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VIGILANTE RACISM:
THE DE-AMERICANIZATION OF
IMMIGRANT AMERICA

Bill Ong Hing*

Ahmad Namrouti is giving up on America.

It's just too difficult to be an Arab and live here, said the San Francisco grocer.

"I'm afraid," said the native of Jordan, who came here seven years ago to follow his dreams.

"I came here for freedom, to live here . . . for the good life" At 59, Namrouti had just received his U.S. citizenship when the terrorist attacks took place Sept. 11. Within the week, an angry young man stopped by his small store . . . , poked his head in and said, "Are you Arab?"

Namrouti said yes, and told the man to have a nice day. [The young man called Namrouti a "f— Islamic."] About 4 a.m., as [Namrouti] slept in a single bed in a small back room, a 15-pound brick came flying through the front window of his store.

. . . .

He isn't holding a grudge against America—he knows the lone man who harassed him is angry or ignorant or both. . . .

. . . .

Still, three months later, Namrouti can't forget it. The store where he has occasionally given away candy bars to neighbors is up for sale and he plans to return to his native Jordan.

. . . .

Namrouti's mom-and-pop store has been hit twice before by vandalism—by teenagers angry because they couldn't buy cigarettes.

This time was different.¹

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I. "USA! USA!":
AN INTRODUCTION TO DE-AMERICANIZATION

Within hours of the terrorist attacks of September 11, Americans of Muslim, Middle Eastern, and South Asian descent found themselves targeted for acts of hate and racial profiling. In a suburb of Chicago three hundred protestors, many waving American flags and chanting "USA! USA!" marched on a mosque. One 19-year-old demonstrator exclaimed, "I'm proud to be an American and I hate Arabs and I always have."² In Huntington, New York, a 75-year-old man tried to run over a Pakistani woman in the parking lot of a shopping mall. He then followed the woman into a store and threatened to kill her for "destroying my country."³ In San Diego, a Sikh woman was attacked by a knife-wielding man, shouting "This is what you get for what you've done to us."⁴ A Sikh family was followed out of a restaurant by two White men who screamed to the family, "Go back to your country."⁵ Soon, arrests were made of individuals who were racially profiled, and by October, over 1,100 suspicious individuals, mostly Arab Americans, were detained, without access to family or counsel.⁶ By November, the Department of Justice developed a list of five thousand Middle Eastern men, between the ages of 18 and 33, who were to be "voluntarily" interviewed. Although the men were supposed to have entered on non-immigrant visas after January, 2000, numerous reports indicated that law enforcement officials were also contacting lawful permanent residents and U.S. citizens of Arab descent.⁷

In contemplating this targeting of Muslim, Middle Eastern, and South Asian Americans by private individuals and official government policies after September 11, a clear theme emerges. In spite of the fact that these people have been part of the fabric of our country for some time, in the eyes of many, those among us of Muslim, Middle Eastern, and

1. Marsha Ginsburg, *Shattered Dream; Brick Hurlled at Muslim-Owned Store Drives Out S.F. Man*, S.F. CHRON., Dec. 29, 2001, at A21.

2. *Muslims living in America come under fire; Terror War on US: Backlash Terrorism USA*, EVENING STANDARD (London), Sept. 13, 2001, at 10.

3. Eileen E. Flynn, *Gas Station is Target of Arsonist, Authorities are Investigating Late Night Attempt to Set Fire at Muslim-Owned Business*, AUSTIN AM.-STATSMAN, Sept. 16, 2001, at B1.

4. Jenifer Hanrahan, *Sikh Woman Stabbed in Suspected Hate Crime Linked to Terror Attacks; Incident Latest of 36 in Area Involving Violence, Threats or Harassment*, S.D. UNION-TRIB., Oct. 5, 2001, at B2.

5. The Sikh Coalition maintains a database of reported hate crimes against Sikh people in the United States. The database is available at www.sikhcoalition.org. This particular incident is Reference # 97.

6. John Donnelly & Wayne Washington, *Fighting Terror Global Impact*, BOSTON GLOBE, Nov. 1, 2001, at A1.

7. See William Glaberson, *A Nation Challenged: The Interviews; Legal Experts Question Legality of Questioning*, N.Y. TIMES, Nov. 30, 2001, at B6.

South Asian background are not *real* Americans. Just consider the few examples cited:

Action: By chanting, "USA! USA!" the marchers in Bridgeview invoke a cry of nationalism, usually reserved for international sporting events like the Olympics, as they surrounded a mosque.

Translation: We are doing this on behalf of *our* country, not *yours*. And *your* mosque is an anti-USA symbol.

Action: Threatening to kill a Pakistani American for "destroying *my* country."

Translation: The United States is *not* the victim's country.

Action: The victim is stabbed for what has been "done to *us*."

Translation: The victim is "not one of us."

Action: Victims are told to "go back to your country."

Translation: The victims "don't belong in the United States."

