

⁸ *Id.* at 41-42.

⁹ See ANGELO N. ANCHETA, RACE, RIGHTS, AND THE ASIAN AMERICAN EXPERIENCE 23, 25 (1998); see also Gabriel J. Chin, *Segregation's Last Stronghold: Race Discrimination and the Constitutional Law of Immigration*, 46 UCLA L. REV. 1, 22-23 (1998) (discussing Congress' racial motives for Asian exclusion through immigration laws); Kevin R. Johnson, *Race, The Immigration Laws, and Domestic Race Relations: A "Magic Mirror" Into the Heart of Darkness*, 73 IND. L.J. 1111, 1121-22 (1998)(describing how aspects of immigration and nationality laws reinforced the anti-Asian sentiment reflected in the exclusion laws).

¹⁰ See ANGELO N. ANCHETA, RACE, RIGHTS, AND THE ASIAN AMERICAN EXPERIENCE 23, 25 (1998).

¹¹ *Id.* at 64-65.

Legal activist Angelo Ancheta terms this process as “outsider racialization.”¹² In explaining the racialization process, Ancheta argues that the racial experiences of Asian Americans diverge fundamentally from the experiences of African Americans. Ancheta suggests that Asian Americans are not subordinated by a black versus white axis, but rather by an American versus foreigner axis. He further expounds upon the dynamics of this phenomenon by implying that “[t]he color axis and the foreigner axis are both subordinate: they are rooted in racial power relations—between the dominant and the subordinate—and are based on the definitions of ‘us’ versus ‘them,’ as set out by those who have the most power to define the terms.”¹³ As a result, by equating Asian Americans with foreigners and with immigrants, “foreignness” serves to reinforce a stratified racial hierarchy in the United States.

Consequently, the foreignness component creates a precarious duality: Asian Americans are perceived as foreign, and thus entitled to lesser standards of protection than “true Americans.”¹⁴ By ignoring race and citizenship, racially discriminatory laws and legislation which appear neutral, can go virtually undetected.¹⁵ This may be interpreted as a form of the recently popularized idea of racial profiling, wherein the cases are likely to be allegations of an express racial classification. Historical examples include the internment of Japanese Americans during World War II,¹⁶ as well as the recent prominent examples of the racializa-

¹² *Id.*

¹³ *Id.* at 64.

¹⁴ See *id.* at 12-13; see also Enid Trucios-Haynes, *Latino/as in the Mix: Applying Gotanda's Models of Racial Classification and Racial Stratification*, 4 ASIAN L.J. 39, 56 (1997) (arguing that the “element of foreignness as part of a racial identity is maintained regardless of citizenship status, when a group is viewed as inassimilable”); Neil Gotanda, *Race, Citizenship and the Search for Political Community Among “We the People,”* 76 OR. L. REV. 233, 252 (1997) (stating that non-black racial minorities, primarily Hispanic Americans, Asian Americans, and Arab Americans, often face a form of racism possessing a dimension of “foreignness” which translates into racially discriminatory treatment).

¹⁵ See ANGELO N. ANCHETA, *RACE, RIGHTS, AND THE ASIAN AMERICAN EXPERIENCE* 97-98 (1998). Similarly, Frank Wu has argued that current legislation proposals to reduce the level of immigration are efforts to return a racial consciousness to an area of law, which has been historically separated from civil rights. See Frank H. Wu, *The Limits of Borders: A Moderate Proposal for Immigration Reform*, 7 STAN. L. & POL'Y REV. 35, 51-52 (1996) (noting that since efforts to close the borders are aimed specifically at Latinos and Asians, these racial attacks on immigration reveal the emptiness of colorblindness).

¹⁶ In a quartet of cases, the most famous, *Korematsu v. United States*, 323 U.S. 214 (1944), the Supreme Court upheld the constitutionality of the Japanese American internment. See *Hirabayashi v. U.S.*, 320 U.S. 81, 81 (1943) (affirming that the restriction that individuals

tion and racial profiling of Asian Americans as foreigners in the John Huang/Democratic National Committee fundraising controversy,¹⁷ and the prosecution of former Los Alamos nuclear scientist Wen Ho Lee for allegedly providing nuclear secrets to the Chinese government.¹⁸

of Japanese ancestry in such address remain in their residences between 8:00 p.m. and 6:00 a.m. was within the constitutional powers of the Executive; holding that said restriction did not unconstitutionally discriminate between citizens of Japanese ancestry and citizens with other ancestries); *Yasui v. United States*. 320 U.S. 115, 115-117 (1943) (citing *Hirabayashi* and stating that the curfew order was valid when applied to citizens; sustaining the conviction of American-born individuals of Japanese ancestry); *Ex Parte Mitsuye Endo*, 323 U.S. 283, 284, 304 (1944) (citing *Hirabayashi* and ordering an unconditional release by the War Relocation Authority). By doing so, the Court condoned racist attitudes and the subversion of the civil liberties of Japanese Americans. "The incarceration of 110,000 Japanese Americans during World War II solely based on their ancestry rather than on proven culpability or sabotage, reaffirmed the government's view that the curb on rights based on ancestry and ethnicity was not only necessary but lawful." Bill Ong Hing, *Asian Americans and Present U.S. Immigration Policies: A Legacy of Asian Exclusion IN ASIAN AMERICANS AND THE SUPREME COURT: A DOCUMENTARY HISTORY* 1107 (Hyung-Chan Kim ed., 1992). See also Reggie Oh & Frank Wu, *The Evolution of Race and the Law: The Supreme Court Moves From Approving Internment of Japanese Americans to Disapproving Affirmative Action for African Americans*, 1 MICH. J. RACE & L. 165, 165-66 (1996) (reporting that *Korematsu* is the only case of racial classification that has survived the Court's strict scrutiny analysis; noting that *Korematsu* remains the benchmark for the strict scrutiny standard); Eric K. Yamamoto, *Korematsu Revisited-Correcting the Injustice of Extraordinary Government Excess and Lax Judicial Review: Time for a Better Accommodation of National Security Concerns and Civil Liberties*, 26 SANTA CLARA L. REV. 1, 1 (1986) (asserting that by "[l]ooking beyond the record, the Court in effect took judicial notice of the government's preferred general conclusions concerning both racial stereotypes and the dangers of espionage and sabotage which was allegedly posed by West Coast Japanese Americans"). Cf. Kevin R. Johnson, *Race and Immigration Law and Enforcement: A Response To Is There A Plenary Power Doctrine?*, 14 GEO. IMMIGR. L.J. 289, 297 (2000) (arguing that the profound difference between the legal treatment of citizens and "aliens" should not be minimized).

