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## Chon on Chen on Chang

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Chon

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Chen

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Chang

*Margaret Chon\**

JO

You know, it's hard enough for guys like us who've been here so long to find an identity, I can imagine Chan Hung, somebody from China coming over here and trying to find himself.

STEVE

Aw, that's a bunch of bullshit, man. That identity shit, man, that's, that's old news, man. That happened fuckin' ten years ago.

JO

It's still going on.

STEVE

Bullshit. That don't mean nothing. I ran into an old friend of mine downtown, I pick him up, you know, driving. We used to run together in high school, right. Him and me, the same, with the rest of my buddies. He was all decked out in his GQ fucking look you know, with his fucking Louhfaan broad girlfriend, you

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\* Associate Professor, Syracuse University College of Law. i would like to thank Keith Aoki for his unflagging encouragement and support of asian american law professors involved in the project of racial reconstruction. thanks also to Donna Arzt, Lisa Ikemoto, and Jerry Kang for thoughtful suggestions. all spins are mine. i dedicate this essay to my son, Nick Diamond.

know. And he didn't want to talk to me, man. He knew who I was and he didn't want to talk to me. That's because he's playing the game man. Fuck the identity shit . . . . Eh, fuck, when I was in fucking 'Nam, man, when I was getting shot at by my own people—eh, eh, the Chinese are all over the city, why are you tripping so heavy on this one dude for man?

JO

Because he's a friend.

STEVE

Is he really a friend?<sup>1</sup>

### i. introduction

perhaps if Bob Chang had used quotes around the words "race" or "asian american" throughout his entire article,<sup>2</sup> then Jim Chen would have understood the contingency and irony as well as solidarity signified by Chang's usage of those terms.<sup>3</sup> rather than preaching a form of fundamentalism, Chang deliberately rejected the reification and reductiveness of race.<sup>4</sup> that Chang's carefully contextualized terms "race" and "asian american" were so peremptorily challenged suggests that there is a deep misunderstanding about epistemological as well as about political strategies in legal scholarship.

the purpose of this essay is to explore the roots of the Chen-Chang quarrel, in which i—chon—assume the guise of a greek chorus. much of the disagreement can be traced to the differences between modernist and post-modernist modes of knowing. the differences in their representational strategies are compounded by a shift from racial identities that are centered on nation-state (Chen's utopian "creole nation" perspective) to identities that are less linked to nation-state and more attentive to the multiple directions of globalization (what i will characterize as Chang's strategically utopian "diaspora" perspective).<sup>5</sup> neither identity perspective

1. Chan is Missing (New Yorker Films 1981).

2. Robert S. Chang, Toward an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space, 81 Cal. L. Rev. 1241 (1993).

3. Jim Chen, Unloving, 80 Iowa L. Rev. 145 (1994).

4. Chang, *supra* note 2, at 1279-86 (comparing "Arguing in the Rational/Empirical Mode" to "Post-structuralism and the Narrative Turn").

5. Professor Cynthia Wong notes:

The sweep of the postmodern condition has made it more and more acceptable to situate Asian Americans in a diasporic context—the third component of the denationalizing trend I wish to investigate. A *diasporic perspective* emphasizes Asian Americans as one element in the global scattering of peoples of Asian origin, in contrast to what I call a *domestic perspective* that stresses the status of Asian Americans as an ethnic-racial minority within the national boundaries of the United States.

Sau-Ling Cynthia Wong, Denationalization Reconsidered: Asian American Cultural Criticism at

precludes the other, nor is either mode of knowing more “developed” than the other. however, chen’s “creole nation” is much more based upon an epistemology of exclusion than is Chang’s “both/and” approach to knowing. moreover, the nostalgic representational mode adopted by Chen fails to offer any genuinely new insights into old paradigms such as the melting pot strand of multiculturalism. by contrast, some of the most interesting insights into multicultural ideologies and practices within the u.s. are emanating from post-structuralist strategies of representation and knowledge production.<sup>6</sup>

Chen’s narrative of his interviewing experience at boalt is squarely (or perhaps triangularly) modernist. modernist stories are characterized by the following three elements: “a subject, free to choose . . . ; an objective world of things out there . . . ; and ‘reason’, the bridge between the subject and the object that enables subjects to move from their own blindness to ‘enlightenment.’”<sup>7</sup> Chen’s subject is himself, a young legal academic who is not particularly aware of being asian american.<sup>8</sup> the objective world of things out there is the hiring process within legal academia. and the reason that bridges between the two is Chen’s understanding that he was treated on the basis of arbitrary racial categories rather than simply as a person.<sup>9</sup>

Chang, on the other hand, already briefly recounted being confronted by a white man upset at Chang’s presence with three white women at a bowling alley during his last year of law school.<sup>10</sup> the story has the same modernist trajectory as Chen’s. Chang’s subject is himself, a young law student who is not particularly aware of being asian american. the objective world of things out there is random violence based on racial hatred. and the reason that bridges between the two is Chang’s understanding that he was treated on the basis of arbitrary racial categories rather than as simply a person.

so is this simply a battle of the affidavits to meet the burden of proving racism *vel non*? one way to view this apparent incommensurability is from Chang’s epistemological claim that there is no essential asian

a Theoretical Crossroads, in *Thinking Theory in Asian American Studies*, 21 *Amerasia Journal* 1,2 (1995).

6. See, e.g., Neil Gotanda, *Critical Legal Studies, Critical Race Theory and Asian American Studies*, in *Thinking Theory in Asian American Studies*, 21 *Amerasia J.* 127 (1995). See generally Rey Chow, *Writing Diaspora* (1993); Lisa Lowe, *Immigrant Acts: On Asian American Cultural Politics* (1996).

7. Angela Harris, *Foreword: The Jurisprudence of Reconstruction*, 82 *Cal. L. Rev.* 741, 751 (1994).

8. Chen, *supra* note 3, at 147.

9. *Id.* at 147-49; see also Leslie Bow, “For Every Gesture of Loyalty, There Does Not Have to Be a Betrayal”: Asian American Criticism and the Politics of Locality, in *Who Can Speak? Authority and Critical Identity* 30, 39 (Judith Roof & Robyn Wiegman eds., 1995) (“This self-doubling would not be so unsettling, so disruptive, but for this fear—to see yourself as others see you and be diminished in your own eyes.”).

10. Chang, *supra* note 2, at 1313.

american experience.<sup>11</sup> thus, even as he proposes to center a racial category that heretofore had been decentered within civil rights and critical race scholarship, Chang deliberately places his modernist narrative within the context of post-structuralist theory.<sup>12</sup> in doing so, he explicitly as well as implicitly states certain disclaimers about his own truth claims, disclaimers that chen completely misses. these include "remaining mindful of the differences within the exclusions and elisions within any collective identity and the historic provisionality of such identities in a changing social, cultural, and political matrix."<sup>13</sup>

i will not rehash at length what Chang explicitly states,<sup>14</sup> except to note that he is utterly clear in stating that "[w]e must not generalize the cultural differences of certain Asian American groups and individuals in a way that excludes those who do not fit those characteristics."<sup>15</sup> instead, this essay attempts to highlight and explore chang's implicit disclaimers for an asian american legal scholarship situated within post-structuralism: that it is contingent, ironic, and yearns for a chimerical solidarity. these qualities should not lead to the conclusion that his claims lack positive vision. the narrative space that Chang advocates allows for creative articulations of asian presence in america, in both theoretical and practical realms. thus, after considering the nature of the misunderstanding between Chang and Chen, i will turn briefly to one example of positive articulation—the diaspora perspective—and read it into Chen's text.

