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## Syllabus: Asian Americans and the Law

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# SYLLABUS: ASIAN AMERICANS AND THE LAW<sup>1</sup>

Robert S. Chang

## READING CLUSTER 1: IDENTITY: THEORY AND NARRATIVES

### A. Theory

MICHAEL OMI & HOWARD WINANT, RACIAL FORMATION IN THE UNITED STATES, FROM THE 1960S TO THE 1990S, at 9-13 (2d ed. 1994).

YEN LE ESPIRITU, ASIAN AMERICAN PANETHNICITY: BRIDGING INSTITUTIONS AND IDENTITIES 1-18 (1992).

YEN LE ESPIRITU, ASIAN AMERICAN WOMEN AND MEN 108-19 (1997).

ROBERT S. CHANG, DISORIENTED: ASIAN AMERICANS, LAW, AND THE NATION-STATE 1-8 (1999).

LISA LOWE, IMMIGRANT ACTS: ON ASIAN AMERICAN CULTURAL POLITICS 1-36 (1996) (Chapter 1: Immigration, Citizenship, Racialization: Asian American Critique).

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1. This is a synthesis of my syllabi from my teaching the course the last five years. I taught it as a two or three unit seminar. I have mostly relied upon course reading packets that I compiled, working from syllabi and course materials shared by Keith Aoki, Neil Gotanda, Bill Hing, Jerry Kang, and Leti Volpp. In Spring 2002, I used as a core text: ERIC K. YAMAMOTO ET AL., RACE, RIGHTS AND REPARATION: LAW AND THE JAPANESE AMERICAN INTERNMENT (2001). One year, I used as a core text my book, ROBERT S. CHANG, DISORIENTED: ASIAN AMERICANS, LAW, AND THE NATION-STATE (1999). In different years, I have emphasized different themes as embodied in the clusters. As I noted above, this is a synthesis and the materials presented here are more than what can be covered adequately in a typical two or three unit seminar or course. For those who might use it as a guide, I suggest choosing which clusters to cover along with selective addition and elimination of some readings. I welcome feedback with regard to readings or themes I have missed or overlooked.

## B. Episodes

Kesaya E. Noda, *Growing Up Asian in America*, in MAKING WAVES: AN ANTHOLOGY OF WRITINGS BY AND ABOUT ASIAN AMERICAN WOMEN 243-51 (Asian Women United of California ed., 1989).

Luis H. Francia, *The Other Side of the American Coin*, in FLIPPIN': FILIPINOS ON AMERICA 6-9 (Luis H. Francia & Eric Gamalinda eds., 1996).

Merle Woo, *Letter to Ma*, in THIS BRIDGE CALLED MY BACK: WRITINGS BY RADICAL WOMEN OF COLOR 140-47 (Cherrie Moraga & Gloria Anzaldua eds., 2d ed. 1983).

Russell Leong, *Home Bodies and the Body Politic*, in ASIAN AMERICAN SEXUALITIES: DIMENSIONS OF THE GAY & LESBIAN EXPERIENCE 1-18 (Russell Leong ed., 1996).

Lan Cao, *from MONKEY BRIDGE*, in WATERMARK: VIETNAMESE AMERICAN POETRY & PROSE (Barbara Tran et al. eds., 1998).

MEENA ALEXANDER, THE SHOCK OF ARRIVAL: REFLECTIONS ON POSTCOLONIAL EXPERIENCE 3-7, 10-12, 63-66 (1996).

## READING CLUSTER 2: IMMIGRATION, EXCLUSION, AND REPEAL

### A. Introduction: Early Experience and Narratives

SUCHENG CHAN, ASIAN AMERICANS: AN INTERPRETIVE HISTORY 25-42 (1991).

Excerpts, ISLAND: POETRY AND HISTORY OF CHINESE IMMIGRANTS ON ANGEL ISLAND, 1910-1940 (Him Mark Lai et al. eds., 1991).

