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Passion and the Asian American Legal Scholar

Robert S. Chang†

When I was in law school, I wrote a short story called "Orientals Anonymous." It opens with a group of people milling around in a room. Then someone calls the meeting to order. A man stands up and says, "Hi, my name is Sam. I'm an Oriental." People clap. A woman stands up and says, "Hi, my name is Beth. And I'm an Oriental." Again, people clap. It is a story about recovery and a sense that to grow up Asian American in the United States is to grow up as a recovering oriental, a term that contains within it not only the question, "What are we recovering from?", but also, "What are we trying to recover?"

These questions of loss and recovery are explored in the context of African American identity by Countee Cullen, a poet of the Harlem Renaissance. The poem *Heritage* begins:

What is Africa to me:
Copper sun, a scarlet sea,
Jungle star and jungle track,
Strong bronzed men and regal black
Women from whose loins I sprang
When the birds of Eden sang?
One three centuries removed
From the scenes his fathers loved
Spicy grove and banyan tree,
*What is Africa to me?*¹

Literary critic Walter Benn Michaels notes that Arthur Schlesinger, Jr., cites to this poem "as evidence of a traditional African American indifference to Africa."² He argues, though, that Schlesinger misunderstands or hasn't read the entire poem:

For although the scenes the father loved are initially presented as "unremembered" by the son, the tendency to *forget* (as if Africa

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I'd like to thank Ken Payson and the *Asian Law Journal* for honoring me with their invitation to speak at their annual banquet. This is a lightly footnoted version of my address at the *Asian Law Journal* Banquet, (Apr. 19, 1996).

1. Countee Cullen, *Heritage*, in *THE NEW NEGRO: VOICES OF THE HARLEM RENAISSANCE* 250 (Alain Locke ed., 1992).

2. WALTER BENN MICHAELS, *OUR AMERICA: NATIVISM, MODERNISM, AND PLURALISM* 123 (citing ARTHUR M. SCHLESINGER, JR., *THE DISUNITING OF AMERICA* 46 (1991)).

were too distant to matter) is immediately reinterpreted as a requirement to *repress* (as if Africa were too near to be forgotten): "One thing only I must do/Quench my pride and cool my blood/Lest I perish in their flood, . . . Lest the grave restore its dead," lest an apparently lost ancestral Africa turn out not only to be present but to be a force as strong or stronger than the Negro's Americanization.³

We see then that Schlesinger misreads the beginning ambivalence and ignores such passages as the following: "So I lie who always hear/Though I cram against my ear/Both my thumbs and keep them there/Great drums beating through the air."⁴ Michaels interprets this stanza to show that the Africa that he is trying to keep out is an Africa that is already inside.⁵

This poem ran through my head a couple months ago when I attended a Korean Cultural Festival at UCSD. Drumming was a prominent part of the festival. I was thinking of the poem. Listening to the drums, I wanted those drums to be inside me. I wanted my blood to sing with those drums. It did not happen. Instead, I felt very American as I was sitting there with the Korean drums outside of me. I asked myself, what is Korea to me? Is it something that I have forgotten? I was three years old when I came to the States. Or is Korea something that I have repressed? I have a painful memory of being a child-tyrant and forbidding my mother from speaking Korean in public. Is Korea a place? A thing? Or rather, is it an idea? What does it mean to forget or repress a place/thing/idea? What have I lost in my struggle to become American? What is it that I hope to recover?

This sense of loss reminded me of the Japanese term "kimin." Yuji Ichioka writes that "[t]he term kimin often appears in the writing of Japanese immigrants. Meaning 'an abandoned people,' this special term stems from the immigrants' profound sense of rejection."⁶ The *Ozawa* decision, which entailed both the refusal of the Japanese government to support the litigation and the refusal of the United States to recognize naturalization rights of Japanese immigrants, "contributed to their sense of having been reduced to 'an abandoned people' forsaken by both the mother country and the immigrant land."⁷

But kimin seems too bleak, and it does not capture the strength and vibrancy of the various Asian immigrant groups as they struggled to make a home in the United States. This is an ongoing struggle. And it is through this struggle that we have become and are becoming Asian Americans.

3. *Id.* at 123-24 (quoting Cullen).

4. Cullen, *supra* note 1, at 251.

5. MICHAELS, *supra* note 2, at 124.

6. Yuji Ichioka, *The Early Japanese Immigrant Quest for Citizenship: The Background of the 1922 Ozawa Case*, 4 *AMERASIA J.* 1, 17 (1977), reprinted in 2 *ASIAN AMERICANS AND THE LAW: JAPANESE IMMIGRANTS AND AMERICAN LAW* 397, 413 (Charles McClain ed., 1994) [hereinafter *ASIAN AMERICANS*].

7. *Id.* at 18.

But what does it mean to be Asian American? What does it mean to refer to first generation Hmong refugees and fifth generation Chinese Americans as Asian Americans? Or in the inverse, what would it mean for each of them to identify as Asian American? What is their connection to others who perceive themselves (or are perceived) as Asian American? Do “we” exist only as an “imagined community”?