## ii. subject-object contingency

the pre-existing contingency within the deraced individual of Chen's utopia is what makes Chang's proposal possible. the seamlessness of an "individual" is inevitably ruptured by the material effects of race.<sup>16</sup> post-

11. *Id.* at 1282.

12. *Id.* at 1284-86.

13. Dorinne Kondo, *Poststructuralist Theory as Political Necessity*, in *Thinking Theory in Asian American Studies*, 21 *Amerasia J.* 95, 95-96 (1995). Professor Lisa Lowe also notes:

The grouping "Asian American" is not a natural or static category; it is a socially constructed unity, a situationally specific position that we assume for political reasons. It is "strategic" in Gayatri Chakravorty Spivak's sense of a "strategic use of a positive essentialism in a scrupulously visible political interest." The concept of "strategic essentialism" suggests that it is possible to utilize specific signifiers of racialized ethnic identity, such as "Asian American," for the purpose of contesting and disrupting the discourses that exclude Asian Americans . . . .

Lowe, *supra* note 6, at 82 (quoting Gayatri Chakravorty Spivak, *Subaltern Studies: Deconstructing Historiography*, in *In Other Worlds* 205 (1988)).

14. *See* Chang, *supra* note 2, at 1284 n.205 (citing Stanley Fish, *Doing What Comes Naturally: Change, Rhetoric, and the Practice of Theory in Literary and Legal Studies* 344 (1989)).

15. *Id.* at 1284.

16. contingency within the category of individual also makes feminism or queer analysis possible; contingency within the category of woman makes race or queer analysis; contingency within the category of gay and lesbian makes gender or race analysis possible. And so on and

structuralist analysis anticipates these ruptures in otherwise coherent categories with labels such as “anti-essentialism” and “anti-foundationalism.”<sup>17</sup> this is the very antithesis of Chen’s racial fundamentalism.<sup>18</sup>

contingency also operates to problematize the category of asian american, leading to both the predictable reinscription of color-blindness that chen champions, and the multiple and less predictable interruptions of national origin, ethnicity, gender, religion, sexual orientation, generation, class, and other strongly felt categories. the concepts of “choice” of racial identity and “exclusion” from racial identity operate in Chang and Chen’s narratives in different ways. Chang’s post-structuralist framework forecloses the subject-object dichotomy, whereas Chen’s modernist framework exaggerates it. through a comparison of these two concepts, we may better appreciate how contingency imbues the subject-object dyad in post-structuralist theoretical frameworks.

*a. choice of racial identity*

Chen’s subject is the aggrieved would-be academic who chooses not to be asian american. in contrast, Chang’s subject is not the vulnerable young law student who chooses to be asian american. in other words, the narratives are not really reciprocal. Chang does not “choose” to be asian american in the same way that Chen “chooses” not to be asian american.

Chang’s asian american legal subject is framed not only by modernism but by post-structuralism. in that latter framework, he is produced by, in, and as part of a matrix of social relations. the subject is integrally attached to the “thing out there”—the object—that corresponds to a modernist’s external reality. Chang does not exist apart from this matrix; the racialized subject is produced or constructed by and within it. as queer theorist Judith Butler writes about the gendered subject, “construction is neither a subject nor its act, but a process of reiteration by which both ‘subjects’ and ‘acts’ come to appear at all.”<sup>19</sup> thus, to choose a gender or a race is not a conscious willful act of a rational self, but is simultaneously overdetermined and naturalized by “the matrix through

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so on.

17. as Chang points out, Elizabeth Spelman has described essentialism as “the tendency of feminist theory to conflate ‘the condition of one group of women with the condition of all.’” Chang, *supra* note 2, at 1282 n.198 (citing Elizabeth Spelman, *Inessential Woman: Problems of Exclusion in Feminist Thought* 4 (1988)). Stanley Fish defines antifoundationalism by stating that “questions of fact, truth, correctness, validity, and clarity . . . are intelligible and debatable only within the precincts of the contexts or situations or paradigms or communities that give them their local character.” Chang, *supra* note 2, at 1284 (citing Stanley Fish, *Doing What Comes Naturally: Change, Rhetoric, and the Practice of Literary Theory in Literary and Legal Studies* 30 (1989)).

18. *See* Chen, *supra* note 3, at 150 (defining his term “racial fundamentalism”).

19. Judith Butler, *Bodies that Matter: on the Discursive Limits of “Sex”* 7 (1993).

which all willing first becomes possible, its enabling cultural condition."<sup>20</sup> a first generation asian american may not have a racial identity until he or she is placed within an environment where race "matters."

Chen's choice to forgo an asian american identity is like that of a consumer in a marketplace who chooses not to purchase a particular item. identity-shopping offers a limited range of choices: to be or not to be.<sup>21</sup> race represents a kind of falsely attractive product in this market context. racial awareness on the part of other asian americans casts unfair doubt on choices that Chen would make.

contingency allows Chang a type of agency to speak as himself and for himself in a way that superficially resembles the contingency of consumer choice championed by Chen. but Chang's subject position is embedded within the context of pre-existing discursive structures that constrain what is sayable and what is heard. Chang did not "choose" to assume an asian american identity as proof against a world of racial violence; Chang's racial subject position was constructed within that world. just as a person's "sex" is created "as a sedimented effect of a reiterative or ritual practice,"<sup>22</sup> a person's "race" is created by analogous social practices:<sup>23</sup> there is no subject who does the "constructing". rather, among other common cultural practices, Chang's subject position in the bowling alley was created by the ritual practice of "othering" someone who looks physically different from three white female companions, by the ritual practice of ascribing foreignness to asians who live in america (american orientalism), and by the ritual practice of overt threats of violence or covert abuses of power based on that perceived foreignness.<sup>24</sup>

Chen's narrative reflects a simple contingency of the individual subject's rational choices. Chen's meritocratic gambit is an oft-articulated story of a particular asian american subject: this subject's rational race-

20. *Id.*

21. For example E. San Juan, Jr. notes:

The exponents of identity politics construe "identity" in an abstract formalist fashion: the consumer as prototype. However, this politics conceals its essentialism in its claim of affirming, universalizing, humanist goals—one writer expatriated from the Philippines and now domiciled in Greenwich Village extolled her world citizenship as her credential of entitlement.

E. San Juan, Jr., *Beyond Identity Politics*, in *Racial Formations-Critical Transformations: Articulations of Power in Ethnic and Racial Studies in the United States* 107 (1992).

22. Butler, *supra* note 19, at 10.

23. unlike feminist or queer theorists, however, race theorists have not chosen to highlight the constructedness of "race" by a term analogous to "gender," although they commonly understand that race is not biologically but rather socially produced and enforced. See Jayne Chong-Soon Lee, *Navigating the Topology of Race*, 46 *Stan. L. Rev.* 747, 771 (1994) (reviewing Kwame Anthony Appiah, *In My Father's House: Africa in the Philosophy of Culture* (1992)).