JUDY YUNG, UNBOUND FEET: A DOCUMENTARY HISTORY OF CHINESE WOMEN IN SAN FRANCISCO 9-31 (1999).

### B. Exclusion

GEORGE ANTHONY PEPPER, IF THEY DON'T BRING THEIR WOMEN HERE: CHINESE FEMALE IMMIGRATION BEFORE EXCLUSION 1-11 (1999).

Chy Lung v. Freeman, 92 U.S. 275 (1875).

CHARLES J. MCCLAIN, *IN SEARCH OF EQUALITY: THE CHINESE STRUGGLE AGAINST DISCRIMINATION IN NINETEENTH-CENTURY AMERICA* 54-63 (1994) (discussing *The Case of the Twenty-two Chinese Women*).

MCCLAIN, *supra*, 147-72 (Chapter 6: *Federal Exclusion Act Litigation: The First Phase*).

LUCY E. SALYER, *LAWS HARSH AS TIGERS: CHINESE IMMIGRANTS AND THE SHAPING OF MODERN IMMIGRATION LAW* 37-68 (1995) (Chapter 2: *Contesting Exclusion: The Chinese and the Administrators*).

Chew Heong v. United States, 112 U.S. 536 (1884).

Chae Chan Ping v. United States, 130 U.S. 581 (1889).

MCCLAIN, *supra*, 191-219 (Chapter 8: *Federal Exclusion Act Litigation: The Second Phase*).

### **C. Repeal of Exclusion**

Neil Gotanda, *Toward Repeal of Asian Exclusion*, in *ASIAN AMERICANS AND CONGRESS: A DOCUMENTARY HISTORY* 309 (Hyung-Chan Kim ed., 1995).

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).

## **READING CLUSTER 3: CITIZENSHIP**

### **A. Citizenship and Naturalization**

IAN HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* 49-77 (1996).

*In re Ah Yup*, 1 F. Cas. 223 (C.C.D. Ca. 1878).

*Elk v. Wilkins*, 112 U.S. 94 (1884).

*In re Rodriguez*, 81 F. 337 (D. W.D. Tex. 1897).

*Ozawa v. United States*, 260 U.S. 178 (1922).

Yuji Ichioka, *The Early Japanese Immigrant Quest for Citizenship: The Background of the 1922 Ozawa Case*, 4 AMERASIA J. 1 (1977).

United States v. Thind, 261 U.S. 204 (1923).

RONALD T. TAKAKI: STRANGERS FROM A DIFFERENT SHORE: A HISTORY OF ASIAN AMERICANS 298-301 (1989).

## **B. Birthright Citizenship**

United States v. Wong Kim Ark, 169 U.S. 649 (1898).

Brook Thomas, CHINA MEN, UNITED STATES V. WONG KIM ARK, AND THE QUESTION OF CITIZENSHIP, 50 AM. Q. 689 (1998).

Rep. Gallegley, It is Time to Amend Our Birthright Citizenship Laws, 139 Cong. Rec. H 1005-01 (103rd Cong., 1st Sess. March 3, 1993).

Note, *The Birthright Citizenship Amendment: A Threat to Equality*, 107 HARV. L. REV. 1026 (1994).

Charles Wood, *Losing Control of America's Future—The Census, Birthright Citizenship, and Illegal Aliens*, 22 HARV. J.L. & PUB. POL'Y 465 (1999).

## **READING CLUSTER 4: LIVELIHOOD**

### **A. Race, Class, and Labor**

Excerpts, ALEXANDER SAXTON, THE INDISPENSABLE ENEMY: LABOR AND THE ANTI-CHINESE MOVEMENT IN CALIFORNIA (2d ed. 1995).

CHRIS FRIDAY, ORGANIZING ASIAN AMERICAN LABOR: THE PACIFIC COAST CANNED SALMON INDUSTRY, 1870-1942, at Introduction, ch. 4, ch. 6 (1994).

### **B. Alien Land Laws**

Terrace v. Thompson, 263 U.S. 197 (1923).