The term “imagined community” is Benedict Anderson’s, who uses the idea to define what a nation is:

It is *imagined* because the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion. . . . [I]t is imagined as a *community*, because regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship.⁸

This idea has a special resonance for my discussion, especially in light of the usage by some writers, including myself, of the term “Asian America.” I mean something more than the narrow usage by the historian Roger Daniels, who uses it to “mean self-conscious, residentially concentrated communities of individuals, much of whose daily business was conducted in the language of the homeland and whose chief cultural impulses came from the society the elders had left behind.”⁹ Nor is “Asian America” simply located in the bodies of its constituent members. Rather, “Asian America” conveys a multivalent sense of community, place, and cultural space, configured within and against the nation-form America.

Asian America, then, “is *imagined* because [its] members . . . will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion”; and Asian America “is imagined as a *community*[] because . . . [it is] conceived as a deep, horizontal comradeship.” This is not to say that Asian America is a static, stable concept. Asian America, like Asian American identity exists as contested terrain.

The contested nature of this terrain can be seen in the way conservatives have recently embraced the cause of Asian Americans in their fight to end affirmative action.¹⁰ We become, for certain purposes, honorary whites as Phil Tajitsu Nash describes in his work comparing Asian Americans to South Africa’s “coloured caste.” In other contexts, we are foreigners, and these newfound champions of things Asian American in the affirmative action context that fight to keep us out in the immigration context.¹¹

8. BENEDICT ANDERSON, *IMAGINED COMMUNITIES: REFLECTIONS ON THE ORIGIN AND SPREAD OF NATIONALISM* 6-7 (rev. ed. 1991).

9. ROGER DANIELS, *ASIAN AMERICA: CHINESE AND JAPANESE IN THE UNITED STATES SINCE 1850* at xiv (1988).

10. I discuss this more fully in Robert S. Chang, *Reverse Racism!: Affirmative Action, the Family, and the Dream that Is America*, 23 HASTINGS CONST. L.Q. (forthcoming 1996).

11. *Id.*

In the legal academy, Asian Americans have found new champions in Daniel Farber and Suzanna Sherry. Their latest critique of critical race theory, published by the *California Law Review*, characterizes the critique of merit to be anti-Semitic and anti-Asian.¹² For those interested in their logic, it goes something like this: some scholars defend affirmative action through a critique of current conceptions of merit. Jews and Asians have done well under this current conception of merit. Therefore to be for affirmative action and against current conceptions of merit is to be against the progress of Jews and Asians.¹³ Their critique is even more corrosive when they level this charge of unconscious anti-Semitism and anti-Asian sentiment against Jerome Culp, an African American law professor.

This criticism is symptomatic of a broader politics of backlash that has pervaded the scene. A group of scholars name this phenomenon as it exists in the context of Asian American legal scholarship. Their views can be found in a colloquy entitled *The Scholarship of Reconstruction and the Politics of Backlash* that is forthcoming this fall in the *Iowa Law Review*.¹⁴

In the midst of this backlash, there is a growing scholarship of reconstruction. In the past few years, there has been a virtual explosion of articles about Asian Americans and the law. In no special order, some recent articles include Jerry Kang's work on hate violence and affirmative action;¹⁵ Maggie Chon's work on storytelling and silences, and on the contested Asian American legal subject¹⁶—the latter is quite postmodern and not for those suffering from what has been termed pomophobia (by the way, pomophobia is treatable—it is not a terminal condition); Eric Yamamoto's work on Asian American groups in Hawaii;¹⁷ Keith Aoki's work on historic patterns of Asian American stereotyping;¹⁸ Pat Chew's work on the lives of Asian American law professors and on the positioning of Asian Americans as the reticent minority;¹⁹ Cynthia Lee's work on Asian American stereo-

12. Daniel A. Farber & Suzanna Sherry, *Is the Radical Critique of Merit Anti-Semitic?*, 83 CAL. L. REV. 853 (1995). I find it interesting that the anti-Asian component did not make it into their title despite their lengthy discussion of Asian Americans. See *id.* at 869-77.

13. *Id.* at 856-57.

14. Colloquy: *The Scholarship of Reconstruction and the Politics of Backlash*, 81 IOWA L. REV. (forthcoming 1996).

15. Jerry Kang, *Racial Violence Against Asian Americans*, 106 HARV. L. REV. 1926 (1993); Jerry Kang, *Negative Action Against Asian Americans: The Internal Instability of Dworkin's Defense of Affirmative Action*, 31 HAR. C.R.-C.L. L. REV. 1 (1996).

16. 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. (forthcoming 1996); Margaret Chon, *Chon on Chang and Chen*, 81 IOWA L. REV. (forthcoming 1996).

17. Eric Yamamoto, *Racial Group Agency and Responsibility: Asian Americans, Native Hawaiians and Inter-Group Justice*, 3 UCLA ASIAN PAC. AM. L.J. (forthcoming 1996).

18. Keith Aoki, "Foreign-ness" & Asian American Identities: *Yellowface, Propaganda and Bifurcated Racial Stereotypes*, 3 UCLA ASIAN PAC. AM. L.J. (forthcoming 1996).