24. Chang's naming of those practices rang true with me. i wrote privately to Chen about a violent incident that happened to my son at a public beach where we were practically the only people of color. my son is a third generation american of mixed race. he was told to go back where he came from and had sand smeared into his hair.

neutral behavior encounters the forces of irrational racial preferences.<sup>25</sup> Chen's narrative subject, however, depends upon a fixed racial identity: he is to be race-less in all situations. Chen's omniscient narrative voice is everyperson's and his experience at once unique and universally applicable. the moral of the story: we are all to be race-less in all situations.

Chang's theoretical framework contains multiple contingencies. that is, the category that Chang proposes is a process rather than a thing. it invents itself anew each time it is rearticulated. it is constantly subject to interruption and revision, and it does not assume any unwavering racial foundation. even one difference in Chang's contingent subject (changing gender, for example, or sexual orientation) can change the entire range of allowable articulations.<sup>26</sup> for example, if i—a korean american female approximately the same age as Chang—were substituted for his narrative subject, the physical violence in his narrative might be non-existent or even transmuted into a type of sexual violence. for it is more acceptable for an asian american woman (to whom no apparent sexual designs are typically imputed) to hang out with white women in a bowling alley than it is for an asian american man to do so. it is also more socially acceptable to threaten by overt physical force asian american men than asian american women—at least in public.<sup>27</sup>

*b. exclusion from racial identity*

three familiar narrative tropes circulate around Chen's experiences of racial exclusion. the first expresses the desire of racialized others to be what they are not: racially unmarked. the second is a manifestation of american orientalism, in which asians play the role of foreigners who refuse to assimilate into mainstream culture. the third is a victimization trope: the better qualified candidate is nonetheless rejected due to affirmative action.

by contrast, the asian american legal subject envisioned by Chang is

25. a recent example of this type of model minority characterization can be found in Richard Herrnstein & Charles Murray, *The Bell Curve* 453 (1994) (discussing reverse discrimination).

26. Chang, *supra* note 2, at 1283 n.200; *see also* Alistair Bonnett, *Contours of Crisis: Anti-Racism and Reflexivity*, in *Constructions of Race, Place and Nation* 163, 166 (Peter Jackson & Jan Penrose eds., 1994) (“[T]he form of self-consciousness that I will be exploring in the remainder of this essay [is] social self-consciousness. Commitment to this form of reflexivity is characterized by a willingness to consider one’s own social location as an issue to be brought into debate.”).

27. of course, interracial violence against asian and asian american women exists, in the context of marriage as well as other relationships. *See* Timothy Egan, *Mail-Order Marriage, Immigrant Dreams and Death*, *N.Y. Times*, May 26, 1996, at A1 (discussing the Seattle murder of an immigrant wife by her husband at a divorce proceeding). *See generally* Michelle J. Anderson, Note, *A License to Abuse: the Impact of Conditional Status on Female Immigrants*, 102 *Yale L.J.* 1401 (1993) (discussing violence against female conditional residents of U.S. and proposing bureaucratic improvements in relation to such women).



one who has been erased from three different areas: from “we the people” through exclusion from immigration, citizenship, and franchise; from traditional civil rights scholarship; and more recently from critical race theory, with their black-white paradigms.<sup>28</sup> his proposal for scholarship focuses on the arenas in which an asian american subject position has difficulty being articulated, rather than the arenas in which asian american subjects have been allowed unproblematically to be produced. in that effort, Chang is aligned with other asian american scholars who “pursue the ‘labor of the negative,’ that is, to problematize the eccentric ‘and/or’ of their immigrant, decolonizing heritage and of their conjunctural embeddedness in the world-system.”<sup>29</sup>

Chen’s story of the academically competitive but nonetheless rejected faculty applicant to uc-berkeley is a very familiar one, albeit in the undergraduate admissions rather than the law school hiring context. the exclusion in Chen’s story is the erasure of asian americans from the category of racially unmarked, that is, white, individuals.<sup>30</sup> but this type of subject position—the race-neutral meritocratic candidate—is one that is easily produced, time and again. as Henry Der from chinese for affirmative action has insightfully noted, that oft-repeated story of exclusion also omits a pertinent ending: those chinese americans who are not admitted to berkeley do go on to college or even on to a good college; and in 1994, most chinese americans who did get admitted to berkeley decided to enroll elsewhere (presumably a “better” school).<sup>31</sup>

28. Chang, *supra* note 2, at 1251.

29. E. San Juan, Jr., *supra* note 21, at 115.

30. Professor Lewis Gordon has argued that:

When the search for a legal remedy to racism took the form of *equal* protection, many whites suddenly gained the consciousness of being *racialized*. In the previous world, there were only human beings and coloureds—at the bottom of which were *the blacks*. But today, there is demand to be treated as equal to blacks. For many whites, the metaphor of being treated “like the blacks,” became a source of deeply rooted anxiety. In effect, social policy demanded for them to take, as Adam and Eve apparently did, a “fall.” Needless to say, many whites couldn’t take it, and a full-scale attack on affirmative action and an array of anti-race and so-called reverse discrimination constructions emerged. The goal of this attack is supposedly a raceless future, but as we’ve seen, since racism can persist without race, such a future holds the key to a special nightmare of exploitation and invisibility without reference. It problematizes race, ultimately, to preserve racism.”

Lewis R. Gordon, *Critical ‘Mixed Race’?*, in 1 *Social Identities: Journal for the Study of Race, Nation and Culture* 381, 391 (1995).

*See generally* Cheryl Harris, *Whiteness as Property*, 106 *Harv. L. Rev.* 1709 (1993) (analyzing how property rights in the U.S. are intertwined with race).

31. Henry Der, *The Asian American Factor: Victim or Shortsighted Beneficiary of Race-Conscious Remedies?*, in *Perspectives on Affirmative Action . . . and its Impact on Asian Pacific Americans* 13 (LEAP Asian Pacific American Public Policy Institute (1995)). one speculates whether Chen might simply be over-reacting to one of the first disappointments in his professional development—something that most of us have to face sooner or later. importantly, could it be that he focusses on precisely the wrong set of facts here? judging from Chen’s highly impressive credentials, race-conscious affirmative action programs did not

Chang tries to name what is often un- or underarticulated in the asian american subject position. the specific character of the threatened student occupies a more general subject position in discursive space that is labelled by Chang as "being asian american." being asian american also includes countless characters such as Chen's race-neutral hero. these tales may vie with Chang's for purposes of defining racial identity, but not for legitimacy of discursive space.

through his use of the term "racial fundamentalist," Chen turns Chang's epistemological strategy of inclusion into a politics of exclusion. regardless of whether Chen is aware of it, his ascription of exclusive practices to the racialized "other," rather than to the racially unmarked "self," is one of the hallmarks of american orientalism. in legal rhetoric, for example, the term "chinese wall" is used to denote exclusion (in the case of legal ethics, the exclusion of one attorney from the other members of his or her firm, in order to prevent a conflict of interest).<sup>32</sup> or, in any of the many current examples of trade or intellectual property disputes with china or japan, the imagery of openness (of markets or human rights) is normatively contrasted with the imagery of closed borders. yet such commonplace constructions of the asian other who excludes (both within and without u.s. borders) completely overlooks the equally if not more significant exclusions of asians from america, exemplified both historically and currently by closing the borders to asian immigrants,<sup>33</sup> the restriction of employment opportunities for asian americans,<sup>34</sup> or keeping white women "off-limits" to asian men through anti-miscegenation laws or race-based violence in bowling alleys. asians in america have been widely characterized as secretive, inscrutable, closed and—ultimately—exclusionary. these racialized tropes dominate Chen's narratives of law

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deter him from obtaining a teaching position at a highly ranked law school (nor did it foreclose his clerkship with Justice Thomas). more importantly, Chen strongly implies that he failed the racial identity litmus test, but he does not provide the narrative detail to allow the reader to reach his conclusion because he never gives us the credentials of the candidate who in fact was hired.

