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ASIAN AMERICA'S GREATEST HITS: A REVIEW OF ANGELO
ANCHETA'S RACE, RIGHTS, AND THE
ASIAN AMERICAN EXPERIENCE

Kevin M. Pimentel* & Ronnie H. Rhoe**

*"We are the children of the migrant worker
We are the offspring of the concentration camp,
Sons and daughters of the railroad builder
Who leave their stamp on Amerika."*¹

Asian Americans have always been on the business end of the stick called history. Alternately and simultaneously characterized as both the eternal foreigner²—unwilling and unable to assimilate into American society—and the model minority³—an "Oriental" version of a bootstrapping Horatio Alger fantasy—Asian Americans occupy a unique position as a constructed racial group that encompasses a multitude of disparate and conflicting ethnicities.⁴ The extent to which Asian American identities are overdetermined by gender,⁵ national origin,⁶ and language⁷ has altered our understanding of the very nature of race. Asian Americans are the "model" minority in a different sense, as the pliability and ubiquity of the identity enables them to model every aspect of the racial spectrum. Yet, this essential

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1. GRAIN OF Sand, *We Are The Children*, on A GRAIN OF SAND (Bindu Records 1997).

2. See ANGELO N. ANCHETA, RACE, RIGHTS, AND THE ASIAN AMERICAN EXPERIENCE 128–134 (1998). Ancheta uses the term "Asian Americans" and it is employed in this review for consistency with his text.

3. See Gabriel J. Chin et al., *Beyond Self-Interest: Asian Pacific Americans Toward a Community of Justice*, A Policy Analysis of Affirmative Action § III.B. (last updated Oct. 21, 1996) (visited Feb 28, 1999) (<<http://merton.sscnet.ucla.edu/aasc/policy/>>).

4. See ANCHETA, *supra* note 2, at 128–134 (1998).

5. See *supra* notes 115–117 and accompanying text.

6. See ANCHETA, *supra* note 2, at 64–66 (discussing how "Asian American" has been equated with "foreigner").

7. The compliment, "You speak English very well. No trace of an accent." succinctly collapses racist assumptions regarding fluency and nationality into a couple of polite sentences. See ANCHETA, *supra* note 2, at 41–42.

diachronic role as the grease that lubricates the ever-churning pistons of America's racial hierarchy and conflict⁸ is often dismissed, leading to the racial perception of Asian Americans as honorary whites,⁹ constructive Blacks,¹⁰ and foreigners outside the American experience entirely.¹¹

The law has a special role in the history of American race relations, and while the very existence of Asian Americans has disrupted simplistic racial binaries and altered the course of American legal history, the law has also worked to foster the illusion of a monolithic Asian American racial identity, an illusion that ignores the complexities of Asian American communities.¹² In the preface to his book, *Race, Rights, and the Asian American Experience*,¹³ Angelo Ancheta comments on the greater salience Asian Americans' racial identity holds for the outside world than for the members of its many component ethnicities.¹⁴

Race, Rights and the Asian American Experience details the sordid mistreatment of Asian Americans at the hands of U.S. courts and legislatures, while examining historical and sociological factors that created such injustices. Centering on the ways in which law and the Asian American community have historically shaped each other, Ancheta analyzes: (1) the differences between anti-Asian and anti-Black-subordination,¹⁵ (2) how post-1965 immigration from Asia shifted American racial demographics,¹⁶ and (3) how these shifting demographics have created a new race relations.¹⁷ In so doing, this book establishes and illustrates how race creates and implements law.

8. For a discussion of the fluidity of Asian American identity, see Natsu Taylor Saito, *Alien and Non-Alien Alike: Citizenship, "Foreignness," and Racial Hierarchy in American Law*, 76 OR. L. REV. 261, 297 (1997).

9. See ANCHETA, *supra* note 2, at 3 (discussing the "model minority" perception). The authors capitalize "Black" but do not capitalize "white" for the counter-hegemonic purpose of de-centering whiteness as a focus of racial discourse.

10. See *id.* at 22 (discussing the similarities between anti-Asian subordination and Jim Crow subordination).

11. See *id.* at 64–66 (discussing how Asian Americans continue to be equated as foreigners).

12. See *id.* at 128.

13. ANCHETA, *supra* note 2.

14. See *id.* at xii.

15. See *id.* at 12–13.

16. See *id.* at 20.

17. See *id.* at 15.

I. PARADIGM LOST: THE BLACK/WHITE ILLUSION

Ancheta's introduction entitled "Neither Black Nor White" examines the racial "no man's land" Asian Americans have occupied throughout American legal and social history.¹⁸

Ancheta begins his introduction with an analysis of Spike Lee's *Do the Right Thing*,¹⁹ a movie in which a Korean American grocer, faced with the prospect of having his business destroyed in an uprising, declares to an angry Black crowd "I not white! . . . I BLACK!"²⁰ This short sequence aptly demonstrates the ways in which Asian Americans occupy a limited, imagined racial space as well as a limited, tangible, physical space. Situated in a community in which he is seen as an intruder and an economic parasite, the Korean American grocer is forced to defend his limited space and indeed, to justify his very presence. He is forced to align himself (at least in this particular moment) with his working-class Black neighbors since the American master narrative of racial discourse does not recognize a uniquely Asian American identity.²¹

Ancheta links this cinematic scene to the historical moment of the Los Angeles uprising, in which Korean American businesses were looted.²² This narrative functions as a road-map for the book, which explores and analyzes the realities of the new race relations and new "racisms," changing demographics, and increasingly complex power structures that were exposed following the 1992 Los Angeles uprising.