Oyama v. California, 332 U.S. 633 (1948).

Keith Aoki, *No Right to Own?: The Early Twentieth-Century "Alien Land Laws" as a Prelude to Internment*, 40 B.C. L. REV. 37 (1998).

Brant T. Lee, *A Racial Trust: The YWCA and the Alien Land Law*, 7 ASIAN PAC. AM. L.J. 1 (2001).

### C. Gender and Work

EVELYN NAKANO GLENN, ISSEI, NISEI, WAR BRIDE: THREE GENERATIONS OF JAPANESE AMERICAN IN DOMESTIC SERVICE, at chs. 1, 7 (1986).

PAUL C.P. SIU, THE CHINESE LAUNDRYMAN: A STUDY OF SOCIAL ISOLATION, at ch. 2 (John Kuo Wei Tchen ed., 1987).

Miriam Ching Louie, *Immigrant Asian Women in Bay Area Garment Sweatshops: "After Sewing, Laundry, Cleaning and Cooking, I Have No Breath Left to Sing,"* 18 AMERASIA J. 1 (1992).

Julie A. Su, *Making the Invisible Visible: The Garment Industry's Dirty Laundry*, 1 J. GENDER, RACE & JUST. 405 (1997).

Karen J. Hossfeld, *Hiring Immigrant Women: Silicon Valley's "Simple Formula,"* in WOMEN OF COLOR IN U.S. SOCIETY (Maxine Baca Zinn & Bonnie Thornton Dill eds., 1994).

Edna Bonacich, *The Class Question in Global Capitalism: The Case of the Los Angeles Garment Industry*, in MAPPING MULTICULTURALISM (Avery F. Gordon & Christopher Newfield eds., 1996).

### READING CLUSTER 5: INTERNMENT AND REDRESS

LESLIE HATAMIYA, RIGHTING A WRONG: JAPANESE AMERICANS AND THE PASSAGE OF THE CIVIL LIBERTIES ACT OF 1988, at ch. 1 (1993).

Excerpts, REPORT OF COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS, PERSONAL JUSTICE DENIED (1997).

Violet Kazue Matsuda de Cristoforo, *There Is Always Tomorrow: An Anthology of Wartime Haiku*, 19 AMERASIA J. 93 (1993).

MICHI WEGLYN, YEARS OF INFAMY: THE UNTOLD STORY OF AMERICA'S CONCENTRATION CAMPS, at ch. 9 (1976).

ERIC K. YAMAMOTO ET AL., RACE, RIGHTS AND REPARATION: LAW AND THE JAPANESE AMERICAN INTERNMENT 95-175 (2001).

Korematsu v. United States, 584 F. Supp. 1406 (N.D. Cal. 1984).

YAMAMOTO, *supra*, at 390-409.

## **READING CLUSTER 6: COLONIALISM**

### **A. The Philippines**

Enrique de la Cruz, *Introduction: Essays into American Empire in the Philippines*, 24 AMERASIA J. ix (1998).

E. San Juan, Jr., *One Hundred Years of Producing and Reproducing the "Filipino,"* 24 AMERASIA J. 1 (1998).

Sanford Levinson, *Why the Canon Should be Expanded to Include the Insular Cases and the Saga of American Expansionism*, 17 CONST. COMMENT. 241 (2000).

Dorr v. United States, 195 U.S. 138 (1904).

Ocampo v. United States, 234 U.S. 91 (1914).

Steffi San Buenaventura, *The Colors of Manifest Destiny: Filipinos and the American Other(s)*, 24 AMERASIA J. 1 (1998).

Miller v. Albright, 523 U.S. 420 (1998).

INS v. Pangilinan, 486 U.S. 875 (1988).

Kevin Pimentel, Note, *To Yick Wo, Thanks for Nothing!: Citizenship for Filipino Veterans*, 4 MICH. J. RACE & L. 459 (1999).