The fact that hateful acts and words of private citizens are followed up with official regimes of detention and profiling only reaffirms the subordination of the victims through suspicion of loyalty. The governmental imprimatur helps to "marginalize" the victims in U.S. society.⁸

Although Ahmad Namrouti had been previously victimized by teenage vandals upset because they could not buy cigarettes, being targeted with a 15-pound brick because he was "Arab" and "Islamic," is a substantively different situation. This time, Namrouti was de-Americanized and subordinated for not fitting the perpetrator's image of a *true* American. In the perpetrator's mind—the mind of a vigilante racist—Namrouti is forever foreign, notwithstanding his status as a U.S. citizen.

The message is one of exclusion: "You Muslims, Middle Easterners, and South Asians are not true Americans." Certainly, de-Americanization is a process that involves racism, but unlike the racism directed at African Americans, with its foundations in the historically held beliefs of

8. Susan Akram & Kevin R. Johnson, *Race, Civil Rights, and Immigration Law After September 11, 2001: The Targeting of Arabs and Muslims*, 58 N.Y.U. ANN. SURV. AM. L. (forthcoming Fall 2002).

inferiority, de-Americanizers base their assault on loyalty and foreignness.⁹ In the minds of the private actors, who are nothing more than lawless vigilantes,¹⁰ self-appointed enforcers of true Americanism, their victims are *immigrants* or *foreigners* even though they may in fact be citizens by birth or through naturalization. Irrespective of the victim community's possible longstanding status in the country, its members are regarded as perpetual foreigners. The victim community is forever regarded as *immigrant* America, as opposed to simply part of America and its diversity.

What has been happening to Muslims, Middle Easterners, and South Asians in the United States in the wake of September 11 is a process of ostracism from the American community—a de-Americanization process—that we have witnessed before. The process often involves two aspects—(1) the actions of private individuals and (2) official government-sanctioned actions. On the private side, the process involves identifying the victims as foreigners, sometimes mistakenly, other times simply treating the person as a foreigner knowing otherwise. De-Americanization is a twisted brand of xenophobia that is not simply hatred of foreigners, but also hatred of those who in fact may not be foreigners but whom the vigilantes would prefer being removed from the country anyway. In fact, we have seen this process not long ago with respect to Arabs and others of Middle Eastern descent following the 1995 bombing of the federal building in Oklahoma City. Immediately after that attack, media and officials wrongly speculated that an Islamic terrorist might have been responsible.¹¹ The culprit turned out to be a White supremacist, Timothy McVeigh.¹² The official side of the process involves laws or enforcement strategies that broadly focus on the entire group either without adequate basis or at least in an overly-broad manner.

9. For example, consider the presumed disloyalty of Wen Ho Lee, the Chinese American engineer suspected of selling government secrets, because of long held stereotypes about Asian Americans. See Leti Volpp, "Obnoxious to Their Very Nature": *Asian Americans and Constitutional Citizenship*, 8 *ASIAN L.J.* 71, 79–82 (2001) (illustrating, through the Wen Ho Lee incident, how Asian American political activity is seen as at odds with "American" political interests).

10. The actions of these private actors is reminiscent of vigilance committees who take the law into their own hands, passionate that they are enforcing laws that law enforcement officials are unable or unwilling to enforce. In some countries these groups are called death squads. See SCOTT ANDERSON & JON LEE ANDERSON, *INSIDE THE LEAGUE: THE SHOCKING EXPOSE OF HOW TERRORISTS, NAZIS, AND LATIN AMERICAN DEATH SQUADS HAVE INFILTRATED THE WORLD ANTI-COMMUNIST LEAGUE* (1986); RICHARD MAXWELL BROWN, *STRAIN OF VIOLENCE: HISTORICAL STUDIES OF AMERICAN VIOLENCE AND VIGILANTISM* (1975).

11. Mary Rourke, *Values: Our Culture, Our Beliefs, Our Responsibilities; Tragedy Sheds Light on Religion, Suicide*, *L.A. TIMES*, Nov. 24, 1999, at E1 (comparing the media speculation of Arab involvement in the crash of Egypt Air Flight 990 and the Oklahoma City bombing).

12. Gregory Kane, *Islam's Good Deeds Should Be Remembered*, *NEWSDAY* (New York), Oct. 10, 2001, at A43.

II. "CHING CHONG, CHINAMAN":
THE DE-AMERICANIZATION OF ASIAN AMERICANS

Asian American history is replete with examples of the de-Americanization of its members by vigilante racism. For some, the ostracism started immediately. Consider the poignant autobiography of Mary Paik Lee, a Korean immigrant who described her family's arrival in San Francisco harbor in 1906:

As we walked down the gangplank . . . young [W]hite men were standing around, waiting to see what kind of creatures were disembarking. We must have been a very queer-looking group. They laughed at us and spit in our faces; one man kicked up Mother's skirt and called us names we couldn't understand. Of course, their actions and attitudes left no doubt about their feelings toward us.¹³

Throughout their early life in the United States, Lee and her family were greeted with "For Whites Only" signs everywhere. Public restrooms, theaters, swimming pools, and barber shops were off limit.¹⁴ On Lee's first day of school, girls circled and hit her, chanting:

Ching Chong, Chinaman,
Sitting on a wall.
Along came a [W]hite man,
And chopped his head off.¹⁵

When she did "see" a motion picture for the first time in 1914, it was actually a free preview of a cowboy movie in front of a hotel. The experience was not uplifting.