The Los Angeles uprising was the most salient moment in recent history where the very nature of constructed racial identities and the realities of multi-ethnic spaces were exposed to the world.²³

18. See *id.* at 1-18.

19. DO THE RIGHT THING (40 Acres & a Mule Filmworks 1989), cited in ANCHETA, *supra* note 2, at 12.

20. DO THE RIGHT THING, *supra* note 19, quoted in ANCHETA, *supra* note 2, at 1.

21. See Lisa C. Ikemoto, *Traces of the Master Narrative in the Story of African American/Korean American Conflict: How We Constructed "Los Angeles"*, 66 S. CAL. L. REV. 1581, 1582 (1993).

22. See Phillip K. Gotanda, *Charlie Chan is Alive and Well*, ASIAN WEEK, Nov. 10, 1995, at 14-15, quoted in Peter Kwan, *Unconvincing*, 81 IOWA L. REV. 1557 (1996).

23. Phillip Kan Gotanda described the importance of this moment in Asian American history:

We're in the post-L.A. uprising era which for me marks the end of the '60's consciousness model of Third World unity where black, brown and yellow people stood together. . . . But as I watched L.A. burn and conflicts going on, I saw a new world with new realities. And it's not that easy anymore to build bridges like we used to. We'd like to, but there are issues and deep-seated feelings that crop up,

Despite geographic ghettoization and the exclusion of Asian Americans from the primary labor market, reporters and commentators constructed Korean American business owners as white.²⁴ The media's inability to understand Asian Americans, together with American society's pathological proclivity to create Black/white conflict placed Asian Americans in a position of dominance over Blacks as "the personal representatives of the invisible hand that has looted local communities of economic autonomy."²⁵ Ironically, Korean Americans neither participated nor had a voice in defining and positioning their community within America's racial hierarchy.²⁶

While the media actively worked to acknowledge the existence Asian Americans, Latinas/os simply dropped off the racial radar screen. Little mention was made of the significant Latina/o population in the areas most affected by the riots.²⁷ While accounts of the devastating effects on Korean American owned businesses were detailed and frequent, scant attention was paid to the effects on Latina/o owned businesses.²⁸ Similarly, the media gave scant coverage to the aftermath of the uprising, during which punishment was meted out unflinchingly on the Latina/o community.²⁹

and we have to reinvent the way we all interact with each other. I don't know how to do that.

Gotanda, *supra* note 22, at 14–15.

24. See ANCHETA, *supra* note 2, at 2.

25. Mike Davis, *In L.A., Burning all Illusions: Urban America sees its Future*, NATION, June 1, 1992, at 743.

26. See Sumi Cho, *Korean Americans vs. African Americans: Conflict and Construction*, in READING RODNEY KING, READING URBAN UPRISING, (Robert Gooding-Williams ed. 1993). Cho observed that "a CNN-Time Magazine poll taken immediately after the verdict surveyed 'Americans' on their opinions regarding the verdict and the violence that followed. *Id.* Yet the poll only sought the views of African Americans and Whites regarding the future of race relations." *Id.* at 196.

27. In Los Angeles County, the Latina/o population of 3.3 million vastly outnumbered the Korean American population of 150,000. See Jack Miles, *Blacks vs. Browns*, ATLANTIC MONTHLY, Oct. 1992, at 52, *cited in* Maria Ontiveros, *United We Stand: Collective Action in a World of Individual Rights*, (unpublished manuscript, on file with authors). In Koreatown itself, 48% of the population is Latina/o while 3% is Korean American. AN ATLAS OF SOUTH-CENTRAL LOS ANGELES (Anderson, Dove, et. al eds. 1992), *cited in* Armando Navarro, *The South Central Los Angeles Eruption: A Latino Perspective*, 1993 AMERASIA J. 69, 73.

28. Although there are significant discrepancies in accounts of the effect of the uprising on Latinas/os, between 30% and 60% of the businesses destroyed were Latina/o-owned. See Miles, *supra* note 27, at 51–52. "Up to 40 percent of the damaged businesses were Latino-owned." MANUEL PASTOR, LATINOS AND THE LOS ANGELES UPRISING: THE ECONOMIC CONTEXT 1 (1993), *quoted in* Navarro, *supra* note 27, at 73.

29. Over half of those arrested for looting were Latina/o. See Miles, *supra* note 27, at 41; see also PASTOR, *supra* note 28, at 1. In addition to the arrests in the wake of the uprising, hundreds of Latinas/os were turned over to the I.N.S., in violation of

The Los Angeles uprising, like the internment of Japanese Americans, forced Asian Americans to face racism American-style. Confronted with the great disparities between reality and media representations, many Asian Americans used this moment to define themselves. This moment is mirrored in Critical Race Theory by Robert Chang's declaration of an "Asian American moment."³⁰ Chang notes that "an Asian American Legal Scholarship will recognize that Asian Americans are differently situated historically with respect to other disempowered groups. But it will acknowledge that, in spite of these historical differences, the commonalties found in shared oppression can bring different disempowered groups together to participate in each others' struggles."³¹ Ancheta's perspective in looking at Asian American legal history, contemporary race relations, the possibilities of cross-racial mobilizations, and the Black-white paradigm, are firmly situated within Chang's notion of Asian American Legal Scholarship.

