Editor’s Note

This year, as we celebrated the Asian American Law Journal’s twentieth Anniversary, the larger Asian American community commemorated the thirtieth anniversary of the racialized killing of Vincent Chin. Chin was at a strip club for his bachelor party when he was accosted by two white men—a Chrysler executive and his step-son. Ronald Ebens and Michael Nitz had held Chin personally responsible for loss of jobs in the U.S. auto industry to Japan. During the altercation, Ebens had shouted that “It’s because of you little motherfuckers that we’re out of work.” Ebens and Nitz then followed Chin out of the club, offered a third party twenty dollars to help them find the “Chinese guy” before reaching Chin, and repeatedly bludgeoning him with a baseball bat. Chin died four days later. The price for taking his life? No Jail time. Three years of probation. And less than $4000 in fines.

I do not speak to the men’s light sentences to suggest that calls for harsh criminal punishment are the appropriate response to social problems. But as George Zimmerman’s acquittal for the killing of Trayvon Martin has recently reminded us, prison sentences can speak to what we as a country value—whose bodies are deserving of justice and whose are deserving of death. Notably, in explaining the light sentence, the judge in Chin’s case stated that “these weren’t the kind of men you send to jail. You don’t make the punishment fit the crime; you make the punishment fit the criminal.” The racial and class-based implications in his explanation are clear.

I comment on these events to emphasize the importance of the Asian American Law Journal as a space for Asian American activism, community, and scholarship in the face of increasing claims that identity organizations are not important in “post-racial” America. Much has changed in the three decades since Chin’s passing. However, as Alexandra

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2. Id.
5. Wu, supra note 1.
6. Id.
7. Id.
8. Id.
Wallace’s viral, anti-Asian tirade at UCLA; the racialized harassment which preceded Pvt. Danny Chen’s suicide; and the enduring Islamophobia, xenophobia, and racism that has followed Sikhs, Muslims, and other brown bodies since 9/11 each reveal, many of the underlying sentiments which allowed Chin’s death to occur remain. Frank Wu has explained that Chin’s death showed us the power of “You all look the same.” It also reminded us that the extent to which we are accepted in America is strongly linked to the U.S.’s relationship with Asia in the particular moment. That we are perpetually foreign.

The Asian American Law Journal draws upon our collective experiences as a community to challenge these ideas. At the 2010 Neil Gotanda Lecture in front of an audience of Berkeley Law Students, AALJ Advisor and Berkeley Law Professor Leti Volpp spoke of the responsibility bestowed upon those with double consciousness.

The historical experience of subordination of a community can create a lens, a way to see, which I would argue lends itself to an ethical argument: that it behooves us, as Asian Americans, to be particularly sensitive to the communities today subjected to the unjust treatment that has characterized treatment of our own community. Professor Volpp reminds us that we are uniquely able and obligated to stand with those in our community who, due to class, gender, immigration status or sexual orientation, may not have a platform to raise those concerns. And, as importantly, to draw upon our collective experience of Chinese exclusion, Japanese internment, South Asian racial profiling, and Southeast Asian poverty and dislocation to build coalitions and speak in support of other marginalized communities in the present. A powerful example which needs no explanation: When the late Fred Korematsu filed an amicus brief asking the Supreme Court to review the constitutionality of prolonged executive detentions in the “War on Terror.”

I am incredibly proud of the work that all of us have accomplished in our twentieth year as a journal to stand with the least advantaged.

Our speaking events have touched upon pressing issues, such as: the racism which informed the Oak Creek shooting, where a white supremacist shot and killed men, women, and children at a Sikh Guadwara to the moral

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16. Id. at 77.
outrage of a limited few;\textsuperscript{17} the ways in which money and power have left the Southeast Asian community in Richmond, and other low-income immigrant communities uniquely vulnerable to environmental racism;\textsuperscript{18} the overt and subtle stereotyping which follows Asian Americans attempting to crack a racialized glass ceiling;\textsuperscript{19} the intersection of immigration and criminal law; and the continuing importance of Asian American jurisprudence in the twenty-first century.

We have been privileged to hear from distinguished speakers such as civil rights advocate Karen Korematsu; Lewis Feinberg Named Partner Bill Lann Lee, who was the first Asian American to serve as the nation’s top civil rights litigator; and CAIR Executive Director Zahra Billoo, who has spoken on issues relating to race and religion on NBC, CNN and MSNBC. Our list of speakers also included two former Editors-in-Chief: Professor Stephen Lee, who currently teaches at UCI Law and who delivered our annual Neil Gotanda Lecture, and Seema Patel, a senior advisor for Labor and Civil Rights at the White House Initiative on Asian Americans and Pacific Islanders.\textsuperscript{20}

We also organized a ground-breaking four-day symposium, \textit{Inter(sex)ionality: Asian Voices in Queer Migration}. The symposium featured prominent scholars, and activists from throughout the country who challenged participants to consider how our understanding of contemporary legal and political issues, such as sex trafficking, hate crime legislation, the DREAM Act, and gay marriage, changes when we simultaneously consider race, gender, sexuality, and immigration status.\textsuperscript{21}

The pieces in this edition of the journal similarly aim to shed light on some of the most pressing issues impacting some of the least advantaged.