The movie showed cowboys drinking in a saloon. They were staggering out, laughing and firing their pistols. When they saw an old Chinese man walking home on the other side of the road, they said they wanted to see if he could dance. They started firing at his feet, and they laughed as he kept jumping to avoid being hit. Of course, their aim was not accurate, and he fell wounded. That made them laugh louder. They told him to get up. When he could not, they

13. MARY PAIK LEE, *QUIET ODYSSEY* 12 (1990). This kind of story shows that for some immigrants, there are barriers to getting any type of American status at all, much less getting American status then being de-Americanized.

14. *See id.* at 48–49.

15. *Id.* at 16–17.

kept shooting until he was dead. Then they walked away, laughing as though it were a big joke.¹⁶

Unfortunately, other private, vigilante acts of racist comments and hate crimes directed at Asian Americans are easily located. While many often think such actions are a thing of the past, the similarity between blatantly racist acts from one hundred years ago and today are troubling. As they have been recently, turban-wearing Sikhs were victimized historically. When they arrived in the 1800s, Sikh men continued to wear turbans, because not cutting their hair is a requirement of their religion. As a result, they endured being called “ragheads.”¹⁷ Fast forward to the 1980s, and you find that in New Jersey, home to the largest population of Asian Indians in the United States, a gang of hoodlums who victimize Asian Indian Americans pride themselves in calling themselves the “dot-busters” in apparent jest of the fact that many Asian Indian women of the Hindu faith wear a bindi, or marriage mark, on their foreheads.¹⁸

Similar acts, both past and present, can be found in incidents targeted against East Asians as well. In the mid-1800s, Chinese miners were targets of wanton abuse. An 1862 California legislative committee developed a list of eighty-eight Chinese miners who were murdered in what the committee labeled “a wholesale system of wrong and outrage practiced upon the Chinese population of this state, which would disgrace the most barbarous nation upon earth.”¹⁹ In the 1870s, the homes of many Chinese living in California’s Sacramento Valley were burned down.²⁰ In 1885, six hundred unarmed Chinese coal miners were fired upon in Rock Springs, Wyoming; twenty-eight were killed and fifteen wounded.²¹ In 1913, fifteen Korean fruit pickers in Riverside County, California, were threatened by a crowd that forced them to leave town.²² Similarly, in a San Joaquin County, California town in 1921, fifty-eight Japanese laborers were rounded up by armed men and forced out of town.²³ In 1930, a mob of four hundred attacked the Northern Monterey Filipino Club near Watsonville, California, killing one Filipino and injuring dozens more.²⁴

16. *Id.* at 41.

17. SUCHENG CHAN, *ASIAN AMERICANS: AN INTERPRETATIVE HISTORY* 46 (1991).

18. R. Clinton Taplin, *4 Teens to be Tried as Adults in Death of Indian*, REC. (Bergen County, N.J.), Feb. 28, 1988, at A3; Iver Peterson, *County by County, a Fight Against Bias*, N.Y. TIMES, Jan. 5, 1993, at B1.

19. CHAN, *supra* note 17, at 48.

20. *See id.* at 49.

21. *Id.*

22. *Id.* at 52.

23. *Id.*

24. *Id.* at 53.

One of the more notorious, de-Americanizing, vigilante hate crimes of our time involved the 1982 murder of Vincent Chin, a young Chinese American man who lived near Detroit, Michigan.²⁵ Chin, who was out with friends celebrating his upcoming wedding, was confronted by Ronald Ebens and Michael Nitz, two unemployed auto workers. Ebens made racial and obscene remarks toward Chin, calling him a “Chink” and a “Nip” and making comments about foreign car imports: “it’s because of you little m—f—that we’re out of work.”²⁶ The Court of Appeals noted that Ebens “seemed to believe that Chin was Japanese” and may not have distinguished Asians of “Japanese and Chinese decent since there is testimony to show he made references to both.”²⁷ A fight ensued and in the end, Chin was beaten to death by a baseball bat-wielding Ebens, while Nitz restrained Chin.²⁸ Chin, who was a native of China, was adopted at the age of six by a Chinese American couple and became a U.S. citizen in 1965.²⁹ Yet he was targeted because he represented Japan and its automobile manufacturers in the eyes of the culprits.