Building on Chang's notion of "commonality", Ancheta works to construct another racial paradigm. This paradigm is not offered as a comprehensive totality, as the Black/white paradigm has been held to be, but rather one that is useful to understanding how groups can be similarly situated, despite divergent experiences. Ancheta's critique reveals the limitations of the Black/white binary in grappling with issues of immigration, which overwhelmingly implicate Asian Americans and Latinas/os. Indeed, Asian and Latin American immigration has constituted the majority of immigration to the U.S. in the last 30 years.³² While continuously absent from discussions on race and race relations in public discourse, these communities have begun to recognize common interests and implications of the rising anti-immigrant sentiment and attacks on bilingual education.³³ Because of the significant immigrant component in Asian American and Latina/o communities, new problems and particular nuances arise in their dealings with institutional structures.³⁴ Ancheta notes that limited English-speaking immigrant populations develop a severe distrust of police because police misconduct itself, in turn,

city policy, and deported before any legal protection or due process could be given. Davis, *supra* note 25, at 743.

30. Robert S. Chang, *Towards an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space*, 81 CAL. L. REV. 1241, 1243 (1993).

31. *Id.* at 1249.

32. See Enid Trucios-Haynes, *The Legacy of Racially Restrictive Immigration Laws and Policies and the Construction of the American National Identity*, 76 OR. L. REV. 369, 370-71 (1996).

33. See ANCHETA, *supra* note 2, at 80-81; Trucios-Haynes, *supra* note 32, at 417-20.

34. See, e.g., *Majority of APAs New Arrivals, Census Says*, ASIAN WEEK, Sept. 1, 1995, at 1.

develops into a form of anti-immigrant (anti-Asian, anti-Latina/o) violence.³⁵ Here, the axis shifts to American-foreigner, not Black-white.

Ancheta uses this paradigm to closely map the racial landscape, creating a more inclusive grouping. He makes a conscious effort to draw parallels between Asian Americans and Arab Americans,³⁶ a group traditionally excluded from race discourse and denied status as people of color. Ancheta recognizes that Arab Americans face discrimination on the same lines as Asian Americans, Latinas/os, and other communities with large immigrant populations.³⁷

II. STRANGERS FROM A DIFFERENT SUSPECT CLASSIFICATION: THE ASIAN AMERICAN LEGAL CANON

Despite their racial ambiguity, and in some instances because of it, Asian Americans have established an undeniable role in the shaping and interpretation of law.³⁸ Throughout the text, Ancheta reveals how Asian Americans have been and continue to be major “players” in the unfolding of American legal history.

In challenging notions of citizenship and constitutional rights, Asian Americans have alternately occupied racial spaces along both sides of the Black-white axis. For example, in two landmark cases that challenged naturalization rights, *Ozawa v. United States*³⁹ and *United States v. Thind*,⁴⁰ Asian Americans strategically attempted to pass under the strict citizenship requirements of free white persons by challenging notions of “whiteness” as well as the racial designation of “Caucasian.”⁴¹ In both cases, the Supreme Court demonstrated its inability to contend with multiple racial categories. Despite the Court’s refusal to address the racial designation of “Asian” in the context of U.S. race relations, by disapproving the plaintiff’s argument in each of these cases, it inadvertently defined the category of “Asian” by what it was not: white.

In Chapter One, “Legacies of Discrimination,” Ancheta writes, “the legal subordination of Asian Americans on the West Coast

35. See ANCHETA, *supra* note 2, at 75–77.

36. See ANCHETA, *supra* note 2, at 76–77.

37. *Id.* at 64–65.

38. See Natsu Saito Jenga, *Finding Our Voices, Teaching Our Truth: Reflections on Legal Pedagogy and Asian American Identity*, 3 UCLA ASIAN PAC. AM. L.J. 81, 88 (1995) (describing the range of cases and areas of law that have involved Asian Americans).

39. 260 U.S. 178 (1922) (Ozawa argued that the Japanese are “White persons” who have Caucasian root stocks).

40. 261 U.S. 204 (1923) (drawing from *Ozawa*, Thind argued as an Asian Indian that he belonged to the “Aryan” race).

41. See ANCHETA, *supra* note 2, at 4.

paralleled the treatment of African Americans in the South following Reconstruction: segregation was sanctioned and discriminatory laws abounded at all levels of government."⁴² Ancheta's savvy about the differences between anti-Asian and anti-Black subordination, does not blind him to historical similarities. Paralleling historian Gary Okihiro's notion of "kindred people,"⁴³ Ancheta is cognizant of the ways anti-Black sentiments and actions are but another form of anti-Asian subordination. Through this awareness, Ancheta is able to highlight particular instances in Asian American legal history typically glossed over in Asian American historical texts. For example, while cases such as *Takahashi v. Fish and Game Commission*⁴⁴ and *Oyama v. California*⁴⁵ may be familiar to Asian American legal scholars, including them in a text that will undoubtedly be read in introductory Asian American studies courses is invaluable.