### **B. Hawai'i**

HAUNANI-KAY TRASK, FROM A NATIVE DAUGHTER, COLONIALISM AND SOVEREIGNTY IN HAWAI'I 1-28 (1993).

Rice v. Cayetano, 528 U.S. 495 (2000).

### **C. Other**

Rose Cruz Cuison, Comment, *The Construction of Labor Abuse in the Mariana Islands as Anti-American*, 6 ASIAN PAC. AM. L.J. 61 (2000).

Natsu Taylor Saito, *Asserting Plenary Power over the "Other": Indians, Immigrants, Colonial Subjects, and Why U.S. Jurisprudence Needs to Incorporate International Law*, 20 YALE L. & POL'Y REV. 427 (2002).

## **READING CLUSTER 7: RACIAL-SEXUAL POLICING**

### **A. Asian American Femininity**

Sandra Liu, *Passion and Commitment: Asian American Women and Hollywood*, in MAKING MORE WAVES: NEW WRITINGS BY ASIAN AMERICAN WOMEN 258 (Elaine Kim et al. eds., 1997).

Venny Villapando, *The Business of Selling Mail-Order Brides*, in MAKING WAVES: AN ANTHOLOGY OF WRITINGS BY AND ABOUT ASIAN AMERICAN WOMEN 318 (Asian Women United of California ed., 1989).

Peter Kwan, *Invention, Inversion and the Intervention: The Oriental Woman in The World of Suzie Wong, M. Butterfly, and The Adventures of Priscilla, Queen of the Desert*, 5 ASIAN L.J. 99 (1998).

Sumi K. Cho, *Asian Pacific American Women and Racialized Sexual Harassment*, in MAKING MORE WAVES, *supra*, at 164.

Karin Aguilar-San Juan, *Going Home: Enacting Justice in Queer Asian America*, in Q & A: QUEER IN ASIAN AMERICA 25 (David L. Eng & Alice Y. Hom eds., 1998).

### **B. Asian American Masculinity**

PAUL C.P. SIU, THE CHINESE LAUNDRYMAN: A STUDY OF SOCIAL ISOLATION (John K.W. Tchen ed., 1987) (Ph.D. Dissertation 1953).

Jinhua Emma Teng, *Miscegenation and the Critique of Patriarchy in Turn-of-the-Century Fiction*, in ASIAN AMERICAN STUDIES: A READER (Jean Yu-Wen Shen Wu & Min Song eds., 2000).

DAVID ENG, RACIAL CASTRATION: MANAGING MASCULINITY IN ASIAN AMERICA (2001).

Documentary: Renee Tajjima & Christina Choy, WHO KILLED VINCENT CHIN? (Filmmakers Library 1988).

Robert S. Chang, *Dreaming in Black and White: Racial-Sexual Policing in The Birth of a Nation, The Cheat, and Who Killed Vincent Chin?*, 5 ASIAN L.J. 41 (1998).



### C. Antimiscegenation Laws

Roldan v. Los Angeles County, 129 Cal. App. 267, 18 P.2d 706 (1933).

W.I.C., Recent Decisions, *Marriage: Miscegenation*, 22 CAL. L. REV. 116 (1933).

Megumi Dick Osumi, *Asians and California's Anti-Miscegenation Laws*, in ASIAN AND PACIFIC AMERICAN EXPERIENCES: WOMEN'S PERSPECTIVES 1 (Nobuya Tsuchida ed., 1982).

Leti Volpp, *American Mestizo: Filipinos and Antimiscegenation Laws in California*, 33 U.C. DAVIS L. REV. 795 (2000).

## READING CLUSTER 8: INTERGROUP RELATIONS

### A. Early Episodes

W.E.B. Du Bois, *The Color Line Belts the World*, COLLIER'S WEEKLY, Oct. 20, 1906, p.30, reprinted in W.E.B. DU BOIS: A READER (David Levering Lewis ed., 1995).