¹⁷ See generally, Frank H. Wu & May L. Nicholson, *Have You No Decency? An Analysis of Racial Aspects of Media Coverage on the John Huang Matter*, 7 ASIAN AMERICAN POLICY REV. 1 (1997) (analyzing the campaign fundraising efforts of Democratic Party official John Huang).

¹⁸ Consider the following:

Dr. Wen Ho Lee was fired from his position at Los Alamos National Labs at the height of the furor surrounding the revelation that China had acquired American W-88 warhead technology. Dr. Wen Ho Lee's high profile dismissal during this scandal linked his name to the loss of W-88 warhead technology. This successfully diverted the attention of those calling for officials to resign in responsibility for the lax security at the nation's weapons labs. Energy Department officials, aided by an uncritical mass press corps, steered the public into thinking that Dr. Lee gave America's W-88 warhead

Asian Americans have been racialized in media coverage to their detriment. The media has played a major role in demonizing Asian Americans by creating the prevalent negative images of Asian Americans through its mass outlets. In particular, during the late 1990s, mainstream Americans were exposed to the crude two-dimensional stereotype of Asian Americans: as foreign political campaign donors or spies. Notably, this practice employed by the media has also been adopted, to a significant extent, by law enforcement and policymakers. In referring to the practice of the Federal Bureau of Investigation, Professor Neil Gotanda suggests that the racial profiling of Asian Americans has been created through blending the racial category and the racial cultural understanding of Asian Americans, wherein the linkages are the Chinese racial category and a profile of inassimilable foreignness and disloyalty.¹⁹ This racial profiling of Asian American as spies demonstrates that the practice of law enforcement and policy makers, in stereotyping and penalizing African Americans solely on the basis of their skin color, is not exclusive to one racial group.²⁰ According to one com-

technology to the Chinese.

Detail Analysis of the case as of December 1999 (visited October 1, 2001) <http://www.wenholee.org/what_happened.htm>. See, e.g., Neil Gotanda, *Comparative Racialization, Racial Profiling and the Case of Wen Ho Lee*, 47 UCLA L. REV. 1689, 1689-93 (2000) (using the case of Wen Ho Lee, the Chinese American nuclear physicist accused of espionage, as an example of the racial treatment of Asian Americans as different from African Americans); Frank H. Wu, *Racial Stereotyping in Spy Case?*, THE RECORD, Dec. 19, 1999 at 7 (addressing the racial aspects of the Wen Ho Lee espionage controversy).

¹⁹ See Neil Gotanda, *Comparative Racialization: Racial Profiling and the Case of Wen Ho Lee*, 47 UCLA L. REV. 1689, 1691 (2000).

²⁰ See HELEN ZIA, *ASIAN AMERICAN DREAMS: THE EMERGENCE OF AN AMERICAN PEOPLE* 309 (2000) (describing how many Asian Americans are "angered over the mounting evidence that Lee was scapegoated and accused of the high crime of espionage because of his ethnicity, calling it a national disgrace that he and the estimated 200,000 to 300,000 Asian American researchers and engineers, including Nobel Prize winners and many leading American scientists, have had their loyalties, reputations, and livelihoods severely damaged"). Cf. Reginald T. Shuford, *Any Way You Slice It: Why Racial Profiling Is Wrong*, 18 ST. LOUIS PUB. L. REV. 371, 373 (1999). Kathryn Russell reveals the difference in experiences between blacks and whites. African American are often harassed by police officers. These harassment incidents include being mistaken for a criminal, being publicly humiliated, and in some cases, being called derogatory names. See KATHRYN K. RUSSELL, *THE COLOR OF CRIME: RACIAL HOAXES, WHITE FEAR, BLACK PROTECTIONISM, POLICE HARASSMENT AND OTHER MACROAGGRESSIONS* 33-34 (1998). Russell explains that the Police harassment has numerous forms:

It is also demonstrated by the number of times Black men are stopped, questioned, and assaulted by police as they go about their daily lives. There are clear distinctions between police harassment and police brutality. Police brutality typically refers to the

mentator,

Beyond being immoral, racial profiling is also illegal. The Equal Protection Clause of the Fourteenth Amendment forbids unequal treatment on the basis of race. . . Racial profiling, which targets people of color on the basis of nothing more than their race and subjects them to differential treatment, stands in direct contravention of the Fourteenth Amendment's mandates.²¹