Ancheta examines past and present legislation that targets Asian Americans as a racial group, in conjunction with examples of Asian American resistance against these laws. Ancheta's critique concentrates mostly on individual cases, but still reveals the failure and unwillingness of the government and the courts to lessen structural racism. He recognizes that local and state laws had the most penetrating effect on the lives of Asian Americans.⁴⁶

Early Asian American settlements were concentrated in specific locales. These communities faced efforts by local and state legislators to implement discriminatory legal obstacles. Ancheta's discussion of *Yick Wo v. Hopkins*⁴⁷ is particularly noteworthy in this context. In *Yick Wo*, the Supreme Court struck down a San Francisco city ordinance by ruling that it violated the equal protection clause of the Fourteenth Amendment. Ancheta writes, "*Yick Wo* was an anomalous decision given the Court's rulings in other cases involving Chinese immigrants, and may have been due to the Court's strong adherence at the time to doctrines protecting business interests and the liberty of contracts."⁴⁸ Ancheta's analysis recognizes that the Court's decision in *Yick Wo* was not one of benevolence towards the Chinese

42. *Id.* at 22.

43. GARY OKIHIRO, MARGINS AND MAINSTREAMS: ASIANS IN AMERICAN HISTORY AND CULTURE 34 (1994).

44. 334 U.S. 410 (1948) (holding that a California statute barring commercial fishing licenses to resident alien Japanese citizens violated the Equal Protection and Due Process clauses of the Fourteenth Amendment).

45. 332 U.S. 633 (1948) (holding that use of The California Alien Land Law to claim property of a minor American citizen on the ground that his father, a Japanese alien, paid for the land denied the son equal protection of the laws).

46. See ANCHETA, *supra* note 2, at 27.

47. 118 U.S. 356 (1886) (holding that discriminatory application of a facially neutral statute violated the Fourteenth Amendment).

48. See ANCHETA, *supra* note 2, at 29.

American community, but rather one in which the Court had to extend equal protection to everyone in order to protect the economic interests of the specific plaintiffs in this case. Asian Americans' racial ambiguity and their status as "aliens ineligible for citizenship," inadvertently created seminal legal precedent.

In his analysis of the Japanese American internment, Ancheta focuses on the four constitutional challenges heard in the Supreme Court.⁴⁹ While Ancheta discusses the anti-Japanese sentiment that led up to the internment,⁵⁰ he does not explicitly draw the link between the Alien Land Laws and internment. The abrogation of property rights of Japanese Americans, coupled with immigration exclusion and educational segregation, set the stage for internment, making a seemingly implausible form of ultimate disenfranchisement appear palatable.⁵¹

Ancheta's discussion of redress for Japanese Americans is extremely brief⁵² and the subject warrants a more thorough analysis. In a way, the redress movement was insignificant, as it failed to alter the "fundamental realities of power,"⁵³ fostering instead, "illusions of change"⁵⁴ at odds with the continuing oppression of Asian Americans.⁵⁵ On another level, the success of the redress movement was a striking historical event; it marked a moment in achieving institutional acknowledgment of racism accompanied by an attempt to remedy its effects. However, the Asian American community must be critical of any attempts by the government to characterize its own brand of injustice. Reparations implemented by the perpetrators of the internment can carry ideological baggage with them. The redress can be seen as an affirmation of the model minority myth through a celebration of super-patriotism.⁵⁶ Characterization of

49. *Hirabayashi v. United States*, 320 U.S. 81 (1943); *Yasui v. United States*, 320 U.S. 115 (1943); *Korematsu v. United States*, 323 U.S. 214 (1944); *Ex parte Endo*, 323 U.S. 283 (1944); see also ANCHETA, *supra* note 2, at 31–32 (discussing cases cited *supra*).

50. See ANCHETA, *supra* note 2, at 29–30.

51. See Keith Aoki, *No Right to Own*, 40 B.C.L. REV. (forthcoming 1999).

52. See ANCHETA, *supra* note 2, at 32, 40.

53. Eric K. Yamamoto, *Friend, Foe or Something Else: Social Meanings of Redress and Reparations*, 20 DENV. J. INT'L L. & POL'Y 223, 231–32 (1992).

54. *Id.* at 240–41.

55. Redress payments were woefully inadequate compared to actual losses suffered by Japanese American internees. See Chris K. Iijima, *Political Accommodation and the Ideology of the "Model Minority": Building a Bridge to White Minority Rule in the 21st Century*, 7 S. CAL. INTERDISC. L.J. 1, 3 (1998). The *Korematsu* decision, which authorized imprisonment of Japanese Americans based on the phantom menace of Japanese espionage was never overturned, despite findings of prosecutorial misconduct. See ANCHETA, *supra* note 2, at 32.

56. See Iijima, *supra* note 55, at 10–11.

interned Japanese Americans as "ultra-loyal Americans" dismisses the reality of political resistance within the camps,⁵⁷ mischaracterizing forced compliance as a kind of supernatural faith in the inherent fairness of America. This misconception adds another dimension of alienation to Japanese Americans who did not swear the loyalty oaths demanded of them.⁵⁸

Ancheta's explanation of the limits of anti-discrimination law is a cogent expression of the inadequacies of "liberal" conceptions of racism. Despite assertions that racism is a result of "bad actors" and can be cured through simple education and punishment of specific egregious acts of intentional discrimination,⁵⁹ racism is about power. Though White supremacy manifests itself in hate crimes, racial slurs, and outright discrimination against minorities, these are merely symptoms of a systematic and institutional power structure. Racism works through Complicity and acceptance of this structure; until economic, political, and social power is redistributed, racism will continue to be the driving force behind American society.