Even more recently, de-Americanizing antics have been directed at Chinese Americans. In the midst of an international crisis in April 2001, when a U.S. spy plane had to land on Chinese soil and China would not immediately release the plane,³⁰ many Americans took their frustration out on Chinese Americans. A radio station disc jockey in Springfield, Illinois suggested boycotting Chinese restaurants.³¹ Another commentator called people with Chinese last names from his local telephone book to harass them.³² Pulitzer Prize-winning cartoonist Pat Oliphant ran a cartoon portraying a buck-toothed Chinese waiter yelling at a customer (depicted as Uncle Sam), “Apologize Lotten Amellican!”³³ The American Society of Newspaper Editors was entertained by the renowned satirical group Capitol Steps, featuring a White man dressed in a black wig and thick glasses impersonating a Chinese official who gestured wildly as he said (in a manner reminiscent of the chant that greeted Mary Paik Lee on her first day in school): “ching, ching, chong, chong.”³⁴ Perhaps this apparent license to poke fun at Chinese Americans should not be surprising.

25. *United States v. Ebens*, 800 F.2d 1422, 1427 (6th Cir. 1986).

26. *Id.*

27. *Id.*

28. *Id.* at 1428.

29. *Id.* at 1427.

30. See Steven Lee Myers, *Collision with China: The Pentagon; U.S. Tape is Said to Show Reckless Flying by Chinese*, N.Y. TIMES, Apr. 14, 2001, at A6.

31. Marsha Ginsberg, *Crisis Inflames Bias Against Asians*, S.F. CHRON., Apr. 14, 2001, at A1.

32. *Id.*

33. Richard Roeper, *China Standoff Reveals Racism's Tenacious Grip*, CHI. SUN-TIMES, Apr. 18, 2001, at 11.

34. *Id.*

Even before the two-week spy plane incident, a poll found that a quarter of all Americans hold “decisively negative views,” and another forty-three percent hold “somewhat negative attitudes” toward Chinese Americans.³⁵

Historical vigilante private actions designed to keep Asian and other immigrants of color from membership into the community found support from xenophobic officialdom. For example, laws often required Chinese to live outside the city limits,³⁶ or a local ordinance would bar laundries of wooden construction when officials knew only Chinese businesses would be affected.³⁷ California barred Chinese from testifying in court,³⁸ while several states prevented all Asian immigrants from owning land or marrying Whites.³⁹ Of course Congress got into the act as well. In 1870, Chinese immigrants officially were told that they could never become Americans. In the post-Civil War era, Congress moved toward granting naturalization rights to residents of African descent. As the legislation progressed, Senator Charles Sumner of Massachusetts moved to add Chinese immigrants to the list of those who could be naturalized, a right that constitutionally was reserved for “free [W]hite men.”⁴⁰ But the amendment failed, and Chinese were specifically excluded from the right to naturalize.⁴¹ The message to Chinese immigrants—that they could never be real Americans—was based on the view that Chinese were so different, that they could never assimilate and adopt real American values. That sentiment was later recognized by the Supreme Court in upholding aspects of the Chinese exclusion laws:

[The Chinese] remained strangers in the land, residing apart by themselves, and adhering to the customs and usages of their own country. It seemed impossible for them to assimilate with our people or to make any change in their habits or modes of living. As they grew in numbers each year the people of the coast saw, or believed they saw, in the facility of immigration, and in the crowded millions of China, where population presses upon the means of subsistence,

35. Thomas B. Edsall, *25% of U.S. View Chinese Americans Negatively, Poll Says*, WASH. POST, Apr. 26, 2001, at A4.

36. BILL ONG HING, *MAKING AND REMAKING ASIAN AMERICA THROUGH IMMIGRATION POLICY 1850–1990* 49–50 (1993).

37. *Yick Wo v. Hopkins*, 118 U.S. 356 (1886) (San Francisco’s ordinance barring laundries of wooden construction struck down by the Supreme Court on the grounds that it was applied in a racially discriminatory manner).

38. *People v. Hall*, 4 Cal. 399, 399 (1854) (murder conviction of a “free [W]hite citizen” reversed, on the grounds that Chinese witnesses were permitted to testify against the defendant).

39. HING, *supra* note 36, at 30, 45.

40. *In Re Ah Yup*, F. Cas. 223, 223 (D. Cal. 1878) (No. 104).

41. *Id.* (District Court finding that the clear intent of the naturalization law was to exclude Chinese immigrants from eligibility).

great danger that at no distant day that portion of our country would be overrun by them unless prompt action was taken to restrict their immigration.⁴²

Of course the internment of Japanese Americans during World War II is a prime example of their de-Americanization through official action. The ease with which internment was accepted by the general public illustrates a history of hostility toward Japanese Americans dating back to the early 1900s.⁴³ After the bombing of Pearl Harbor on December 7, 1941, the bigotry and fear that had informed earlier anti-Japanese laws became a panic. Japanese Americans suddenly became suspected of acts of sabotage and treason. Though no acts were ever proved, the civilian government acceded to unprecedented military orders that subjected all West Coast Japanese first to curfews and then to forced evacuation into detention camps. Eventually, 120,000 Japanese Americans, most of them citizens, were interned in camps scattered across the country.⁴⁴