In his argument that nuclear scientist Wen Ho Lee was the victim of racial profiling, Neil Gotanda states that

The assignment to Wen Ho Lee of a presumption of disloyalty is a well-established marker of foreignness. And foreignness is a crucial dimension of the American racialization of persons of Asian ancestry. It is at the heart of the racial profile of Chinese and other Americans.²²

Gotanda, in a recent article in the *UCLA Law Review*, argues that the ongoing debate regarding the existence of a "Chinese Connection" to the Democratic Party campaign finance controversies and the incident involving Wen Ho Lee (a

unlawful use of excessive force. . . For many Black men, consistently negative encounters with the police have caused the line between harassment and brutality to become blurred. For Black men, who are more likely to be stopped by the police than anyone else, each stop has the potential for police brutality. The frequency of contact between Black men and the police has led a generation of Black men to teach their sons "The Lesson"-instructions on how to handle a police stop.

Id. at 34. Illustrating that fame and good fortune does not make one immune from racial discrimination, Russell provides a long and detailed "who's who" list of well known African American men who have been unfairly stopped and harassed by law enforcement officers. *Id.* at 36. This infamous list includes noted Los Angeles trial attorneys Johnnie Cochran and Christopher Darden, actors Wesley Snipes and Levar Burton, and football player Marcus Allen. *Id.*

²¹ Reginald T. Shuford, *Any Way You Slice It: Why Racial Profiling Is Wrong*, 18 St. Louis Pub. L. Rev. 371, 376 (1999). See also *Commentary: Racial Profiling*, NATIONAL PUBLIC RADIO, Dec. 28, 2000 available at 2000 WL 21482699; Leonard Greene, *Minority Cops Say Coke Yuppies Get Racial Leniency*, N.Y. POST, Dec. 29, 2000, at 14 (reporting that a group of African American police officers believe that "Letting white, yuppie cocaine customers walk while jailing black and Hispanic crack and marijuana buyers is 'racial profiling at its highest'").

²² See Neil Gotanda, *Comparative Racialization: Racial Profiling and the Case of Wen Ho Lee*, 47 UCLA L. REV. 1689, 1694 (2000).

nuclear physicist accused of espionage) has emerged as the most recent example of America's racialization of Asians.²³ Significantly, though both of these examples have afforded a great deal of media coverage, the single theme that continues to be downplayed is the fact that both of these controversies are about race.²⁴ Gotanda further asserts that "In its reliance upon innuendo rather than facts, the federal government has emphatically played its race card."²⁵ Even though the government failed to prove its espionage case against Lee,²⁶ the stereotype of scientists of Asian descent, who may be more susceptible to disloyalty and foreign influence than non-Asians, remains viable and strong in the perceptions of many Americans. According to Asian American Civil Rights Attorney Victor Hwang, "[T]he assumption, is that somehow Chinese-Americans would be more responsive to these efforts."²⁷

²³ *Id.* at 1689. University of California-Berkeley Ethnic Studies Professor, Ronald Takaki, suggests that "[T]here has always been this perception of Asian Americans as non-American, even after our families have been here for generations. . . . Wen Ho Lee is an American, but, nevertheless, he wears what has been called 'the racial uniform,' like Japanese Americans after Pearl Harbor." Clarence Page, *Racial Profiling Strikes Asians from Both Ways*, PHILADELPHIA BUS. J., June 23, 2000, at 47.

²⁴ Neil Gotanda, *Comparative Racialization: Racial Profiling and the Case of Wen Ho Lee*, 47 UCLA L. REV. 1689, 1690 (2000).

²⁵ *Id.* See also *A Stand on Profiling*, THE JOURNAL RECORD, Oct. 10, 2000 available at 2000 WL 14298994 (reporting that Energy Secretary Bill Richardson announced safeguards to guard against racial profiling within the department or among private contractors). "Richardson said he would 'not tolerate even hints' of racial profiling and ordered his inspector general to investigate whether any such activity has occurred." *Id.*

²⁶ See Plato Cacheris & John L. Martin, *Lessons Attorneys Can Learn From this Espionage Prosecution Gone Awry*, LEGAL TIMES, Oct. 30, 2000, at 36 ("In the Lee case, the government failed to allege a conspiracy, attempt, or transmittal, and was on weak footing with regard to whether all of the documents warranted classification. How the case nonetheless managed to proceed deserves some scrutiny."); David Rovella, *Defeating Goliath: How Wen Ho Lee's Lawyers Took the DOJ to the Woodshed*, THE NAT'L L.J., Oct. 9, 2000, at A1 (reporting that Lee's defense attorneys successfully built a compelling case that the so-called nuclear crown jewels, copied by Lee when he worked at Los Alamos National Laboratory in New Mexico, were in fact widely available in the public domain). "[Defense attorney Marc Holscher] has forced the government to admit there was no proof Mr. Lee spied for China, convinced [Federal Judge James A. Parker] that his client may have been the subject of selective prosecution and even got a half-hearted apology from the New York Times, whose early reporting, both sides agree, contributed to the political frenzy around the case." *Id.*

²⁷ See *Talk of the Nation Analysis: Whether racial profiling played some role in the case of Wen Ho Lee and other Chinese suspected of espionage*, TALK NATION, Sept. 5, 2000 available at 2000 WL 21459061.