III. FEAR OF A BROWN AND YELLOW PLANET: RACE IN IMMIGRATION

U.S. immigration law has been described as a direct product of attempts to exclude Asian immigrants from the United States.⁶⁰ Ancheta examines the topic of immigration law through the lens of race, specifically targeting the ways in which Asians have been virtually prohibited from coming to America.⁶¹ Ancheta doesn't focus on the well-documented legislation that restricted Asian immigration, but rather on the judicial doctrine of plenary power that prevents courts from questioning the constitutionality of immigration laws.⁶² His analysis moves to naturalization restrictions and a cogent discussion of how limiting membership in American society creates subordination.⁶³ This approach is innovative in its presentation of a systematic and procedurally unsound system. Restrictions placed on Asian immigration have typically been presented as products of foreign policy—political questions that should not be questioned by the courts. Ancheta exposes the way in which racism

57. See *id.* at 16–20.

58. See generally JOHN OKADA, *NO-NO BOY* (1979).

59. See ANCHETA, *supra* note 2, at 50–52.

60. See generally Jan C. Ting, "Other Than a Chinaman": How U.S. Immigration Law Resulted From and Still Reflects a Policy of Excluding and Restricting Asian Immigration, 4 *TEMP. POL. & CIV. RTS. L. REV.* 301 (1995).

61. See ANCHETA, *supra* note 2, at 86–90.

62. For a critique of the plenary power doctrine, see Frank H. Wu, *The Limits of Borders: A Moderate Proposal for Immigration Reform*, 7 *STAN. L. & POL'Y REV.* 35 (1996).

63. See ANCHETA, *supra* note 2, at 101–03.

is not confined to specific foreign policy decisions made by certain high ranking government officials. Racism creates and maintains the institutional privilege and deference given to these decisions. This analysis again reveals the "liberal" conception of racism—as a handful of bad, irrational acts—as inaccurate. The invisible hand of racism in immigration law is the lack of accountability inherent in the system.

Although the Immigration and Naturalization Act of 1965⁶⁴ was a "watershed in Asian American history,"⁶⁵ it is not beyond reproach.⁶⁶ The abolition of national origins quotas,⁶⁷ the main mechanism of Asian exclusion,⁶⁸ resulted in a uniform cap on the number of immigrants from any given country.⁶⁹ This facially neutral policy has been criticized as inherently discriminatory towards certain nation states with extremely large populations (China, India, etc.).⁷⁰ While Asian people make up half the population of the world,⁷¹ there are fewer Asian Americans than there are residents of a single Asian city such as Bombay or Jakarta.⁷²

The importance of the 1965 Immigration and Naturalization Act was to move to a family reunification based model of immigration; however, as the flow of immigrants revealed itself to be predominantly Asian and Latina/o,⁷³ Congress introduced a new system of visa distribution. Dubbed the "diversity visa," a significant number of immigrant visas began to be randomly distributed via a lottery

64. Immigration Act of 1965, Pub. L. No. 89-235, 79 Stat. 911 (codified as amended in scattered sections of 8 U.S.C.). For a detailed treatment of this Act, see Gabriel J. Chin, *The Civil Rights Revolution Comes to Immigration Law: A New Look at the Immigration and Nationality Act of 1965*, 75 N.C.L. REV. 273 (1996).

65. *Id.* at 1; see also RONALD TAKAKI, *A DIFFERENT MIRROR: A HISTORY OF MULTICULTURAL AMERICA* 400-01 (1993).

66. See Chin, *Civil Rights Revolution*, *supra* note 64 (analyzing the popularly held belief that the 1965 INA was an important piece of civil rights legislation).

67. T. ALEXANDER ALEINIKOFF ET AL., *IMMIGRATION AND CITIZENSHIP: PROCESS AND POLICY* 290 (4th ed. 1998).

68. See Chin, *Civil Rights Revolution supra* note 64, at 280-82.

69. Immigration and Nationality Act of 1990 § 202(a)(2), 8 U.S.C. § 1152(a)(2).

70. See Ting, *supra* note 60, at 308.

71. See Gabriel J. Chin, *Segregation's Last Stronghold: Race Discrimination and the Constitutional Law of Immigration*, 46 UCLA L. REV. 1, 40 (1998) (noting that "half the world is Asian"); see also GRAIN OF SAND, *Yellow Pearl*, on GRAIN OF SAND, *supra* note 1 ("... and we are half the world").

72. Compare Bureau of the Census, U.S. Dept. of Commerce, Statistical Abstract of the United States 1996, at 14 tbl.12 (116th ed. 1996) (estimating the Asian American population as of 1995 to be 9,287,000), cited in Gabriel J. Chin, *Segregation's Last Stronghold: Race Discrimination and the Constitutional Law of Immigration*, 46 UCLA L. REV. 1, 40 n.199 (1998) with INFORMATION PLEASE ALMANAC 130 (48th ed. 1995) (estimating the population of Bombay to be over 12 million and Jakarta to be over 10 million), cited in Chin, *Segregation's Last Stronghold*, *supra*.

73. See Trucios-Haynes, *supra* note 32.

system to countries "underrepresented" in the United States.⁷⁴ Ancheta does not dwell on the ideological ramifications of the diversity lottery; however, it has disturbing consequences for Asian Americans and their non-citizen relatives that merit a more thorough discussion.

The "diversity visa" system of random distribution defies logic. While nativists argue for a stringent set of immigration restrictions,⁷⁵ membership in a nation should not be left to chance. To add insult to injury, the lottery system, notorious for slaying random villagers⁷⁶ and exploiting the materialistic dreams of the working class and people of color,⁷⁷ establishes citizenship as a game show prize, similar to a washer/dryer set or a trip to Hawaii. While direct relatives of Filipino American citizens face a waiting list of over 20 years, completely random foreigners with no connection to the United States are allowed to immigrate immediately, without regard to the strength of their commitment to our country. The commodification of citizenship cheapens the family reunification ideal and strikingly reveals the racially discriminatory nature of immigration law.