32. Grant Kolling, *A Misguided Metaphor*, in *The NAPABA Lawyer* 8 (Aug. 1993).

33. *See, e.g.*, Act of Sept. 30, 1996, Pub. L. No. 104-208, 110 Stat. 3009 (1996). the act includes measures disqualifying legal immigrants from almost all federal means-tested programs until citizenship, allowing the deportation of legal immigrants if they receive any needs-based benefits for more than a year during their first five years in the u.s., and requiring a sponsoring family member to earn 125% of the poverty level, among other provisions. *Id.* at §§ 213A, 504, 505.

34. *See, e.g.*, Karen K. Narasaki, *Discrimination and the Need for Affirmative Action*, in *Perspectives on Affirmative Action . . . and its Impact on Asian Pacific Americans*, *supra* note 31, at 5-7: *Asian Women Battling to Avoid Type-Casting*, *N.Y. Times*, Jan. 23, 1994, at A14 ("And even as they strive for independence, they confront a society that often type-casts Asian-American women as meek and submissive, as good workers but bad managers."); *Report says Asian-Americans bias victims: Ethnicity a barrier to promotions at work place*, *Syr. Herald Amer.*, Sept. 12, 1993, at B8 (describing study by Asian Americans for Community Involvement which found 50% of respondent professional Asian Americans "believed their advancement to management positions was limited by their race").

school hiring, family formation, and legal scholarship.

who is excluding whom? from a strong post-structuralist stance, the answer is not important. any subject position that depends on identity operates to exclude something else. but it is crucial to note that Chang freely acknowledges the existence of competing interpretations: in fact, it is almost the only firm conclusion he reaches in his section on "Narrative Space."<sup>35</sup> he further observes that structures of knowledge, particularly social knowledge, are inevitably embedded within structures of power.<sup>36</sup> his political decision to identify himself as an asian american, or a person of color, is no more exclusive than Chen's, who designates himself as a non-asian american.

Chen's self-styled victimization at the hands of so-called racial fundamentalists is not simply a reverse valorization of Chang's narrative of racial victimization. Chen plays into the politics of backlash<sup>37</sup> by creating evidence used to accuse those like Chang who theorize from racializing experiences of being hyper-conscious of race. in this story line, Chen is the victim of race-conscious policies. of course Chen's race is a credential, one that bestows upon him additional authority to claim that race doesn't matter.<sup>38</sup> his claim, however, is one that is permeated by the power of speaking for and on behalf of others.<sup>39</sup> while Chen exhorts his own neutral stance or neutral principles, he disregards larger structures of power that distort neutrality. thus, his work easily aligns with the politics of backlash that masquerade as the politics of inclusion.<sup>40</sup>

35. Chang, *supra* note 2, at 1268-86.

36. Professor Chang argues:

The post-structuralist critique changes the present game, which involves the search for legitimation, by eliminating the possibility of any appeal to an external standard for legitimation. It becomes, as if it were ever anything but, a question of power, where no one can claim a superior legitimacy nor deny the legitimacy of another's viewpoint or story.

*Id.*, at 1286.

37. See Keith Aoki, *The Politics of Backlash and the Scholarship of Reconstruction*, 81 *Iowa L. Rev.* 1467, 1467-76 (1996) (describing recent developments in backlash politics).

38. there is now what almost can be called a plethora of asian american legal scholarship focussing on the unique location of asian americans within the affirmative action debate. See, e.g., Gabriel J. Chin, *Bakke to the Wall: The Crisis of Bakkean Diversity*, 4 *Wm. & Mary Bill Rts. J.* 881 (1996); Jerry Kang, *Negative Action Against Asian Americans: The Internal Instability of Dworkin's Defense of Affirmative Action*, 31 *Harv. C.R.-C.L. L. Rev.* 1 (1995); Frank H. Wu, *Neither Black Nor White: Asian Americans and Affirmative Action*, 15 *B.C. Third World J.* 225 (1995); Selena Dong, Note, "Too Many Asians": the Challenge of Fighting Discrimination Against Asian-Americans and Preserving Affirmative Action, 47 *Stan. L. Rev.* 1027 (1995).

39. Linda Alcoff, *The Problem of Speaking for Others*, in *Who Can Speak? Authority and Critical Identity* 97, 111 (Judith Roof & Robyn Wiegman eds., 1995) ("In rejecting a general retreat from speaking for, I am not advocating a return to an unselfconscious appropriation of the other but rather that anyone who speaks for others should only do so out of a concrete analysis of the particular power relations and discursive effects involved.")

40. For example, Professor D. Marvin Jones has argued that:

The idea of segregation as the core evil in the Brown narrative suppresses an equally compelling alternative conception of the problem: one of domination and lack of

Chang's exclusion of Chen's narratives, then, does not operate the same way as Chen's exclusion of Chang's narratives. Chang assumes that the universe of possible rearticulations is constrained by the social matrix of what is "allowed" to be articulated, but will include predictable master narratives of color-blindness like Chen's.

Chen's narrative tropes of racial neutrality, exclusion, and finally, victimization have been reiterated so often that they have become naturalized as part of the "common sense" of race:<sup>41</sup> "why do *they* have to keep bringing it up?" or "is there *really* discrimination against asian americans?" the position of the racially undifferentiated, color-blind subject seems quite alive, no matter Chang's focus and given the fact that all asian americans can be subject to racial violence or even heightened violence as a result of visible economic success.<sup>42</sup>

significantly, Chen can reinscribe racial "common sense" within Chang's overall framework (if not his particular tale) because the latter is deliberately post-structuralist and thus posits a contingent identity. but Chen's rigid modernist frame operates, in a zero-sum sense, to exclude anything that is inconsistent with it.

### iii. ironic reason

in Chang's piece, reason appears as the third, connecting link of the subject-object-reason triumvirate. within Chang's narrative of the accosted bowler, Chang deploys reason to persuade the reader that there is a violence that can descend arbitrarily on any asian american, based on

power. The true problem, the lack of power is transformed into terms of association: the difficulty is that blacks are being walled away from whites.

D. Marvin Jones, *Darkness Made Visible: Law, Metaphor, and the Racial Self*, 82 *Geo. L.J.* 437, 477 (1993) (citations omitted).