More recently, Chinese American scientist, Wen Ho Lee, lost his job and was jailed for nine months before a former government counterintelligence chief acknowledged that racial profiling had occurred.⁴⁵ The government dropped all but one charge against Lee, and the federal judge handling the case ordered Lee released and apologized to him.⁴⁶ Even the *New York Times* acknowledged that its reporting on the case was flawed and “fell short” of its standards.⁴⁷ As a result of the de-Americanizing profiling of Chinese American scientists at government labs, many feel ill at ease working at labs and others have felt pressured into quitting.⁴⁸

These official acts essentially condoning private vigilante actions do much to solidify the image of people of color with immigrant roots as perpetual foreigners. This encourages private individuals to engage in dis-

42. *The Chinese Exclusion Case, Chae Chan Ping v. United States*, 130 U.S. 581, 595 (1889). This was not the first time that the perceived inability of a group to assimilate was used to defend the legal regime. In 1823, the Supreme Court justified the taking of Native American lands on the theory that Native Americans were incapable of assimilation. *Johnson v. M'Intosh*, 21 U.S. 543, 589–91 (1823).

43. HING, *supra* note 36, at 56–57.

44. *Id.* at 57.

45. For a discussion of the facts and troubling consequences of the Wen Ho Lee Case, see Frank Wu, *The Profiling of Threat Versus the Threat of Profiling*, 7 MICH. J. RACE & L. 135 (2001).

46. *Richardson Denies Leaking Wen Ho Lee's Name to Media*, SANTA FE NEW MEXICAN, Oct. 5, 2000, at A1.

47. Howard Kurtz, *New York Times Chastises Itself for 'Flaws' in Wen Ho Lee Story*, WASH. POST, Sept. 27, 2000, at C1.

48. James Glanz, *Fallout In Arms Research: A Special Report; Amid Race Profiling Claims, Asian Americans Avoid Labs*, N.Y. TIMES, July 16, 2000, § 1, at 1; Vernon Loeb, *At U.S. Labs, a Residue of Anger; Asian American Scientists Feel Spy Case Stereotyping Affects Their Futures Too*, WASH. POST, Dec. 24, 1999, at A13.

criminary acts and reinforces their hostility. As such, they become prime targets for de-Americanization by vigilante racists.

III. "WE KNOW AN AMERICAN WHEN WE SEE ONE": THE IMMIGRATION POLICY ROOTS FOR DE-AMERICANIZATION

De-Americanization of people of color such as Asian Americans and Latinos finds its roots in the historical immigration exclusionary and enforcement policies directed at Asian and Latin immigrants. The Chinese exclusion laws were followed by analogous provisions directed at Japanese, Asian Indians, Filipinos, and the rest of the so-called Asiatic Barred Zone.⁴⁹ Mexicans have been subjected to roundups like that of braceros in the 1950s called "Operation Wetback," shortchanged visas by Congress in the 1970s, and subjected to expanded INS powers to arrest courtesy of the Supreme Court in a series of cases in the 1970s and 1980s.⁵⁰ In the early 1900s, in a prequel to de-Americanization, Mexican immigrants were subjected to government-sponsored Americanization programs. Family planning was a key ingredient, out of fear that uncontrolled Mexican population growth would contribute to Anglo "race suicide."⁵¹ A goal was to cure the habits of the stereotypical "lazy Mexican" and replace the Mexican penchant for fried foods, to replace tortillas with bread, and serve lettuce instead of beans.⁵² More recently, unconstitutional Immigration and Naturalization Service (INS) procedures in the 1980s intended to disadvantage Haitian, Guatemalan, and El Salvadoran asylum applicants were exposed by federal courts.⁵³

Even though immigration categories no longer permit blatant racial and ethnic discrimination, selection policies and philosophies of the past have set the tone for much of the de-Americanization that goes on today.⁵⁴ Immigration policies, especially after 1965,⁵⁵ have permitted the

49. HING, *supra* note 36, at 26–36.

50. BILL ONG HING, *TO BE AN AMERICAN: CULTURAL PLURALISM AND THE RHETORIC OF ASSIMILATION* 23–26 (1997).

51. *Id.* at 19.

52. *Id.* at 19–20.

53. *Id.* at 28–29; *see also* Haitian Refugee Center v. Smith, 676 F.2d 1023, 1030–31 (5th Cir. 1982) (detailing the INS's policy of discouraging Haitian applicants from requesting their constitutional rights in order to accelerate the application process); American Baptist Churches v. Thornburgh, 760 F. Supp. 796 (N.D. Cal. 1991) (finding INS bias against El Salvadoran and Guatemalan applicants).