Ancheta also could have included a more thorough discussion of the most blatant form of discrimination against Filipinos in immigration law, denial of citizenship to Filipino World War II veterans.⁷⁸

In the period between 1942 and 1945, approximately 7,000 Filipino servicemen obtained U.S. citizenship.⁷⁹ In August 1946, the INS authorized another official with the power to naturalize, and approximately 4,000 Filipino servicemen obtained citizenship.⁸⁰

In 1946, the First Supplemental Surplus Appropriation Rescission Act was passed.⁸¹ A rider to a supplementary appropriations act, it stated that the service Filipino veterans in the Commonwealth Army performed in World War II "shall not be deemed active service for purposes of any law of the United States conferring rights, privilege, or benefits"⁸² except for the dead, maimed, or those separated from active service for physical disability.⁸³

74. See ANCHETA, *supra* note 2, at 89–90.

75. See Wu, *Borders*, *supra* note 62, at 36–38.

76. See SHIRLEY JACKSON, *The Lottery*, in *THE LOTTERY 291* (1949) (recounting the stoning death of Tessie Hutchinson).

77. See Kim Phillips, *Lotteryville, USA*, in *COMMODY YOUR DISSENT: SALVOS FROM THE BAFFLER* (Thomas Frank et al. eds. 1997).

78. See ANCHETA, *supra* note 2, at 128.

79. See *INS v. Pangilinan*, 486 U.S. 875, 879 (1988).

80. See *id.* at 880.

81. 38 U.S.C. § 107 (1988).

82. § 107(a).

83. § 107(a).

Numerous judicial challenges to the denial of veteran status arose over the years.⁸⁴ These challenges resulted in a Supreme Court decision that denied Filipino veterans the right to naturalize, alluding to the plenary power doctrine as its rationale.⁸⁵ In 1990, Congress passed Section 405 of the 1990 Immigration Act allowing Filipino natives who served on active duty during World War II to apply for citizenship between May 1, 1991 and May 1, 1993.⁸⁶ Approximately 28,000 Filipino veterans were naturalized pursuant to the 1990 Act.⁸⁷

The Filipino veteran situation outlines the wages of colonialism. Though there exists little scholarship regarding other Asian American territories, America's treatment of the Philippines evinces the denial of rights typically guaranteed under international law. Legislative vindication of Filipino veteran naturalization rights is the merely the first step in an attempt to remedy injustice. Filipino veterans continue to suffer from being excluded from veterans benefits, despite protests that have been unrelenting, yet ineffective.⁸⁸

IV. NO SPEAKEE ENGLISH: LINGUISTIC REGULATION IN AMERICA

In the context of American society, language requirements are typically regarded as non-discriminatory policies, enacted for the sole purpose of fostering assimilation and creating a unified national identity.⁸⁹ However, Ancheta manages to succinctly reconcile the idea of America with that of a multilingual society through an examination of how language regulation impacts the fields of education, voting, and employment discrimination.⁹⁰ The major sources of law prohibiting language discrimination are found in civil rights statutes,⁹¹ the First Amendment,⁹² and the Due Process⁹³ and Equal Protection⁹⁴ clauses of the Fifth and Fourteenth Amendments. By swiftly outlining the strong link between national origin and

84. See, e.g., *Pangilinan*, 486 U.S. at 875; *INS v. Hibi*, 414 U.S. 5 (1973); *In Re Petitions for Naturalization of 68 Filipino War Veterans*, 406 F. Supp. 931 (N.D. Cal. 1975).

85. See *Pangilinan*, 486 U.S. at 885.

86. Immigration Act of 1990, Pub. L. No. 101-649, § 405, 104 Stat. 4978, 5039 (1990) (amending scattered sections of 8 U.S.C.).

87. See Loida Nicholas Lewis, *Perspective on Veterans*, L.A. TIMES, Aug. 22, 1997, at B9.

88. See, e.g., Joe Mazingo, *Filipino Veterans Chain Selves to Statue in Protest*, L.A. TIMES, June 17, 1997, at B1.

89. See ANCHETA, *supra* note 2, at 108, 124.

90. See *id.* at 107-18.

91. See *id.* at 119-21.

92. See *id.* at 115-16.

93. See *id.* at 116-18.

94. See *id.* at 118-19.

language, Ancheta thoroughly explains why non-English speakers should be considered a protected class under civil rights law.⁹⁵

Ancheta's discussion of language regulation of non-government entities is helpful, yet abbreviated.⁹⁶ The idea of consumer protection, as posited by John F. Kennedy's address to Congress,⁹⁷ encompasses the right to safety, the right to choose, the right to be heard, and the right to be informed.⁹⁸ The lack of language specific consumer protection legislation for language minorities underscores the impact of language deregulation on Latina/o and Asian Pacific American communities in the private sphere.⁹⁹ Furthermore, the enforcement of laws restricting the use of foreign languages on signs owned by private businesses¹⁰⁰ has been documented to be extremely racially discriminatory.¹⁰¹ Additional concerns arise when the passage of vague anti-immigrant legislation, like California's Proposition 187, are interpreted by "language vigilantes" and are enforced through immigrant hate crimes.¹⁰² Clearly, the language rights issue is not bound by a public/private distinction and a thorough analysis would include an extended discussion of the private sector ramifications of "English-only" policies.