See also Bill Ong Hing, *Beyond the Rhetoric of Assimilation and Cultural Pluralism: Addressing the Tension of Separatism and Conflict in an Immigration-Driven Multiracial Society*, 81 *Cal. L. Rev.* 863, 874-75 (1993) (concluding that cultural assimilationists who raise objections to immigration on the basis of preserving American "culture" and the English language are racist even though their objections are based on culture and not on race); Mari J. Matsuda, *Voices of America: Accent, Antidiscrimination Law, and a Jurisprudence For the Last Reconstruction*, 100 *Yale L.J.* 1329, 1397 (1991) (arguing that recent English-only laws and attacks on bilingual education pose new "outlets for racial anxiety" and really operate as "a proxy for a whole range of fears displaced by the social opprobrium directed at explicit racism.").

41. Michael Omi & Howard Winant, *Racial Formation in the United States From the 1960s to the 1990s* 59 (2d ed. 1994).

42. Chang, *supra* note 2, at 1252-55; Michael A. Fletcher, *Violence Against Asian Americans Rises; Assaults Up 11% in U.S.; Hate Crimes Surge in Southern Calif.*, *Study Says*, *Wash. Post*, Aug. 6, 1996, at A5; K. Connie Kang, *Hate Crimes Against Asians in Southland Rose in 1995*, *L.A. Times*, Aug. 2, 1996, at A3; Kenneth B. Noble, *Attacks Against Asian-Americans Rising*, *N.Y. Times*, Dec. 13, 1995, at A16; *Downside of an Image of Success Hate Crimes Rise with the Prosperity of Many Asian Americans*, *L.A. Times*, Aug. 9, 1996. See generally Jerry Kang, *Racial Violence Against Asian Americans*, 106 *Harv. L. Rev.* 1926 (1993).

physical appearance alone.<sup>43</sup> but throughout his piece, his use of reason is tempered with an ironic self-consciousness of its limits. in "grounding" his scholarship in post-structuralist theory, Chang is already being ironic, for post-structuralism eschews "ground" or "foundation" or "universality".<sup>44</sup> it affirms difference, non-identity, disruption and locality of knowledge.<sup>45</sup> post-structuralist theory is not exempt from its own rule (which cannot be universally applicable) that no theory has universal application.

a modernist narrative, by contrast, "contains" irony. "contains" denotes both including and cabining irony within highly constrained linguistic conventions. Chen can conflate Chang's proposed racial category with racial fundamentalism, because Chen cannot see how Chang's category contains within it the irony of being a non-category. the rational modernist insistence on consistency disables an understanding of the possibility, perhaps even inevitability, of contradiction. reason does not take kindly to contradiction.

here, i explore the implications of post-structuralist ironic reason through an examination of contradiction in Chang and Chen's respective accounts. my purpose is to highlight the importance of deliberate irony in Chang's epistemological strategy, and how that strategy forecasts Chen's unself-conscious, internally contradictory pastiche of rhetorical techniques. from a post-structuralist perspective, perhaps what is high irony is the spectacle of a first generation american such as Chen<sup>46</sup> blithely erasing the histories of other american peoples who have had painful experiences for several generations with "creolization."

because Chen's narrative never explicitly states its modernist assumptions, it does not have to answer to the demands of post-modernism and post-structuralism. Chen's viewpoint—one that discredits and decenters Chang's perspective as THE asian american perspective—nonetheless then positions itself as THE asian american perspective. this contradiction occurs because the rational-empirical narrative voice is everyperson's, articulating the god's-eye view of the world. Chen does not question this contradiction.

because Chang is extremely aware of this contradiction, he writes:

43. Chang, *supra* note 2, at 1313.

44. *Id.* at 1284-86.

45. Kondo, *supra* note 13, at 96. *See generally* Pauline Rosenau, *Post-modernism in the Social Sciences: Insights, Inroads, and Intrusions* (1992).

46. Rockwell Chin and Brian Cheu have argued that

[I]t is important that we acknowledge that both the 1965 Immigration and Naturalization Act and the 1988 Civil Liberties Act could not have come about without broad support from the civil rights movement, the willingness of Congress and the President to right wrongs, the vigorous support of African and Latino leaders, and the support from our own communities.

Rockwell J. Chin & Brian Cheu, *National Asian Pacific American Bar Association Statement on Discrimination and the Need for Affirmative Action Legislation*, in *Perspectives on Affirmative Action . . . and its Impact on Asian Pacific Americans*, *supra* note 31, at 8.

[W]hen I tell my stories, am I speaking as an Asian American for all Asian Americans? If I claim this, then am I not privileging my voice to the exclusion of other voices? And if I do not speak for all asian americans, then what sort of normative conclusions can I draw from my narrative? are my stories just stories?<sup>47</sup>

Chang refuses to resolve these questions in an easy “and they all lived happily ever after” fashion. instead, he asks the questions and allows them to lead to his proposal for a post-structuralist theoretical framework.

the occasional first person technique of Chen’s piece is one that has been deployed mainly by critical, rather than mainstream, legal scholars. Chen’s use of this technique—important to post-modern legal scholarship to show that rationalism itself is partly just another storytelling technique<sup>48</sup>—appears to be utterly unself-conscious. he does not discuss the role of narrative in his article, nor does he review the epistemological debates that have surrounded narrative. again, he does not try to reconcile the contrast between the local perspectives of narrative and the claims to universality required of most “legitimate” legal scholarship.<sup>49</sup>

by contrast, Chang deliberately invokes narrative technique for its ability to jolt the reader out of a complacency that arises from a universalist perspective. he writes:

As the questions keep coming, I realize that people do not want to believe me. They do not want to see racism because it is ugly. They have learned or convinced themselves that such ugliness does not exist, at least not in such blatant forms, and not to Asian Americans.<sup>50</sup>

he has experienced the denial of his stories as a door to questions about truth claims, the nature of knowledge, and epistemological strategies. thus Chang writes from contradiction: the irony of being treated as an inferior racial minority but not being regarded as one. to borrow words from another who writes from a post-structuralist stance towards asian american identity, Chang writes “a rigorous self-critique of [his] vocation catalyzed by a staging of its internal contradictions, contradictions that surface when the writer and text are contextualized in specific times and places.”<sup>51</sup>

Chen’s “creole nation” metaphor effaces a history over three hundred years long of policing race lines despite and through sexuality.<sup>52</sup> the

47. Chang, *supra* note 2, at 1282-83; *see also* Alcoff, *supra* note 39, at 111; Bonnett, *supra* note 26, at 166.

48. Harris, *supra* note 7, at 757.

49. Chen is aware of this distinction. *See* Chen, *supra* note 3, at 149 (noting the existence of “storytellers and serious scholars”).

50. Chang, *supra* note 2, at 1274.

51. E. San Juan, Jr., *supra* note 21. Chen may believe that he also writes from contradiction: the irony of being treated as an inferior racial minority but not regarding himself as one. i have discussed already how this contradiction is in fact one of the more predictable stories of color-blind meritocratic asian americans. *See supra* notes 8-9 and accompanying text.