David J. Hellwig, *Black Reactions to Chinese Immigration and the Anti-Chinese Movement: 1850-1910*, 6:2 AMERASIA J. 25, 29-30 (1979).

Arnold Shankman, *Black on Yellow: Afro-Americans View Chinese Americans, 1850-1935*, 39 PHYLON 1, 4 (1978).

David J. Hellwig, *Afro-American Reactions to the Japanese and Anti-Japanese Movement, 1906-1924*, 38 PHYLON 93 (1977).

### B. The Los Angeles Unrest

Film: SA-I-GU (Christina Choy & Elaine Kim 1993).

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).

Elaine H. Kim, *Home is Where the Han Is: A Korean American Perspective on the Los Angeles Upheavals*, in READING RODNEY KING/READING URBAN UPRISING 215-35 (Robert Gooding-Williams ed., 1993).

Cornel West, *Learning to Talk about Race*, in READING RODNEY KING/READING URBAN UPRISING, *supra*.

### C. Coalitions and Faultlines

Neil Gotanda, *Multiculturalism and Racial Stratification*, in MAPPING MULTICULTURALISM 238 (Avery F. Gordon & Christopher Newfield eds., 1996).

Charles R. Lawrence, III, *The Epidemiology of Color-Blindness: Learning to Think and Talk about Race, Again*, 15 B.C. THIRD WORLD L.J. 1 (1995).

Leslie Espinoza & Angela P. Harris, *Afterword: Embracing the Tar-Baby—LatCrit Theory and the Sticky Mess of Race*, 85 CAL. L. REV. 1585 (1997), 10 LA RAZA L.J. 499 (1998).

Devon W. Carbado, *Race to the Bottom*, 49 UCLA L. REV. 1283 (2002).

Elizabeth M. Iglesias & Francisco Valdes, *Expanding Directions, Exploding Parameters: Culture and Nation in LatCrit Coalitional Imagination*, 5 MICH. J. RACE & L. 787 (2000).

### **READING CLUSTER 9: EDUCATION AND AFFIRMATIVE ACTION**

Gong Lum v. Rice, 275 U.S. 78 (1927).

Lau v. Nichols, 414 U.S. 563 (1974).

Ho v. San Francisco Unified School District, 965 F. Supp. 1316 (N.D. Cal. 1997).

Deana K. Chuang, *Power, Merit, and the Limitations of the Black and White Binary in the Affirmative Action Debate: The Case of Asian Americans at Whitney High School*, 8 ASIAN L.J. 31 (2001).

Gabriel Chin et al., *Beyond Self-Interest: Asian Pacific Americans Toward a Community of Justice, A Policy Analysis of Affirmative Action* (1996), *reprinted in* 4 ASIAN PAC. AM. L.J. 129 (1996).

**READING CLUSTER 10: CONVERSATIONS****A. Culture Clash**

Leti Volpp, *(Mis)Identifying Culture: Asian Women and the "Cultural Defense,"* 17 HARV. WOMEN'S L.J. 57 (1994).

Doriane Lambelet Coleman, *Individualizing Justice through Multiculturalism: The Liberals' Dilemma,* 96 COLUM. L. REV. 1093 (1996).

Leti Volpp, *Talking "Culture": Gender, Race, Nation, and the Politics of Multiculturalism,* 96 COLUM. L. REV. 1573 (1996).

**B. Is there an Asian America?**

Jim Chen, *Unloving,* 80 IOWA L. REV. 145 (1994).

Keith Aoki, *The Scholarship of Reconstruction and the Politics of Backlash,* 81 IOWA L. REV. 1467 (1996).

Janice Young Kim, Note, *Are Asians Black?: The Asian-American Civil Rights Agenda and the Contemporary Significance of the Black/White Paradigm,* 108 YALE L.J. 2385 (1999).

Mari J. Matsuda, *We Will Not Be Used,* 1 ASIAN PAC. AM. L.J. 79 (1993).

Mari J. Matsuda, *Planet Asian America,* 8 ASIAN L.J. 169 (2001).