Although initially characterized as a "English-only" rule,¹⁰³ Ancheta mentions that the language policy challenged in *Dimaranan v. Pomona Valley Hospital Medical Center*¹⁰⁴ was really a "No Tagalog" rule.¹⁰⁵ However, Ancheta does not explicitly state the hospital's policy, which placed "no restriction on the use of other non-English

95. See ANCHETA, *supra* note 2, at 119–24.

96. See *id.* at 118–26.

97. John F. Kennedy, Special Message on Protecting the Consumer Interest, 1962 CONG. Q. 458, cited in Steven Bender, *Consumer Protection for Latinos: Overcoming Language Fraud and English-Only in the Marketplace*, 45 AM. U.L. REV. 1027, 1108 (1996) (noting the difference between "English Only" laws which prohibit the government from speaking languages other than English and "Official English" laws which make English the "official" language of the state)

98. See Kennedy, *supra* note 97.

99. See Bender, *Consumer Protection*, *supra* note 97.

100. See ANCHETA, *supra* note 2, at 118–19 (citing *Asian Am. Bus. Group v. City of Pomona*, 716 F. Supp. 1328 (C.D. Cal. 1984) (discussing ordinance requiring at least one-half of advertising copy of signs to be in English Characters)).

101. See Grace A. Pasigan, *Sign Language: Colonialism and the Battle over Text*, 17 LOY. L.A. ENT. L.J. 625, 643 n.54 (pointing out examples of L.A. restaurants using foreign language spellings that have not been cited for violation of sign ordinances).

102. See Steven Bender, *Direct Democracy and Distrust: The Relationship Between Language Law Rhetoric and the Language Vigilantism Experience*, 2 HARV. LATINO L. REV. 145 (1997).

103. See ANCHETA, *supra* note 2, at 124.

104. 775 F. Supp. 338 (C.D. Cal. 1991).

105. See ANCHETA, *supra* note 2, at 124.

languages in the Unit, such as Spanish.”¹⁰⁶ Underlying the hospital’s policy was the dramatic demographic shift that occurred in the Pomona area in the late 1980s, in which Filipino and other Asian immigration changed population from one that was predominantly Black and Chicana/o, in a similar way to what occurred in Monterey Park in the mid-1980s.¹⁰⁷ This type of sociological analysis displays the complexity of Ancheta’s American/foreigner paradigm. In certain areas, there are degrees of outsider racialization that affect some communities more than others. Here, Filipinos found themselves taking the brunt of racist policies that did not seek to punish Chicanas/os.

Ancheta closes the chapter with a discussion of “accent discrimination.”¹⁰⁸ This form of language discrimination is a markedly powerful one. Even though Asian American immigrants, notably Filipinos, frequently master English, the traces of an accent, independent of fluency, often subjugate them in their dealings with the public. Here, language acts as means of racialization.

V. ROCKING THE BOAT: ASIAN AMERICAN POLITICAL IDENTITY

Professor Keith Aoki recently called for Asian Americans to move from identity politics to political identity.¹⁰⁹ The Asian American category is a constructed one, a product of the census.¹¹⁰ The diaspora of Asian American linguistic, socioeconomic and demographic diversity is near absolute.¹¹¹ Ancheta efficiently debunks myths about the monolithic nature of Asian America and shows how statistical information can be manipulated to perpetuate stereotypes.¹¹² Ancheta engages in an extended examination of the link between Asian American identity and electoral politics.¹¹³ He concludes with an analysis of intersectional identity,¹¹⁴ focusing primarily on Asian American women. Ancheta chooses to focus on an image of Asian American women as the “mysterious Oriental,”¹¹⁵ collapsing the multiple and contradictory Asian/Asian American female images of “a privately compliant and catering Asian feminin-

106. *Dimaranan*, 775 F. Supp. at 342.

107. *See ANCHETA*, *supra* note 2, at 126.

108. *See id.* at 121–24.

109. *See* Keith Aoki, Address at the *Association of Asian American Studies*, East of California Conference (Oct. 31, 1998).

110. *See ANCHETA*, *supra* note 2, at 134–37.

111. *See id.* at 130–34.

112. *See id.* at 130.

113. *See id.* at 142–45.

114. *See id.* at 145–48.

115. *See id.* at 140.

ity, predisposed to the assertion of White male desire, . . . overlaid upon a super-competent, professional public exterior."¹¹⁶ This paradox of perception results in a new form of sexual harassment, informed as much by race as by gender.¹¹⁷ Noticeably absent from Ancheta's book is a discussion of the extent to which Asian American males are heavily gendered as queer, female, or sometimes both. As Professor Robert S. Chang noted, Asian American masculinity tends to be figuratively obscured, and he is often constructed as an Asian American lesbian.¹¹⁸ Asian American queers are marginalized not only within American society, but within specific ethnic subcultures.¹¹⁹ Chang posits blurring the lines of categorical distinction through a confusion of identity and a relinquishing of heterosexual privilege.¹²⁰

Ancheta's last chapter focuses on the role of Asian Americans in America's racial hierarchy.¹²¹ Ancheta does this through an examination of issues traditionally regarded as outside the Asian American experience, such as affirmative action, public housing, and voting rights.