19. Pat Chew, *Asian Americans in the Legal Academy: An Empirical and Narrative Profile*, 3 ASIAN L.J. 8 (1996); Pat Chew, *Asian Americans: The "Reticent" Minority and Their Paradoxes*, 36 WM. & MARY L. REV. 1 (1994).

types in the O.J. trial;²⁰ Natsu Saito Jenga's work on immigration and human rights;²¹ Frank Wu's work on affirmative action and immigration;²² Bill Hing's work on Asian Americans and immigration;²³ Sumi Cho's work on affirmative action and the racial mascotting of Asian Americans; Jack Chin's work dispelling the heroic status conferred upon Justice Harlan's dissent in *Plessy v. Ferguson*;²⁴ Peter Kwan's work on the co-synthesis of race, gender, and sexual orientation explored through the figure of the gay Asian male;²⁵ Lisa Ikemoto's work on L.A. following the first trial of the four policemen who beat Rodney King;²⁶ Leti Volpp's work on domestic violence and the cultural defense.²⁷ And that's not even all of it.

It is an exciting time for Asian American legal scholarship. It is exciting to read their work and see the passion with which they write. Their passion flows from the compassion they feel for their communities and other subordinated groups. That is what separates this scholarship of reconstruction from that of backlash. But much work remains to be done.

A photo in AsianWeek highlights the distance that we have yet to travel. The photo is of a demonstrator at a protest against proposed immigration legislation. The demonstrator, an elderly man with Asian features holds a large placard stating: "I AM AN AMERICAN."²⁸ This photo reminded me of newsreels of civil rights marches of the '60s in which Black American men held placards stating: "I AM A MAN." In both cases, the demonstrators were asserting a claim to dignity that American society had denied them by refusing to recognize and treat them as fellow Americans and fellow human beings. In both cases, the demonstrators were asserting their right to feel at home in their own country.

Each of us will take different paths as we struggle to make a home for ourselves, our families, and our communities. Some will work in the public interest area, others will work in the private sector, some will even become

20. Cynthia K.Y. Lee, *Beyond Black and White: Racializing Asian Americans in a Society Obsessed with O.J.*, 6 HASTINGS WOMEN'S L.J. 165 (1995).

21. Natsu Saito Jenga, *Alien and Non-Alien*, OR. L. REV. (forthcoming 1997).

22. Frank H. Wu, *Neither Black nor White: Asian Americans and Affirmative Action*, 15 B.C. THIRD WORLD L.J. 225 (1995); Frank H. Wu, *The Limits of Borders: A Moderate Proposal for Immigration Reform*, 7 STAN. L. & POL. REV. 35 (1996).

23. BILL ONG HING, *MAKING AND REMAKING ASIAN AMERICA THROUGH IMMIGRATION POLICY, 1850-1990* (1993).

24. Gabriel J. Chin, *The Plessy Myth: Justice Harlan and the Chinese Cases*, 82 IOWA L. REV. — (forthcoming 1996).

25. Peter Kwan, *Unconvincing*, 81 IOWA L. REV. (forthcoming 1996); Peter Kwan, *Beyond the Pale: Jeffrey Dahmer and the Effeminization of Gay Asian Men* (unpublished manuscript, on file with author).

26. 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 (1993).

27. Leti Volpp, *(Mis)Identifying Culture: Asian Women and the "Cultural Defense"*, 17 HARV. WOMEN'S L.J. 57 (1994); Leti Volpp, *Talking "Culture": Gender, Race, Nation and the Politics of Multiculturalism*, 96. COLUM. L. REV. 1573 (1996).

28. AsianWeek, Dec. 15, 1995, front cover, photo by Candy Kit Har Chan.

law professors. Whatever path you choose, fill your life with passion for what you do. This passion will not come from the drumming of native blood within you. It will come from the compassion and commitment you feel for the communities you choose as your own. From your presence here, I know that you have chosen Asian America, in its multivalent forms, as one of your communities. It makes me happy to know that you are part of my community. I look forward to working with you to build our community.

In closing, I want to share the words of my friend Sharon Hom who teaches at CUNY Law School. She was recently honored by the Asian American Bar of New York and in her address, she said:

Growing up, loving to read books, I wanted to be a writer because I was convinced this was the way one could change the world, create visions of a better world, better yet, create those worlds on the written page.²⁹

I think of these words whenever I sit down in front of my computer. I have to, because that message is posted on my computer screen. These words demonstrate for me what is possible and what I should strive for. And for those Asian American legal scholars out there, and I know that you are out there, remember that it is within your power to create better worlds on the written page. Remember to write with passion.

29. Sharon K. Hom, Remarks for Asian American Bar Assoc. of N.Y., Annual Meeting and Awards Dinner (Jan. 25, 1996). This passage also appears in Sharon K. Hom, *Performing Law: Deformations and Transformations*, in *CHINESE WOMEN TRAVERSING DIASPORA* (Sharon K. Hom ed., forthcoming 1997).