Echoing Hwang's remarks are Theodore Hsien Wang, director of Chinese For Affirmative Action, and Howard University Law Professor Frank Wu, who warn that the indiscriminate use of racial profiling can lead authorities to believe that every "ethnic" American is a potential spy suspect.²⁸ They robustly claim that:

At the moment, China is perceived as an espionage threat, but this rationalization could justify racial profiling against any number of ethnic groups in the future. The government has also failed to provide any proof that Chinese Americans are more likely to spy for China. When pressed counterintelligence officials cannot cite any studies, statistics or examples, leaving the impression that their practice may be based on a racial stereotype. . . Lee's case illustrates that law enforcement based on racial profiling is also ineffective. The targeting of Chinese Americans led to the neglect of other leads. If there is a "Chinese" spy, he is still at large whatever his ethnicity.²⁹

As a consequence, the concerns about witch hunts against Asian American have culminated in a chilling effect among Chinese scientists who are willing to work in the nuclear technology areas.³⁰ More to the point, Professor Ling-Chi Wang,³¹ the Association for Asian American studies, and Asian Pacific Americans in Higher Education, have called on Asian American scientists to boycott employment at federal laboratories in the wake of the Wen Ho Lee case.³²

²⁸ See Theodore Hsien Wang & Frank H. Wu, *Wen Ho Lee was Singled Out by Race*, THE PLAIN DEALER, Sept. 1, 2000, at 11B.

²⁹ *Id.* at 12.

³⁰ *Id.* Cf. Editorial, *A Clumsy Spy Hunt Finally Winds Down*, S.F. CHRON., Sept. 12, 2000 at A24, available at 2000 WL 5491230 ("[W]hen other non-Asians were passed over in the search for leaks, the suspicion [grew] that weapons lab security guards were engaged in racial profiling. Morale among Asian American scientists has plummeted during the Lee case").

³¹ See Michelle Locke, *Professor Urges Asians to Boycott DOE Labs*, ORANGE COUNTY REG., Apr. 28, 2000, at A06 (urging Asian Americans to boycott the labs in protest of alleged racial profiling following the Lee case).

³² See Clarence Page, *Racial Profiling Strikes Asians from Both Ways*, PHILADELPHIA BUS. J., June 23, 2000, at 47. See also Editorial, *The Wen Ho Lee Diversion*, WALL ST. J., Sept. 19, 2000, at A26 (claiming that Asian American activists across the United States charge that the Wen Ho Lee case was the product of racism and have made the case a rallying cry in their efforts to draw more members of their fast-growing community into the political process).

Just as mainstream media coverage of the Wen Ho Lee case displayed racial themes that were ignored or dismissed as irrelevant, the same treatment by the media was afforded to popular press coverage of the fundraising efforts of Democratic Party official John Huang during the 1996 Presidential campaign.³³ “The racial aspects of the so-called ‘Asian connection’ scandal appeared almost as obvious to many Asian Americans as they seemed dubious to other observers.”³⁴

To begin, the racial aspects of media coverage of Huang are considered by University of California-Berkeley Professor Ling-Chi Wang in his article entitled, *Race, Class, Citizenship, and Extraterritoriality: Asian Americans and the 1996 Campaign Finance Scandal*.³⁵ Wang analyzes the hidden meaning of the 1996 campaign finance scandal that unfairly targeted the contributions of Asian American donors like John Huang and Charlie Trie.³⁶ The racialization of the campaign served to reinforce the “foreignness” of Asian Americans,³⁷ while simultaneously contributing to the historical legacy of political disenfranchisement that has plagued Asian Americans since they reached American shores.³⁸ Wang

³³ See 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. VII 2 (1997).

³⁴ *Id.*

³⁵ See L. Ling-Chi Wang, *Race, Class, Citizenship, and Extraterritoriality: Asian Americans and the 1996 Campaign Finance Scandal*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 518 (Min Zhou & James V. Gatewood eds., 2000).

³⁶ *Id.*

³⁷ Consider the following:

Virtually every [news] article that offered a chronological or detailed description of the controversy mentioned Huang’s racial background and immigration history. Given his fundraising among Asian Pacific Americans, a general reference to race might be regarded as merely descriptive. But early allegations of misconduct, even in articles that explicitly note there was yet no evidence for the claims, also mentioned that the Riady family, like Huang, is ‘ethnic Chinese’ in Indonesia.

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. VII 18 (1997).

³⁸ *Id.* See also U.S. COMMISSION ON CIVIL RIGHTS, RECENT ACTIVITIES AGAINST CITIZENS AND RESIDENTS OF ASIAN DESCENT 7 (1986) (explaining that discriminatory laws were enacted against immigrants as soon as they arrived in the United States); John Hayakawa Torok, *Asians and the Reconstruction Era Constitutional Amendments and Civil Rights Laws* in ASIAN AMERICANS AND CONGRESS: A DOCUMENTARY HISTORY 14 (Hyung-Chan Kim ed.,

argues that the scandal at issue was the result of the ethic of the political parties seeking campaign donations by any means necessary, leading to corruption, illegal practices, and ultimately a democratic crisis.³⁹

Next, Wang asserts that,

The most direct benefit from racializing political corruption by both political parties is the diversion of public attention from the crises facing American democracy. Instead of addressing the systemic problem of money corruption in politics, politicians discovered the perfect distraction: blame the problem on Asians Americans and the unscrupulous “spies” or “agents” of “communist” China.⁴⁰