52. *See, e.g.*, Harris, *supra* note 7, at 764; bell hooks, *Holding my Sister’s Hand: Feminist*

scandal of Chen's version of u.s. racial history is the unacknowledged contradiction between his claims that a creole nation will solve all our racial difficulties, and the evidence that our racial difficulties have persisted despite hundreds of years of involuntary as well as voluntary "creolization."<sup>53</sup> this profound contradiction is one of which he seems unaware. if he had shown that he was aware of it, perhaps by addressing it as a type of counterargument, then his thesis would be less offensive and more plausible. his exaltation of freedom from anti-miscegenation laws, which seems from the title of his piece to be conflated with love, refuses to acknowledge the relatively short history of this type of freedom. the newness of this freedom is itself evidence of a profound cultural race consciousness.<sup>54</sup>

Chang is careful not to make claims about all asian americans, much less other racial groups.<sup>55</sup> and although Chang ultimately adopts anti-foundational theoretical frame, the overall tone and style of his article are distinctly modernist. his post-structuralist subject position is nonetheless one that seems to contain a modernist subject—an "i"—who, for example, garners evidence and makes a case for a particular epistemological stance. in addition, there is often an object upon which the subject acts: legal scholarship itself, for example, or a bowling ball. Chang's style does not belie his substance, however. those who adopt strategies influenced by post-modern or post-structuralist theory are aware that post-modernism is an

Solidarity in Teaching to Transgress: Education as the Practice of Freedom 93 (1994). See generally Barbara K. Kopytoff & A. Leon Higginbotham, Jr., Racial Purity and Interracial Sex in the Law of Colonial and Antebellum Virginia, 77 Geo. L.J. 1967 (1989). Chen is clearly uninterested in exploring gender difference within interracial marriage. however, even race scholars using non-critical or non-feminist methods understand the critical importance of gender-race dynamics. See, e.g., Richard McAdams, Cooperation and Conflict: The Economics of Group Status Production and Race Discrimination, 108 Harv. L. Rev. 1003, 1050 (1995) (discussing the emotional significance of relationships between white women and black men in the Jim Crow South).

53. Chen, *supra* note 3, at 152. Chen disregards the fact that 99% of white Americans are married to other white Americans. Robert S. Chang, Reverse Racism! Affirmative Action, the Family, and the Dream That Is America, 23 Hastings Const. L.Q. 1115, 1124 (1996) (citing Roger Sanjek, Intermarriage and the Future of Races in the United States, *reprinted in* Race 103, 114 (Steven Gregory & Roger Sanjek eds., 1994) [hereinafter Chang, Reverse Racism]. in addition, asian americans have the highest out-marriage rates of any racial minority group. thus, even if the mixed race strategy might work for some asian americans, it is not a strategy that will result in a majority of mixed race americans—at least not until racial demographics increase tremendously the proportion of minorities within the reproductive pool.

54. See generally Judy Scales-Trent, Notes of a White Black Woman: Race, Color, Community (1995). Professor Gordon noted that:

In the North American context, then, awareness of being mixed has taken on a kind of banality in black communities. What is often overlooked, however, is the extent to which mixture-in-itself has also functioned as a site of value. The general view is that preferential treatment for lightness of skin and eyes and straightness of hair are signifiers of desired whiteness.

Gordon, *supra* note 30, at 36.

55. Chang, *supra* note 2, at 1282-83.

oxymoron. contradiction inheres in speaking post-modern vocabulary within a rhetorical universe highly constrained by modernist conventions.<sup>56</sup> to reach any significant audience, Chang must couch his theory in the vocabulary of a subject-object dichotomy. that stylistic choice may cause readers to impute a universalist perspective to his observations. those who have struggled with less transparent works situated within a post-structuralist discourse will understand why he made the trade-off.

chen's high emotionalism—his florid references to the bible and literature, his romanticized heterosexual love as the key to the resolution of racial conflict, and his vicious sarcasm towards those with whom he disagrees—is uncharacteristic of modern legal narratives. the standard form for law review articles includes only dry lines of "objective" and "neutral" prose, with a little normative flavor thrown in for good measure. traditional legal scholarship rarely mixes reason with passion, except in the service of a particularly worthy cause. thus, Chen's style is a peculiar and seemingly unself-conscious departure from the norms of the scholarship to which one would expect him to adhere.<sup>57</sup>

#### iv. slouching toward solidarity

although i applaud Chen for being unafraid to introduce a spiritual dimension to legal scholarship,<sup>58</sup> there is an inherently conservative ideological message behind Chen's brand of interracial love. his love is one that is legitimated by the bonds of marriage, the legal sanction of state and perhaps church. certainly the love of a committed partnership is one that we all endorse, and the love of parent for child is the most important foundation of any other's love. surely, even these basic forms of love are challenging for most of us and require tremendous cultural support.

from personal experience and observation of others, i know that interracial marriage and bi- or multiracial families can bring individuals of different races in closer connection with the racial pains experienced by different individual family members. moreover, the experiences of living in a multiracial household can teach us about other significant commonalities (such as having experienced immigration) and differences (such as gender

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56. as Professor Pierre Schlag pointed out, the practice of deconstruction is inevitably domesticated within legal scholarship. Pierre Schlag, *Le Hors de Texte, C'est Moi: The Politics of Form and the Domestication of Deconstruction*, 11 *Cardozo L. Rev.* 1631, 1651-53 (1990). moreover, the modernist cognitive framework is still ascendant despite theoretical moves "post-"ward. Pierre Schlag, *Missing Pieces: A Cognitive Approach to Law*, 67 *Tex. L. Rev.* 1195, 1210-11 (1989); see also Rosemary J. Coombe, *Objects of Property and Subjects of Politics: Intellectual Property Laws and Democratic Dialogue*, 69 *Tex. L. Rev.* 1853, 1862-63 (1991) (attempting to define post-modern); Steven L. Winter, *For What It's Worth*, 26 *Law & Soc'y Rev.* 789, 794 (1992) (describing post-modern society).

57. Neil Gotanda reads the atypical aspects of Chen's text from a lit-crit perspective. See Neil Gotanda, *Chen the Chosen: Reflections on *Unloving**, 81 *Iowa L. Rev.* 1585, 1599-1603 (1996).

58. Chen, *supra* note 3, at 174.



or age), and thus help to reduce the significance of racial history by itself. nonetheless, these are far from the only possible incarnations of love and, more importantly in my view, they are not sufficient in themselves to address the problem of racial division or other oppressions. racial healing requires many different forms of stubborn love, such as self-love, kin love, or community love.<sup>59</sup>

from studying Chang's theoretical influences such as Kobena Mercer,<sup>60</sup> i know that Chang deeply responds to something in british cultural studies writings on diaspora culture. diaspora cultures represent locations of race (or ethnicity) linked to or unlinked from nations. diasporic racial perspectives take for granted the task of claiming america—that's "old hat." a diasporic perspective offers some strengths that a nation-state-based concept of race does not. for example, it may allow us to imagine different racial formations.<sup>61</sup>

Chen's text, while preoccupied with claiming america, can also be mined for examples of different diasporic locations. the labels he uses to describe himself as a non-asian american serve as markers for different racial and national locations. for instance, Chen's proclamation that he is a "son of Georgia"<sup>62</sup> can be read as a type of parochialism, or subset of nationalism. it represents a regional affiliation within the boundaries of the nation-state, one to which he will not associate racial domination or betrayal of national loyalty despite the obvious implications of self-identifying specifically as a son of the south. unlike Garrett Epps, who writes separately in this colloquy from a perspective as a white southern man,<sup>63</sup> Chen notices no social significance to his parochial self-identifica-

59. Ruth Frankenberg, *white women, race matters: The Social Construction of Whiteness* 123 (1993) (interviewing white women involved in cross-racial relationships and finding that "[t]he women and their partners shuttled back and forth between themselves as partners in dyad and identification as members of larger racial, ethnic, and political communities.").