The crucial role of affirmative action in assisting the Asian American community continues to be obscured by right wing pundits purporting to speak for Asian Americans.¹²² Asian Americans have been constructed as "honorary Whites" in the educational context, as many affirmative action undergraduate admissions programs do not consider certain groups of Asian Americans to be underrepresented.¹²³ This blatant misconstruction fails to take into account the institutional and systematic exclusion of Asian Americans from meaningful opportunity to participate in U.S. society.¹²⁴ Affirmative action has worked to increase Asian

116. Sumi K. Cho, *Converging Stereotypes in Racialized Sexual Harassment: Where the Model Minority Meets Suzie Wong*, 1 J. GENDER RACE & JUST. 177, 190 (1997).

117. See *id.* at 194-95.

118. See Robert S. Chang, Address at the *Journal of Gender, Race & Justice* Annual Conference (Nov. 7, 1998).

119. See Aileen Cho, *UFO in Long Beach* (visited Oct. 5, 1997) <<http://www.anythingthatmoves.com/ish13/ufo.htm>> (describing the Asian American female as a "Ubiquitous Fuck Object"); Richard Fung, *Looking for My Penis: The Eroticized Asian in Gay Video Porn*, in HOW DO I LOOK?: QUEER FILM AND VIDEO 145 (Bad Object Choices ed., 1991) (noting the conflation of "Asian" with "anus").

120. See Robert S. Chang, *Divest Now! De-Materializing White Capitalist Heteropatriarchy*, 3 J. GENDER, RACE & JUST. (forthcoming 1999) (proposing that his next response to being mistaken as an Asian American lesbian will be "[n]obody but us queers here").

121. See ANCHETA, *supra* note 2, at 149-70.

122. See *id.* at 158.

123. Frank Wu, *Neither Black nor White: Asian Americans and Affirmative Action*, 15 THIRD WORLD L.J. 225, 248 (1995).

124. See Chin et al., *supra* note 3, Sections III.A and III.C.

American participation in universities, the labor market, and contracting.¹²⁵ As the only institutional challenge to existing forms of institutional racism and exclusion, affirmative action is a crucial component of dismantling the “old boy’s network,” the “glass ceiling,” and existing stereotypes of Asian Americans.¹²⁶

Ancheta makes a very intriguing link between anti-immigration and anti-affirmative action rhetoric.¹²⁷ The shifting neoconservative climate in California, resulted in near simultaneous right wing victories in the passages of Proposition 187, an anti-immigrant measure, and Proposition 209, an anti-affirmative action measure.¹²⁸ The Black/White paradigm structures Black racial identity as favoring affirmative action and opposing immigration, and thus refuses to acknowledge communities of color adversely damaged by both measures, namely Chicanas/os, Latinas/os and Asian Americans.¹²⁹ The fact that these two pieces of legislation were passed by ballot initiative underscores the inequities in electoral politics.¹³⁰

Asian American political exclusion in redistricting,¹³¹ coupled with inherent biases in the immigration and naturalization system that restrict citizenship¹³² has effectively crippled Asian American political identity. However, recent legislation curtailing the rights of legal permanent residents to public assistance and participation (Proposition 187, Welfare reform)¹³³ has encouraged Asian American naturalization.¹³⁴ This influx of new voters, forced to naturalize due to anti-immigrant legislation, will necessarily be politicized, using their votes to resist subsequent anti-immigrant attacks.

Ancheta hints at an invidious circle of discrimination. Asian Americans are racialized as foreigners, leading to subsequent disenfranchisement through racialized legislative measures such as immigration restrictions, denial of citizenship rights and insufficient access to public assistance. Executive orders and international agreements work to intern and exclude Asian Americans. Through the plenary power doctrine, Asian Americans find themselves

125. See ANCHETA, *supra* note 2, at 159–160.

126. See *id.*

127. See *id.* at 161.

128. See Robert S. Chang & Keith Aoki, *Centering the Immigrant in the Inter/National Imagination*, 85 CAL. L. REV. 1395, 1444 (1997).

129. See Jenga, *supra* note 38, at 83.

130. See Bender, *Direct Democracy*, *supra* note 102.

131. See ANCHETA, *supra* note 2, at 157.

132. See *id.* at 101.

133. See *id.* at 14.

134. See Peter H. Schuck, *Address: The Message of Proposition 187*, 26 PAC. L.J. 989, 999 (1995).

unable to access the judicial system in order to challenge the legislative and executive branches.

CONCLUSION:
"WE DON'T WANT A PIECE OF YOUR PIE,
WE WANNA BAKE OUR OWN"¹³⁵

The confluence of Asian American legal issues—racial hierarchy, immigration, identity politics, discrimination, affirmative action, property restrictions, and forced internment—are all informed by political exclusion. Without significant representation in America's power structures, Asian Americans have become heavily constructed within and outside the ubiquitous Black/White paradigm.

Through his efforts to center Asian Americans, not in a space between Black and white, but as a unique and complex identity, Ancheta reveals the overall project of his book. *Race, Rights, and the Asian American Experience* shows that the real danger in focusing on the Black/white paradigm is the removal of agency and identity from other groups. The denial of Asian American racial experience disenfranchises Asian Americans and disengages social reality. Ancheta's efforts to construct new ideological frameworks that diffuse the power of the liberal viewpoint of racism, align interests of people of color, and provide a critical analysis of the failure of legal protection on a global and systematic level, mark *Race, Rights, and the Asian American Experience* as a welcome addition to the Critical Race Theory canon.

135. GRAIN OF SAND, *Free the Land*, on A GRAIN OF SAND, *supra* note 1.