1996) (stating that Chinese immigrants soon experienced institutionalized discrimination in law and public policy after their migration to California during the Gold Rush period); Daina Chiu, Comment, *The Cultural Defense: Beyond Exclusion, Assimilation, and Guilty Liberalism*, 82 CAL. L. REV. 1053, 1060 (1994) (asserting that Americans have historically discriminated against Asians and precluded them from participating in American society by enacting immigration laws). See also K. Scott Wong, *Cultural Defenders and Brokers: Chinese Responses to the Anti-Chinese Movement* in CLAIMING AMERICA: CONSTRUCTING CHINESE AMERICAN IDENTITIES DURING THE EXCLUSION ERA 5 (reporting that “American opposition to the Chinese presence in the United States centered on two main issues, economics and race, both of which were usually framed as a critique of Chinese culture”); GABRIEL CHIN, ET AL, BEYOND SELF-INTEREST: ASIAN PACIFIC AMERICANS TOWARD A COMMUNITY OF JUSTICE: A POLICY ANALYSIS OF AFFIRMATIVE ACTION 14 (1996).

³⁹ See L. Ling-Chi Wang, *Race, Class, Citizenship, and Extraterritoriality: Asian Americans and the 1996 Campaign Finance Scandal*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 518-21 (Min Zhou & James V. Gatewood eds., 2000). Frank Wu suggests that

Prior to Huang matter, Asian Pacific American political participation had been much anticipated but not yet realized. Over the past several years, politicians have advocated involving Asian Americans in the electoral process. At the same time, Asian Pacific American activists sought to increase political interest within Asian Pacific American communities. Contrary to popular perceptions of Asian American political apathy, well before Huang began his activities, Asian Americans were giving more money to political parties per capita than other constituency groups except Jewish Americans. In 1996, Asian Pacific American groups across the country organized to naturalize citizens and register voters. Few of these aspects of Asian Pacific American political activity were covered by mainstream newspapers before the Huang case.

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. VII 3 (1997).

⁴⁰ *Id.* at 522.

In Wang's view, from the beginning, both Democrats and Republicans "played the race card," manipulating Asian American political interests and denationalizing them, treating Asian Americans "as if they were strangers or worse—lepers, foreigners, criminals, and subversives."⁴¹ According to Wang,

[John Huang] and other Asian Americans are the center of the campaign finance controversy. Republicans vilified Asian Americans to incite public outrage over widespread political corruption, the media sensationalized them to sell papers and advertisement, and Democrats abandoned them in order to counter Republican criticism and to demonstrate its commitment to 'clean money' and politics.⁴²

According to Professor Frank Wu, the racial aspects of the John Huang campaign fund-raising fiasco were obvious.⁴³ Wu argues that

The complaint is that Asian Pacific Americans were being held to a different standard than other racial groups, either a double standard or a standard that was changing only as Asian Pacific Americans became actively involved. In concrete terms, Asian Americans were being criticized for behaving as other constituency groups had done in the past, making political contributions in exchange for anticipated influence.⁴⁴

⁴¹ *Id.* at 520, 522.

⁴² *Id.* at 521.

⁴³ See Frank H. Wu, *The Asian-American Connection: The Campaign Contributions Fiasco and Racial Stereotyping*, LEGAL TIMES, Feb. 10, 1997, at 24. Wu provides the following concrete examples:

Before the November [1996] election, independent presidential candidate Ross Perot commented about the controversy: "You know, so far we haven't found an American name." And: "Wouldn't you like to have someone out here named O'Reilly? Out there hard at work." Likewise, during the campaign, Republican candidate Robert Dole and House Speaker Newt Gingrich warned of foreigners buying the White House. After Bill Clinton's re-election, auditors from the Democratic National Committee began contacting Asian-American donors, asking whether they were citizens, all the while threatening to tell the press if the donors did not cooperate.

Id.

⁴⁴ See 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. VII 14 (1997).

Arguably, there was a concern that selective focus was placed on Asian Americans because of the historical and contemporary perception of them as perpetual foreigners likely to be disloyal as alien enemies.⁴⁵

Lastly, a racial theme began to be apparent in media coverage as soon as the first article was published. Frank Wu notes that *New York Times* columnist William Safire, who seems to have written about nothing else since introducing this scandal to the mainstream media, dubs the controversy the "Asian connection"—the title itself revealing a perceived racial element to this matter. The *Wall Street Journal*, Wu reports, in its initial series of articles, describes Asian Americans as "people with tenuous connections to this country."⁴⁶ He argues that the leading newspapers and television networks tended to focus almost solely on Asian Americans, attempting to attribute their alleged improper activity to their racial backgrounds, while practically overlooking campaign transgressions by whites.⁴⁷ Wu further suggests that the campaign financing scandal may be another example wherein Asian Americans are treated within a citizen-foreigner paradigm rather than a black-white paradigm.⁴⁸ Wu concludes that

Because the line between citizens and foreigners is accepted and indeed, was emphasized in this controversy, while the line of dividing black and

⁴⁵ *Id.* Frank Wu also refers to the manner in which the terms "Asians" and "Asian Americans" would be introduced in the media coverage together, but then any distinction between them would be abandoned. *Id.* at 16. See also Timothy Egan, *When to Campaign With Color*, N.Y. TIMES, June 20, 2000, at A16 (discussing how Washington State Governor Gary Locke, a natural born Chinese American relays his own experience of being perceived as "foreign").

It was only when he left Seattle, at the height of the Vietnam War, that Gary Locke began to understand how some people in his own country considered him foreign, if not the enemy. As he was leaving Yale, he and his parents, waiting in the airport, were confronted by an American soldier, who cursed them and called them gooks. At Yale, Gary was often complimented on his English and asked about his diet.