54. As we have seen, even recent enforcement schemes often have disparate impact. Consider the asylum barriers faced by Haitians, Guatemalans, and El Salvadorans, and interior enforcement strategies that focus on Mexicans. *See, e.g.*, Orantes-Hernandez v. Thornburgh, 919 F.2d 549, 557 (9th Cir. 1990) (Court of Appeals critical of immigration officials encouraging El Salvadorans to sign voluntary departure agreements without being fully informed of the right to apply for asylum); Haitian Refugee Center v. Smith, 676 F.2d 1023 (5th Cir. 1982) (Court of Appeals critical of the lack of fairness and procedural

entry of immigrants from many parts of the world, and naturalization rules now permit immigrants, irrespective of ethnic background, to become U.S. citizens. So Americans come in all different shades and ethnic backgrounds. Yet, the words of the Supreme Court almost eighty years ago perhaps best capture who many Americans—certainly vigilante racists—continue to regard as *true* Americans. In 1923, the right to citizenship through naturalization continued to be limited, as it had since 1870, to “White persons” and those of “African descent.”⁵⁶ That year, in *United States v. Bhagat Singh Thind*,⁵⁷ the Court was confronted with a case involving an immigrant from India, who was a high caste Hindu of full Indian blood, who wanted to be naturalized.⁵⁸ Thind offered ethnological evidence that high-class Hindus belong to the Aryan race, and that the Aryans came to India around 2000 B.C.⁵⁹ Thus, Thind could establish, at least on the basis of the science of his day, a line of descent from Caucasian ancestors. The Court acknowledged that the phrase “[W]hite persons” and the word “Caucasian” are synonymous.⁶⁰ But the unanimous Court essentially threw up its arms and held that there was no way that Congress intended to extend naturalization rights to any immigrants from India:

What we now hold is that the words “*free [W]hite persons*” are words of common speech, to be interpreted in accordance with the understanding of the common man, synonymous with the word “Caucasian” only as that word is popularly understood. *As so understood and used, whatever may be the speculations of the ethnologists, it does not include the body of people to whom the appellee belongs.* It is a matter of familiar observation and knowledge that the physical group characteristics of the Hindus *render them readily distinguishable from*

due process afforded to Haitian asylum applicants in Miami); *American Baptist Churches v. Thornburgh*, 760 F. Supp. 796 (N.D. Cal. 1991) (finding that immigration officials were biased against El Salvadoran and Guatemalan asylum applicants); *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975) (holding that roving Border Patrol officers in the vicinity of the Mexican border could stop motorists to question about residence status); *United States v. Martinez-Fuerte*, 428 U.S. 543 (1976) (holding that fixed checkpoints away from the Mexican Border could be set up by the Border Patrol in locations where undocumented aliens might travel); *INS v. Lopez-Mendoza*, 468 U.S. 1032 (1984) (holding that the Fourth Amendment exclusionary rule does not apply in deportation proceedings involving undocumented Mexicans apprehended in factory settings).

55. See generally HING, *supra* note 36.

56. See *id.* at 23. While at first glance, African Americans may not be perceived as foreign or foreign-born, they still have been excluded from mainstream American society in ways not addressed in this essay.

57. 261 U.S. 204 (1923).

58. *Id.* at 204.

59. *Id.* at 205–06.

60. *Id.* at 208.

*the various groups of persons in this country commonly recognized as [W]hite. The children of English, French, German, Italian, Scandinavian, and other European parentage, quickly merge into the mass of our population and lose the distinctive hallmarks of their European origin. On the other hand, it cannot be doubted that the children born in this country of Hindu parents would retain indefinitely the clear evidence of their ancestry. It is very far from our thought to suggest the slightest question of racial superiority or inferiority. What we suggest is merely racial difference, and it is of such character and extent that the great body of our people instinctively recognize it and reject the thought of assimilation.*⁶¹

When the Court wrote “‘free White persons’ are words of common speech . . . As so understood and used, whatever may be the speculations of the ethnologists, it does not include the body of people to whom the appellee belongs,” the Court essentially said that irrespective of science, a Hindu from India was not White.

When the Court wrote “It is a matter of familiar observation and knowledge that the physical group characteristics of the Hindus render them readily distinguishable from the various groups of persons in this country commonly recognized as [W]hite,” the Court might as well have substituted the word “American” for “White.”

When the Court wrote: “The children of English, French, German, Italian, Scandinavian, and other European parentage, quickly merge into the mass of our population and lose the distinctive hallmarks of their European origin,” the Court was essentially limiting the ethnic backgrounds of who could become a real American to those who could merge into the masses, namely, English, French, German, Italian, Scandinavian, and other Europeans.⁶²

When the Court wrote: “the children born in this country of Hindu parents would retain indefinitely the clear evidence of their ancestry, [and w]hat we suggest is merely racial difference, and it is of such character and extent that the great body of our people instinctively recognize it and reject the thought of assimilation,” the Court appeared to endorse a vision of *true* Americans being able to reject certain races with which to commingle.