60. Chang, *Reverse Racism*, *supra* note 53, at 691 n.20 (citing Kobena Mercer, *Welcome to the Jungle: New Positions in Black Cultural Studies* (1994)).

61. Professor Wong noted:

For some Asian Americans, the impulse to uproot oneself from America at the earliest opportunity may be at least as strong as, if not stronger than, the rooting [sic] impulse. (The homeward gaze could last a lifetime.) In such cases only a diasporic perspective can provide the conceptual room needed to accomodate non-conforming cultural orientations, as well as expose the role of American foreign policy in shaping global patterns of population movement. A diasporic perspective also provides the only way to capture the complexities of multiple migrations and dispersed Asian-origin families, which are not at all uncommon in the population designated as Asian Americans. A Vietnamese American may have gone through Thailand, Hong Kong or France before reaching the U.S.; an Indian American may have lived in Kenya or Britain; a Chinese American family may have branches in Brazil, Singapore, or Germany. In light of such migratory patterns, to take the perimeters of the American nation as the limits of one's cultural interests seems arbitrary and myopic.

Wong, *supra* note 5, at 10.

62. Chen, *supra* note 3, at 145.

63. Garrett Epps, *What's Loving Got to do With It?*, 81 *Iowa L. Rev.* 1489 (1996).

tion. his discussion of ginkgos rather than of lynching is itself a racial marker.

moreover, Chen's taiwanese self-identification represents a complicated type of national identification that can be read variously as (1) native taiwanese (not ethnic chinese), (2) taiwanese qua citizen of an east asian economic power, (3) possibly (although not in Chen's case) asian american or, (4) "any country" national origin marker within a melting pot america. Chen himself articulates no conflict between simultaneously declaring himself taiwanese and an american. yet others—typically non-asian americans—often construct those categories in opposition to each other. and as Neil Gotanda points out in his separate contribution to this colloquy,<sup>64</sup> some other asian americans may read ethnic or racial import into Chen's self-identification as taiwanese rather than chinese or asian american. a pentimento of geo-political relations between taiwan and other asian countries of origin might reveal itself underneath a loudly declared taiwanese identity.

finally, Chen's invocation of a "creole nation" as his preferred metaphor of national identification bespeaks a racial understanding that effaces a specifically asian american history and foregrounds the history of other racial groups that are part of the "creole" race or ethnicity, particularly the french. this particular kind of hybridity is one that masks, rather than highlights, asian americanness, which is precisely Chen's point. but the metaphor does not support his point, as Peter Kwan points out,<sup>65</sup> because it is destroyed by the material practices of enforcing racial difference—particularly, white racial difference—within the actual creole nation.<sup>66</sup>

an awareness of diasporic locations leads to a type of identity that does not erase racial or national origin positions. this is significant for many reasons. asians in the u.s. often face the "foreigner" stereotype, no matter how many generations removed from the actual immigration experience. foreignness is often thrust upon us by others, whether or not we care to identify with our original nationalities. moreover, sixty-four percent of asian america is in fact first generation, according to the 1990 census figures.<sup>67</sup> so, national identity for asians can be formed in part

64. Gotanda, *supra* note 57, at 1590-98.

65. Peter Kwan, Unconvincing, 81 Iowa L. Rev. 1557, 1561-64 (1996).

66. another member of my family had an interesting experience in this context. a talented cajun musician in his declining years befriended my brother richard and taught him cajun fiddle, even going so far as to bring him to louisiana to meet the clan. my brother subsequently formed a cajun band. when he attempted to play at a cajun music festival in northern california a few summers ago, the festival organizer took one look at him and from that point mistreated him and his band. the racial dynamics between creole and cajun musicians are complex (creole representing "whiteness" and cajun representing "blackness"). apparently Richard's "asian-ness" was too disruptive of their binary schema so that he was not allowed honorary black status. *See generally* Gary Y. Okihiro, Reading Asian Bodies, Reading Anxieties (June 1, 1995) (unpublished manuscript, on file with author) (analyzing how "race, gender, and sexual ambiguities elicited by the Asian body give rise to anxieties").

67. Paul Ong, Asian Pacific Americans and Public Policy, *in* The State of Asian Pacific

from being pushed away from a u.s. national identity (to the extent it is constructed as a white identity)<sup>68</sup> and pulled by cultural or material ties towards a national identity derived from a country of origin. while this push-pull process appears to resemble the experiences of many immigrant generation americans, an additional dimension that asians often face is that of racialization. as i and others argue elsewhere, specific ethnic identities are often transformed into a common racial identity through racial formation processes specific (but not restricted) to the u.s.<sup>69</sup> that people with a fierce ethnic pride and identity can be transformed in less than a generation into racialized subjects speaks to the power of race as an organizing principle in u.s. society.

diasporic cultures presume the absence of a single identity, home, or culture based upon a reified laundry list of authentic traditional characteristics or values. the strength and appeal of this approach from those positioned on the boundaries of two or more cultures is undeniable, regardless of discipline. moreover, this "ethnic spectator" perspective<sup>70</sup> leads to new insights in global multicultural processes. in the international relations area, for example, Lily Ling has written that:

"Hybridity" signals a more enduring and profound re-making ("resignification") of contending cultural and practical systems such that previously incompatible governing regimes (e.g. norms, practices, insitutions, and discourses) take on new, syncretic

America: Economic Diversity, Issues & Policies 3 (LEAP Asian Pacific American Public Policy Institute & UCLA Asian American Studies Center (1994)) (citing Asian and Pacific Islanders in the United States, 1990 Census of the Population (1993)); U.S. Department of Commerce, Bureau of Census, *We the American . . . Asians* 8 (1993).

68. Nathan Glazer, *Debate on Aliens Flares Beyond the Melting Pot*, N.Y. Times, Apr. 23, 1995, at E3 (reviewing Peter Brimelow, *Alien Nation: Common Sense About America's Immigration Disaster*, and asking the question, "What . . . do we have to fear from an immigration that is . . . 90 percent or more non-European, but of peoples no more different or foreign in culture, language, religion or hopes than earlier streams of immigrants?"); Neil Gotanda, *House Party's Orientalist Express*, *Rafu Shimpu*, July 18, 1995 (e-mail version on file with the *Iowa Law Review*):

If we look closely at the mangled accent it becomes clear that it is NOT an ethnic image. The depictions of Lance Ito, Tritia Toyota or Dennis Fung are NOT ethnic—because no one ever spoke like that.

The accent stereotype is not about real foreignness. . . . It's about a particular imposed racist image which has never really existed anywhere.

Id.

69. Margaret Chon, *On the Need for Asian American Narratives in Law: Ethnic Specimens, Native Informants, Storytelling and Silences*, 3 UCLA Asian Pac. Am. L.J. 4, 21 (1995); accord Omi & Winant, *supra* note 40, at 60; Norimitsu Onishi, *New Sense of Race Arises Among Asian-Americans*, N.Y. Times, May 30, 1996, at A1. this sense of racialization has been documented as well among black americans who have emigrated from the caribbean. See Malcolm Gladwell, *Black Like Them*, *The New Yorker*, Apr. 29 & May 6, 1996, at 74.