Id.

⁴⁶ Frank H. Wu & May L. Nicholson, *Have You No Decency? An Analysis of Racial Aspects of Media Coverage on the John Huang Matter*, *Asian American Policy Review* VII 5 (1997).

⁴⁷ *Id.* at 12-25.

⁴⁸ *Id.* at 24.

white is invidious, placing Asian Pacific Americans in citizen-foreigner model makes it easier to treat Asian Americans differently. Thus, any difference is not discrimination.⁴⁹

Ultimately, the DNC campaign controversy has hurt Asian Americans, because their access has been limited. Daphne Kwok, of the Organization of Chinese Americans, expresses her concerns about how Asian Americans are affected by the political discourse regarding China as the new evil empire in the post-Cold War era: "When China's demonized, unfortunately people really do take out their anger about China on any Asian face they see here in the United States."⁵⁰ Consequently, any politicians will be cautious in meeting and communicating with people with Asian faces and names, for fear of the perception that they have fallen under some undue foreign influence themselves. Similarly, Ling-Chi Wang observes that

Asian Americans have been dealt a severe blow and setback because of the racialization of the scandal. They have become "denaturalized" and effectively linked to an alleged Chinese conspiracy. By viewing the John Huang case as a symptom of a larger problem and racialization as a pretext to divert public attention from the need for campaign finance reform Asian Americans can treat the setback as a rare opportunity to clarify many key issues in both the communities and the nation, to deal effectively and unapologetically against racism. Asian Americans can join forces with other public interest and community groups in a nationwide movement to achieve substantive, not superficial or procedural, campaign finance reform. Such efforts would help revive and restore democracy in the U.S. in the scandal.⁵¹

Although there have been recent bills introduced in the House and the Senate in response to the allegations of Asian and Asian American involvement in illegal campaign financing and the accusations of espionage leveled at Dr. Wen Ho Lee,⁵² Asian Americans will likely perceive these legislative efforts only as moderate proposals to address the seemingly unrelenting existence of racial prejudice against them. Neil Gotanda professes that "Until we are able to dis-

⁴⁹ *Id.*

⁵⁰ *Analysis: Asian Americans are stereotypically seen as foreigners no matter how long they have been in the U.S.*, NPR WEEKLY, Oct. 14, 2000, available at 2000 WL 22529383.

⁵¹ L. Ling-Chi Wang, *Race, Class, Citizenship, and Extraterritoriality: Asian Americans and the 1996 Campaign Finance Scandal*, in *Contemporary Asian America: A Multidisciplinary Reader* 528 (Min Zhou & James V. Gatewood, eds. 2000).

⁵² See Elaine Sit, *From Barbie to the Bar: Thoughts on Asian Americans in Out Toy Stores and in Our Courts*, FED. LAWYER, Aug. 2000, at 31.

lodge both the structural reaffirmation of racial categories as well as disrupt the commonsense nature of culturally embedded racial profiles, we make little progress in attacking American racial practices.”⁵³ Aware of the pervasiveness of racism towards them, Asian American activists groups, representing the Asian American community, will likely continue in their unrelenting struggle against social and legal discrimination, and towards the goal of racial justice.

III. ASIAN AMERICANS, THE MODEL MINORITY MYTH, AND AFFIRMATIVE ACTION

Two of the most significant essays in *Contemporary Asian America: A Multidisciplinary Reader* are also important contributions to social thought. Their value lies in their exploration of the history of the model minority myth and an analysis deconstructing the stereotype.⁵⁴ The persistence of the model minority image has caused members of the Asian Americans community to criticize it. Asian Americans have argued that the image is a racial stereotype, especially inaccurate, and inapplicable to the everchanging Asian American population.⁵⁵ For example, Elaine Sit suggests that

Asian immigrants to the United States and native born Asian Americans have endured continued discrimination and even internment, but we have managed to flourish and develop into a pan-ethnic so-called ‘Model Minority,’ a term that is both embraced and rejected by many in the Asian American community.⁵⁶

Ever since William Peterson praised the efforts of Japanese Americans in their successful struggle to enter the American mainstream in his 1966 New York Times Magazine article, and other articles that praised Chinese Americans for their ability to overcome years of racial discrimination, the model minority myth stereotype has become synonymous with the Asian American racial iden-

⁵³ Neil Gotanda, *Comparative Racialization :Racial Profiling and the Case of Wen Ho Lee*, 47 UCLA L. REV. 1689, 1703 (2000).

⁵⁴ See Min Zhou & James V. Gatewood, *Introduction: Revisiting Contemporary Asian America in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER* 449 (Min Zhou & James V. Gatewood eds., 2000).