In other words, the Court was saying to Thind, “We know an American when we see one, and you’re not one.” The Court endorsed a

61. *Id.* at 214–15 (emphasis added).

62. While it is true that many immigrants of European origin were originally discriminated against upon arrival to the United States—for example, Irish Americans—their physical appearance enabled them to be easily integrated into the American mainstream. Unfortunately, for most immigrants of color, such integration has proven impossible because they are not White.

Euro-centric vision of Americanism that has endured in the psyche of much of the country. This Euro-centric vision, dominant throughout history, still pervades America, as is evidenced by the thoughts and actions behind the recent vigilante crimes.

In addition to recent de-Americanization and subordination crimes and pranks of vigilante racists fueled by a Euro-centric immigration history aimed at Asian Americans, Latinos have suffered as well. Private citizens were behind California's Proposition 187 in 1994, an initiative designed to bar immigrant and citizen children from public schools and other public benefits, primarily aimed at Latinos.⁶³ Sadly, hate is also apparent. Near San Diego, California, seven high school students were arrested for beating five Latino migrant workers with pipes. Police said the students attacked the workers because "they didn't like Mexicans."⁶⁴ In Van Nuys, California, a woman was charged with murder and hate crimes after using her car to run down and kill a Latino man, because she hated "persons of Latino origins."⁶⁵ And once again, official support has exacerbated matters. The Supreme Court's endorsement of sweeping Border Patrol tactics⁶⁶ has resulted in incidents such as the detention of Eddie Cortez, the mayor of Pomona, California, a U.S. citizen, who was stopped by agents more than a hundred miles from the border and ordered to produce proof of citizenship because he looked Latino.⁶⁷ Prominent English-only advocate Linda Chavez, also a U.S. citizen, was detained at the U.S.-Canada border because agents did not believe she was a lawful resident of the United States due to her appearance.⁶⁸

63. Kevin R. Johnson, *An Essay on Immigration Politics, Popular Democracy, and California's Proposition 187: The Political Relevance and Legal Irrelevance of Race*, 70 WASH. L. REV. 629, 652-53 (1995).

64. *7 Teens Face Trial as Adults in Migrant-Camp Beatings*, S.D. UNION TRIB., July 19, 2000, at B1.

65. Karima A. Haynes, *Tests Ordered for Hate-Crime Suspect*, L.A. TIMES, Sept. 23, 2000, at B4.

66. See *supra* note 54 and accompanying text.

67. *National ID Cards Let Uncle Sam Spy on You*, USA TODAY, July 15, 1994, at 14A.

68. Carlos Guerra, *Growing Anti-Immigrant Sentiment Victimizing Citizens*, AUSTIN AM. - STATESMAN, June 11, 1994, at Editorial. A case can be made for immigration overtones, albeit distorted, in certain hate situations directed at African Americans. It is quite common for African Americans to be subjected to situations like that faced by James Lawrence, an African American who is the chief electrical inspector of Huntington Beach, California. One Fourth of July, he and his nephew were confronted by a band of skin-heads who called them "niggers" and told them to "go back to Africa." Aurelia Rojas, *Turning a Blind Eye to Hate Crimes*, S.F. CHRON., Oct. 22, 1996, at A1. Such statements confirm and enforce the idea that those perceived to be immigrants are foreign and without rights or claims to being true Americans. The connection between the de-Americanization of immigrant America and hate directed at African Americans and gays should not be surprising. After all, from the perpetrator's perspective, this is about excluding certain groups from membership into the real American community.

The Euro-centric vision of America is the driving force behind vigilante racist attack of what is perceived as *immigrant* America. To the perpetrators, this is about an exclusive membership limited to *real* Americans.

IV. CLOSING: "MR. MINETA, YOU SPEAK GREAT ENGLISH!
HOW LONG HAVE YOU LIVED IN OUR COUNTRY?"

The United States is more diverse than ever.⁶⁹ Of course increasing diversity is a trend that has been emblematic of the United States since the founding of the nation. But increased diversity of any significance in the first 150 years of the country was primarily European in nature, except of course for the millions of Africans who were transported to the nation as slaves.⁷⁰ Thus, until Mexicans (in the 1950s) and Asian immigrants (after 1965) began arriving in significant numbers, the phrase "we are a nation of immigrants" and *e pluribus unum* (from many, one) captured the essence of a largely Euro-centric society.

The domination of the Euro-centric culture and race—in no small part the result of immigration policies—has resulted in a Euro-centric sense of who is an American in the minds of many. Many of that mindset have developed a sense of privilege to enforce their view of who is an American in vigilante style. The de-Americanization of Americans of Muslim, Middle Eastern, and South Asian descent in the wake of September 11 is a manifestation of this sense of privilege and the perpetual foreigner image that Euro-centric vigilantes maintain of people of color in the United States—especially those whom the vigilantes identify with immigrant groups. The *privileged* perpetrators view themselves as "valid" members of the club of Americans, telling the victims that some aspect of their being—usually their skin color, accent, or garb—disqualifies them from membership.