In \textit{Of Civil Wrongs and Rights: Kiyemba v. Obama and the Meaning of Freedom, Separation of Powers, and the Rule of Law Ten Years After 9/11}, Professor Katherine L. Vaughns discusses the plight of the Uighurs

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\item \textsuperscript{17} Iyer, \textit{supra} note 13.
\item \textsuperscript{20} Only select speakers were listed for purposes of brevity. We are grateful to all of the individuals who served as distinguished lecturers, moderators, and panelists at our speaking events. Those not listed above include: SALDEF Managing Director Kavneet Singh, Berkeley Law Professor Leti Volpp, APEN Organizer Torm Nonpraseurt, CRPE Attorney Ingrid Brostrom, Berkeley Law Lecturer Robert Infelise, Keker & Van Nest Partner Ashok Ramani, Munger Tolles Partner Miriam Kim, Perkins Coie Partner Christopher Kao, and Morrison & Foerster Associate Matt Deck Ahn.
\item \textsuperscript{21} Special thanks to the lecturers, moderators, and panelists at this year’s symposium, including: Professor Rachael Salazar Parrañas, Professor Chandan Reddy, Asian Law Caucus Senior Staff Attorney Angela Chan, Immigration Reform Activist Yahairo Carillo, Immigration Reform Activist Luis Liang, API Equality Lead Organizer Vanessa Coe, Sylvia Rivera Law Project Litigation Director Pooja Gehr, Chicago-Based Academic and Activist Dr. Yasmin Nair, Soros Fellow and Berkeley Law student Olga Tomchin, and Professor Rose Villazor.
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who remain indefinitely detained in Guantanamo. Professor Vaughns challenges a Federal Circuit opinion which holds that courts do not have the authority to order the release of individuals indefinitely detained at Guantanamo because of the Executive’s plenary power over immigration matters. She explains that the Uighurs’ case is, in fact, not an immigration matter because federal courts have the power to enforce a detainee’s right of habeas corpus, and that those in Guantanamo have been found to be already inside the United States. Professor Vaughns concludes that the Supreme Court failed in not hearing the Uighur’s challenge to the Second Circuit, forcefully arguing that the Court must stand up for the freedom of an unpopular minority group if it hopes to uphold the rule of law, even if only in the form of a strongly worded dissent.

In *Piercing Politics: Religious Garb and Secularism in Public Schools*, Priti Nemani discusses a recent case in which public high school officials prevent a young woman from wearing a nose piercing, as mandated by her faith, because they decided that the nose piercing was not a legitimate religious practice. Nemani makes the argument that school policies which allow administrators such discretion potentially violate both the free exercise and establishment clauses of the First Amendment. Through her own research, Nemani finds that many school districts throughout the country have school policies which fail to adequately protect the right to wear religious garb, leaving the rights of students from unpopular communities particularly vulnerable. She concludes by writing suggested guidelines that schools may adopt to ensure compliance with the Constitution, and to honor all faiths with equal dignity.

In this year’s student-written piece, *Too Smart for his own Good? The Devolution of a “Model” Asian American Student*, AALJ member Nary Kim conducts an in-depth analysis of *Better Luck Tomorrow* and the case it is based on to discuss the difficult bind many Asian Americans experience in deciding if and how to address gang violence within our own communities. She notes that the fear of being racialized as the “yellow peril” may push some Asian Americans to embrace the model minority stereotype, and consequently refrain from cooperating with police. A decision which may be particularly difficult, given the Asian American community’s already strained relationship with law enforcement due to a lack of bilingual police officers, inadequate community outreach efforts, and a history of racialized tensions which culminated in the police’s refusal to protect Korea Town during the Los Angeles race riots.

Lastly, in this year’s Recent Developments piece, International Human Rights Advocates Hansdeep Singh, Jaspreet Singh, and Prabhjot Singh discuss how structural discrimination allows domestic hate crimes to go undetected in light of the shooting at the Sikh Guadwara that occurred last year. They note that because structural discrimination is often difficult for insiders to identify, leveraging the UN’s Universal Periodic Review Process can be an effective way to identify gaps and defects in the U.S.
government’s attempts to document, and respond to hate crimes. They conclude by laying out a holistic solution to the flaws they have identified, which would better protect all communities from bias-motivated violence.

Thank you to everyone who has helped to make publication of the Asian American Law Journal possible. For the past twenty years, the journal has been an incredible space for activism, scholarship, and most importantly, community. I refer to community in the broad sense. Yes, we are literally a community, a group of people who support one another in an institution, and profession which can be competitive, overwhelming, and alienating. I do not know how I would have gotten through the professional and personal challenges I have faced during my three years in law school without the AALJ family. But our speaker events, groundbreaking symposium, and scholarship demonstrate that we are also a community beyond Boalt’s walls. To quote Professor Mari Matsuda, it “represents both a practice and a belief in the command to regard the interests of the least advantaged as fundamentally important to all of us.”

In solidarity,

Joseph Bui
Editor-in-Chief
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Asian American Law Journal

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22 I want to extend special thanks to: Eric Xiyu Li for his hard work developing budgets, fundraising, and ensuring that students were quickly and fully compensated for any journal funds; Natalie Minev for her edits as a Senior Articles Editor, and for ensuring that we found passionate board members for the 2012-2013 and 2013-2014 year; Bhav Singh for organizing important, thought-provoking, and well-attended speaking events; and Micah West and Samia Hossain for their tireless efforts in organizing one of the best symposiums ever hosted at Berkeley Law.