⁵⁵ *Id.*

⁵⁶ Elaine Sit, *From Barbie to the Bar: Thoughts on Asian Americans in Our Toy Stores and in Our Courts*, FED. LAWYER, Aug. 2000, at 30.

tity.⁵⁷ These articles offered an explicit explanation for why Asian Americans succeeded.⁵⁸ “At the heart of this explanation was a direct link between traditional Asian cultural values and subsequent achievement in education and occupations.”⁵⁹ According to Keith Osajima,

The 1966 articles marked a significant turning point in the public’s perception of Asian Americans. After enduring a century of blatant racial discrimination and negative stereotypes, the Japanese and Chinese suddenly found themselves in a favorable light. In place of the unassimilable, inscrutable Fu Manchu, and vicious *kamikaze* plot emerged the image of the high-achieving, successful minority.⁶⁰

The emergence of the new racial identity of Asian Americans, and their success, coincided with the Civil Rights Movement and the tremendous racial change in America which followed.⁶¹ In this context of racial politics, the Asian American success story was exploited and used for political gain.⁶² For many, Asian American success constituted a direct critique of African Americans who

⁵⁷ Keith Osajima, *Asian Americans as the Model Minority: An Analysis of the Popular Press Image in the 1960s and 1980s*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 449 (Min Zhou & James V. Gatewood eds., 2000). See also Troy M. Yoshino, *Still Keeping the Faith? Asian Pacific Americans, Ballot Initiatives, and the Lessons of Negotiated Rulemaking*, 6 ASIAN L. J. 1, 5 (1999) (“Stereotypes and beliefs concerning [Asian Americans] have also hurt their interests and their ability to achieve an effective political voice. Much of the American public perceives the [Asian American] community as untouched by racial discrimination—a recent poll of American voters found that most respondents ‘thought that Asian Americans did not suffer from discrimination’ and that they ‘received too many special advantages’”).

⁵⁸ Keith Osajima, *Asian Americans as the Model Minority: An Analysis of the Popular Press Image in the 1960s and 1980s*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 450 (Min Zhou & James V. Gatewood eds., 2000).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* See also Chris K. Iijima, *Race As Resistance: Racial Identity As More Than Ancestral Heritage*, 15 TOURO L. REV. 497, 509 (1999) (stating that “There is a growing consensus that there is no essentialized Asian Pacific American, or Latino/a, or African American”).

⁶² Keith Osajima, *Asian Americans as the Model Minority: An Analysis of the Popular Press Image in the 1960s and 1980s*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 450 (Min Zhou & James V. Gatewood eds., 2000).

sought relief through federally supported social programs.⁶³ Osajima reports that “Asian Americans, we were told, were able to make in on their own. Welfare programs were unnecessary.”⁶⁴

In addition, Osajima asserts that “Asian American success also sent a distinct political message to the nascent Black Power Movement.”⁶⁵ “The achievements of Asians diffused the black militants’ claim that America was a fundamentally racist society, structured to keep minorities in a subordinate position.”⁶⁶ According to Osajima, “the Asian American experience identified cultural values and hard work as the keys to success.”⁶⁷ He suggests that, “The political implication for those who had yet to make it was that their culture was not ‘good’ enough. This delineation of good and strong culture deflected attention away from societal factors and placed the blame for inequality on minorities.”⁶⁸ Moreover, the uses of Asian Americans as a wedge group between whites and African Americans have been seen in the contemporary debates over affirmative action. Increasingly so, Asian Americans are used as a rhetorical device for showing that affirmative action is unnecessary.⁶⁹

Undoubtedly, the primary reason why Asian Americans are not considered active players in the affirmative action arena is because most Americans have accepted the ideal of the “model minority myth.”⁷⁰ The model minority myth has

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Keith Osajima, *Asian Americans as the Model Minority: An Analysis of the Popular Press Image in the 1960s and 1980s*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 451 (Min Zhou & James V. Gatewood eds., 2000).

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Harvey Gee, Comment, *Changing Landscapes: The Need for Asian Americans to be Included in the Affirmative Action Debate*, 32 GONZ. L. REV. 621, 637 (1997). The image of Asian Americans as the successful group has been able to withstand criticism, and remains an important conceptual force in the popular press. Also, the changes in the discourse on Asian American success have enabled the image to maintain relevance and explanatory power in the contemporary literature. See Keith Osajima, *Asian Americans as the Model Minority: An Analysis of the Popular Press Image in the 1960s and 1980s*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 449 (Min Zhou & James V. Gatewood eds., 2000).

created a stereotype of Asian Americans as one monolithic ethnic group that has achieved success through education and hard work without the assistance of governmental benefits.⁷¹ Such a myth is disingenuous, and masks the reality that Asian Americans are still affected by discrimination.⁷²

Scholars Lucie Chang & Philip Yang, in their article, "The Model Minority Deconstructed," dispel the inaccurate and disingenuous stereotype by revealing real facts about Asian Americans.⁷³ First, the perception of the high average income levels of Asian Americans are supported by the data from the past three censuses, which illustrate that for the country as a whole, Asian Americans have a significantly higher level of median household income than all other breach ethnic groups.⁷⁴ However, Cheng and Yang explain that "[M]edian household

⁷¹ Harvey Gee, Comment, *Changing Landscapes: The Need for Asian Americans to be Included in the Affirmative Action Debate*, 32 GONZ. L. REV. 621, 637 (1997).

Ever since its inception, the model minority thesis has been a subject of considerable controversy, especially from critics who have argued that the image is stereotypical, empirically inaccurate, and no longer applicable to the changing American population. In their view, the minority label is also objectionable for its political implications, which cast America as a fair, open society and a real land of opportunity, where minorities could be a "model," thus counters the black militant claims that America is fundamentally a racist society structured to keep minorities in a subordinate position. By extolling Asian Americans as a model minority, . . . the established world hopes to apply a standard of behavior for other minorities.

Lucie Cheng & Philip Q. Yang, *The "Model Minority" Deconstructed*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 464 (Min Zhou & James V. Gatewood eds., 2000). Cf. Don T. Nakashinshi, *A Quota on Excellence?*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 483, 485 (Min Zhou & James V. Gatewood, ed. 2000) ("Beginning in 1985, however, journalists and syndicated columnists began portraying Asian American undergraduates not only as 'Whiz Kids,' as Time magazine boldly proclaimed in a major cover story, but also possible victims of racially discriminatory admissions practices").