70. Margaret Woo, [Un]fracturing Images: Positioning Chinese Diaspora in Law and Culture, in *Chinese Women Traversing Diaspora: Intellectual Biographies and Memoirs* (S. Hom, ed., 1996 forthcoming); Rey Chow, *Woman and Chinese Modernity: The Politics of Reading Between East and West* 32-33 (1991).

meanings and authority. Hybridity also demonstrates a reciprocity to local-global interaction . . . .<sup>71</sup>

indeed solidarity based on racial identity is a kind of chimera, albeit one that may be necessary in a racially stratified society. another one of Chang's influences, Chantal Mouffe, stated:

The common good functions, on the one hand, as a "social imaginary": that is, as that for which the very impossibility of achieving full representation gives to it the role of an horizon which gives to it the condition of possibility of any representation within the space that it delimits. On the other hand, it specifies . . . a "grammar of conduct" that coincides with an allegiance to the constitutive ethico-political principles of modern democracy: liberty and equality for all. Yet, since those principles are open to many competing interpretations, one has to acknowledge that a fully inclusive political community can never be realized. There will always be a "constitutive outside", an exterior to the community that is the very condition of its existence.<sup>72</sup>

in Chang's version of "asian american," the solidarity of identity is based upon and despite dissensus.

fluid or organic communities based on race may supplement the more traditional forms of kinship that constitute the kernel of Chen's vision of racial healing. these communities may range from the radical specificity of organizing around a single issue to a more longterm, necessarily loosely allied organization that focuses on numerous concerns. within asian america, those kinship lines may take different forms from those within other racial minority groups, based on differing cultural values and social contexts.<sup>73</sup> in some cases, the need for kinship affiliations may be less acute than is felt by other racial minority groups; in

71. L.H.M. Ling, Hegemony and the internationalizing state: a post-colonial analysis of China's integration into Asian corporatism, 8 *Rev. Pol. Econ.* No. 1, at 1, 2-3 (1996); *see also* Lisa Lowe, Heterogeneity, Hybridity, Multiplicity: Marking Asian American Differences, *Diaspora* 1:1 (1991); Pepe Karmel, Expressing the Hyphen in "Asian-American", *N.Y. Times*, Apr. 23, 1995, at H37 (describing Asian American artists in New York City as "torn between the communal traditions of Asian society and the individualism [sic] of American culture"). however, Professor David Palumbo-Liu argued that

With the obsession with the present and ignorance of the historical past, there are specific historical effects. For example, hardly anyone draws attention to the fact that "hybrid" has a particularly disturbing history in the United States; it was popularized by the eugenics movement, a movement that authorized the forced sterilization of over twenty thousand Americans by the mid-1930s, the exclusion and deportation of countless Asians, and the proliferation of antimiscegenation laws (many still on the books) based on a violent aversion to the idea of hybridity.

David Palumbo-Liu, Theory and the Subject of Asian America Studies, *in* *Thinking Theory in Asian American Studies*, supra note 5, at 55, 59.

72. Chantal Mouffe, Feminism, Citizenship and Radical Democratic Politics, *in* *Feminists Theorize the Political* 379 (Judith Butler & Joan W. Scott, eds., 1992).

73. Chang, supra note 2, at 1318-21.

other cases, the need for kinship may be stronger. all expressions of racial subject position may impact other subject positions such as ethnicity, language, gender, or sexual orientation. all kinship based on race may be deferred in favor of kinship based on other felt needs, including the kinship of one's ties by marriage.

in other words, racial solidarity does not mean that race is the only or the predominant theme in any particular individual performance. but race-based communities may form because their members understand the significance of race in similar enough, although never identical, ways.<sup>74</sup> Chen's strident negation of these race-based communities is belied by their existence.<sup>75</sup>

#### v. conclusion

"In matters of war, positioning is everything."<sup>76</sup>

Chang theorizes the triumvirate of subject-object-bridge-of-reason from a post-structuralist stance, in order to interrogate the asian american condition in a way that exposes past erasures and invites future articulations. post-structuralist theory is attentive to "contradiction, nuance, irony, and the multiple, often unintended, consequences of any particular strategy,"<sup>77</sup> including, presumably, Chang's own preferred strategies of knowing and acting. because Chen is mud-stuck in a modernist cognitive framework, he simply fails to see these moves. by understanding Chen's "reading" of Chang in this way, the richness of Chang's epistemological strategies become more acute. arguments from Chen's rational-empirical cognitive framework have already been anticipated if not domesticated by Chang's post-structuralist framework. but a rational-empirical approach, even one leavened by the emotionalism and first-person narrative techniques of Chen, fails to accomodate the insights of post-structuralism. the Chang-Chen debate thus illuminates the theoretical vitality of a reconstructive jurisprudential project<sup>78</sup> influenced by the post-structuralist

74. *Id.*

75. to take a mainstream example, there was a felt need in 1988 to form a national asian pacific american bar association. that does not mean that all asian pacific american lawyers belong to it. that does not mean that all members have joined the civil rights committee. that does not mean that the civil rights committee itself agrees on the importance of affirmative action. that does not mean that those who agree that affirmative action is important agree on particular strategies. but the fact remains that this race-based organization formed because asian american lawyers across the u.s. felt a need for this specific form of kinship. is this racial fundamentalism?

76. Kobena Mercer, Introduction: Black Britain and the Cultural Politics of Diaspora *in* *Welcome to the Jungle: New Positions in Black Cultural Studies* 7 (1994) (reviewing the racialized meanings ascribed to events in Britain in the 1980s, such as the media-dubbed "Battle of Brixton").

77. Kondo, *supra* note 13, at 96.

78. Angela Harris attributes the term "jurisprudence of reconstruction" to Mari Matsuda,

turn.

Chen's bold invocation of love within the pages of a law review is admirable. his intolerance for social practices that do not fit within his definition of "love" is not. all three of us—Chang, Chen, and Chon—are influenced to a greater or lesser extent by cultural practices that emphasize inclusion rather than exclusion.<sup>79</sup> is it possible with these practices to intervene positively in the cultural wars?

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This mystery is appropriately Chinese. What's not there seems to have just as much meaning as what is there . . . . Nothing is what it seems to be. I guess I'm not Chinese enough. I can't accept a mystery without a solution.<sup>80</sup>

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who used it in a presentation in 1989. Harris, *supra* note 7, at 744.

79. Professor Paul Wong has argued that:

[I]t is possible to argue that Asian philosophy does not . . . recognize the conflict between the claims of empiricism and the traditional prescriptions of religious discourse. . . . More important, the central feature of Eastern thought is its "inclusionist" attitude which prescribes openness and accomodation as a philosophical principle. . . . This non-exclusivism must be located in by far the most important aspect of Eastern thought: the pervasive and widely-held notion that any given viewpoint can do no more than "approximate an understanding of certain limited aspects of the ultimate truth."

Paul Wong et al., *Asiacentrism and Asian American Studies? in Thinking Theory in Asian American Studies*, *supra* note 5, at 137, 144-45 (quoting Stuart C. Hackett, *Oriental Philosophy: A Westerner's Guide to Eastern Thought* 16 (1979)).

80. Wang, *supra* note 1, at 73.