Sadly, the de-Americanization process is capable of reinventing itself generation after generation. We have seen this exclusionary process aimed at those of Jewish, Asian, Mexican, Haitian, and other descent throughout the nation's history. De-Americanization is not simply xenophobia, because more than fear of foreigners is at work. This is a brand of nativism

69. Furthermore, population projections indicate that the United States will only be getting more diverse. By the year 2025, demographic experts project that an additional 72 million people will be added to the U.S. population. These 72 million new members of the U.S. population are expected to include 32 million Latinos, 12 million African Americans and 7 million Asian Americans. After year 2030, all population growth will occur in the non-White population. U.S. BUREAU OF THE CENSUS, POPULATION PROJECTIONS BY AGE, SEX, RACE AND HISPANIC ORIGIN, 1995–2050 1 (1996).

70. JOHN HOPE FRANKLIN, FROM SLAVERY TO FREEDOM: A HISTORY OF NEGRO AMERICANS 59 (3d ed. 1967) (reporting that nearly 15 million Africans are estimated to have been "imported" in to the U.S. during the sixteenth thru nineteenth centuries).

cloaked in a Euro-centric sense of America that combines hate and racial profiling. Whenever we go through a period of de-Americanization like what is currently happening to South Asians, Arabs, Muslim Americans, and people like Wen Ho Lee—a whole new generation of Americans sees that exclusion and hate is acceptable; that the definition of who is an American can be narrow; that they too have license to profile. Their license is issued when others around them engage in hate and the government chimes in with its own profiling. This is part of the sad process of unconscious and institutionalized racism that haunts our country.⁷¹

A few years ago when U.S. Secretary of Transportation Norman Mineta was still in Congress (where he served for over twenty years), he was invited to attend a celebration of the reopening of a General Motors plant in his home district Santa Clara County, California. As an honored guest, he was greeted by a senior GM executive who thanked the Congressman for attending, and then complimented Mineta on his English.⁷² The executive then asked Mineta, “And how long have you lived in our country?”⁷³ Mineta knew that when the GM executive looked at Mineta’s Japanese American features, the executive saw a “foreign face.”⁷⁴ Yet Mineta was born in San Jose, California in 1931 and attended the University of California, Berkeley. Unfortunately this certainly was not the first time he had been de-Americanized. During World War II, he was interned along with the rest of the Mineta family in Heart Mountain, Wyoming.⁷⁵

There are two Americas when it comes to race, ethnic background, and who is an American. One is an all-embracing America on the matter of who is an American. This vision recognizes that the United States is a land of immigrants, and that in spite of exclusionary policies aimed at different groups throughout its history, the country is comprised of members of all different shades and ethnic backgrounds. The other America is narrow in its view of who is an American. This second vision is Euro-centric, excluding those of Latin and Asian descent, and as we have seen recently, excluding those of Middle Eastern background.

71. For an excellent discussion of unconscious racism and institutions, see Charles R. Lawrence III, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 *STAN. L. REV.* 317 (1987).

72. The vast majority of Americans would agree that Mineta speaks without a foreign accent. You can hear an audio sample of Mineta’s voice from his interview on the NewsHour with Jim Lehrer on Sept. 16, 2001 at http://www.pbs.org/newshour/bb/terrorism/july-dec01/mineta_9-16.html.

73. Stewart David Ikeda, *Interview with Norman Y. Mineta*, *IMDIVERSITY.COM*, 1998, at http://www.imdiversity.com/villages/asian/Article_Detail.asp?Article_ID=1482.

74. *Id.*

75. *Norman Y. Mineta: U.S. Secretary of Commerce*, *IMDIVERSITY.COM*, 1998, at http://www.imdiversity.com/Article_Detail.asp?Article_ID=1485.

The nation's public relations position is that we are a proud nation of immigrants inclusive of all.⁷⁶ Yes, we take steps in the direction of inclusiveness. But we take steps backwards in that regards as well. We learn and unlearn, and in the process, the bad behavior of vigilante racism is reinforced. In the process, we de-Americanize many communities of color, perpetuating their image as *immigrant* Americans rather than *full* Americans.

76. In the wake of September 11, President Bush visited a mosque to demonstrate support of American Muslims and said, "The face of terror is not the true faith of Islam. Islam is peace." He also quoted the Koran's exhortations against evil. He repeated that we have no quarrel with Muslims, only with terrorists. Amitai Etzioni, *A Proud American Moment*, CHRISTIAN SCI. MONITOR, Oct. 11, 2001, at 9. Even Attorney General John Ashcroft spoke out against racial profiling. Henry Weinstein *et al.*, *Racial Profiling Gains Support as a Search Tactic*, L.A. TIMES, Sept. 24, 2001, at A1. But the hypocrisy of the Bush administration became apparent as orders were made to detain and question Arabs and Muslims in the United States. See *supra* notes 7–8 and accompanying text.