⁷² Harvey Gee, Comment, *Changing Landscapes: The Need for Asian Americans to be Included in the Affirmative Action Debate*, 32 GONZ. L. REV. 621, 637 (1997).

⁷³ Lucie Chang & Philip Yang, *The Model Minority Deconstructed*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 459 (Min Zhou & James V. Gatewood eds., 2000).

⁷⁴ *Id.* See also Frank H. Wu, *Changing America: Three Arguments About Asian Americans and the Law*, 45 AM. U.L. REV. 811, 811 (1996) (arguing that while it may be true that Asian Americans' family income is higher than the average American family income, it does not necessarily follow that the data is appropriately used to make generalizations in support of the model minority myth).

income may be a misleading indicator, since Asian families have more workers per household than white families, and since Asians tend to be concentrated in a few large metropolitan areas, where income, as well as cost of living, are higher than the national average."⁷⁵ In addition, "If the Asian lead in median family incomes is consistent with the model minority thesis, a lack of personal earnings confounds it. Most groups of Asian men do worse than whites. . . ."⁷⁶

Therefore, the problem with the myth image is two-fold: it obfuscates the fact that Asian Americans are still in need of affirmative action, and is often used by opponents of affirmative action to show that affirmative action is not needed to help minorities.⁷⁷ The model minority stereotype is often used to place Asian Americans in a falsely elevated position relative to African Americans and Latinos.⁷⁸

IV. CONCLUSION

Perhaps my only complaint about the essays in *Contemporary Asian America: A Multidisciplinary Reader*, is that they avoid the use of Critical Race Theory (CRT). The writings can all benefit from the application CRT. Though the editors do not mention it, the recent evolution of Asian American Studies has coincided with the emergence of CRT, which is arguably, the most dynamic and exciting development in contemporary intellectual thought.⁷⁹ The CRT Movement challenges the construction and representation of racial power in American Law. The combination of these two interdisciplinary subjects compliment one another well.

In fact, UCLA School of Law, the home of the Asian American Studies Center, has recently established the "Critical Race Studies Program," which builds upon the strengths of a substantial and diverse group of faculty whose teachings and writing probe the links between racial inequality, racial classification, and

⁷⁵ Lucie Chang & Philip Yang, *The Model Minority Deconstructed*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 469 (Min Zhou & James V. Gatewood eds., 2000).

⁷⁶ *Id.* at 471.

⁷⁷ *Id.*

⁷⁸ See ANGELO ANCHETA, RACE, RIGHTS, AND THE ASIAN AMERICAN EXPERIENCE 158 (1998).

⁷⁹ See generally, CRITICAL RACE THEORY: THE KEY WRITINGS WHICH FORMED THE MOVEMENT (Kimberle Crenshaw, et. al. eds., 1995); CRITICAL RACE THEORY: THE CUTTING EDGE (Richard Delgado ed., 1995).

the American legal system.⁸⁰ Critical Race Studies Professors state,

Throughout American history, race has profoundly affected the lives of individuals, the growth of social institutions, the substance of culture, and the workings of our political economy. Not surprisingly, this impact has been substantially mediated through the law and legal institutions. To understand the deep interconnections between race and law, and particularly the ways in which race and law are mutually constitutive, is an extraordinary intellectual challenge.⁸¹

These Critical Race Studies Professors further argue that CRT represents one of the best tools to study and practice race jurisprudence, and it is an essential part of the public conversation about race relations in the new millennium.⁸² Had the anthology incorporated CRT with Asian American Studies, they would have more effectively demonstrated how and why legal analysis and social science measures are not two independent and exclusive means of research and study. In fact, they both may be combined, along with context, to reveal dramatic insights.

Nevertheless, *Contemporary Asian America: A Multidisciplinary Reader* represents an important contribution to the scholarship on Asian Americans and race jurisprudence. The editors should be commended for their service in compiling the most important writings, which delineate the theoretical origins and the existing features of contemporary Asian American studies. The anthology marks a time of maturation of this significant movement. Through their choices of articles, Zhou and Gatewood explain the origins of the Asian American Studies movement and define its important characteristics. The collection assists in providing a sense of the reach that Asian American studies has had on the law, especially civil rights jurisprudence. By focusing on Asian Americans, the book's inclusive scope allows a fuller discussion of race which extends beyond the traditional black/white focus. Without doubt, the book provides an analysis of the complicated social issue of race, and is triumphant in locating serious contemporary race problems that affect us all.

⁸⁰ See *UCLA School of Law, Critical Race Studies* (2000) available at <<http://www.law.ucla.edu/crs>> (last visited Sept. 24, 2001). The faculty consists of Devan Carbodo, Kimberlee Crenshaw, Carole Goldberg, Laura E. Gomez, Cheryl I. Harris, and Jerry Kang. Jerry Kang was one of the first professors in this country to organize and develop a law school course centered on "Asian American Legal Scholarship." See *Faculty Bio*, available at <<http://www.law.ucla.edu/Faculty/Bio.htm>> (last visited Sept. 24, 2001).

⁸¹ See *UCLA School of Law, Critical Race Studies* (2000) available at <<http://www.law.ucla.edu/crs>> (last visited Sept. 24, 2001).

⁸² *Id.*