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Are Asian Americans Now White?

Frank H. Wu†

All right: we're dispensing with the mic; I think I can project. You know, Asian Americans are always supposed to be quiet and submissive, so I always want to be as loud as possible.

Good afternoon, friends.

I would like to start with a personal story.

More than 25 years ago, when I started law school at a fine institution in the American Midwest, there were six Asian Americans in my entering class of more than 400. So that's approximately 1.5%. That's astonishing, astonishing not just because of that number but because of the change over time.

Now I head an institution across the Bay, a sister law school to this fine institution, one of the five most diverse law schools in the nation measured by student enrollment, where fully one out of four of our students is Asian or Asian American. That is the change, simply within the lifetimes of those of us in this room.

The progress that has been made should not, however, obscure the problems that remain.

Asian Americans occupy an ambiguous position, neither Black nor white.

Some time ago, I wrote a book about these issues.[1] I was inspired by W.E.B. Du Bois, the first public intellectual of this nation, among the founders of the NAACP, someone who in 1903 wrote a magisterial work, a collection of essays entitled *The Souls of Black Folk*,[2] in which, as the first African American to receive a Doctorate from Harvard University, a sociologist when that field was still new, a thinker of the first order, he spoke poignantly about the experience of the dual identity, about being American through and through, yet indelibly Black.

He asked, among other questions, what is it like to be talked about as a social problem, as the Negro Question?[3]

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†. At the time of the speech, Frank Wu was Chancellor & Dean of the University of California, Hastings College of the Law. This transcript has been lightly edited and also annotated.

1. FRANK H. WU, YELLOW: RACE IN AMERICA BEYOND BLACK AND WHITE (2002).
2. W. E. B. DU BOIS, THE SOULS OF BLACK FOLK (1903).
3. *Id.* at 2.

And in a work that has not gone out of print in the century since, presciently he predicted that the problem of the 20th century would be the problem of the color-line.

You likely have heard that quote before. It turns out that just about everyone who repeats that, everyone who has picked up this book and browsed through a few pages, knowing that it's an obligatory reference—if you want to talk seriously about race, you have to display some knowledge of this work — it turns out that that quote is not accurate.

I haven't even given you half of the words in the sentence. What Du Bois really said was this: "The problem of the Twentieth Century is the problem of the color-line,—the relation of the darker to the lighter races of men in Asia and Africa, in America and the islands of the sea."[4]

That's so important, because he showed that with his commitment that could not be doubted to a project of uplift and equality for African Americans—he was a "race man" as that term was used—he nonetheless situated that struggle within a global, universal framework. He did not divide the world, as we so often do now, into two categories, Black on the one hand, white on the other hand. Instead, he saw nuance and complexity.

That is what inspired me to write a book to make the claim that race is very literally more than Black and white, and that race is figuratively, metaphorically, symbolically more than Black and white.

Well, in the time since that book has come out, I've had an opportunity to reflect further on these issues. I actually wonder, as I do about so much of what I believe, and what I think every thinking person ought to do from time to time, I wonder if maybe I had it wrong.

What I mean by this is I wonder if we are still enthralled by a Black and white paradigm, and even as Asian Americans, as Hispanics, as Arab Americans, as people of all backgrounds are added to this melting pot or tapestry or salad bowl or however we wish to call it, if nonetheless we still have, fundamentally, a Black and white paradigm in which one is forced to make choices.

What got me thinking about this is an essay that appeared some 20 years ago, a full generation now, and most of you in this room were young, by an iconoclastic journalist named Michael Lind who early on studied the demographic trends of this state and of the nation as a whole, and in a line that was almost a throwaway line in describing what he thought the future would look like in our present, he predicted something very different than what Du Bois predicted.[5] Lind's article suggests that in the future there would be an Anglo-Asian overclass in contrast to a Black and brown

4. *Id.* at 17–18.

5. FRANK WU, YELLOW: RACE IN AMERICA BEYOND BLACK AND WHITE 19 (2002) (analyzing Michael Lind, *To Have and Have Not: Notes on the Progress of the American Class War*, HARPER'S, June 1995, at 35). The concept was made more explicit in DAN WALTERS, THE NEW CALIFORNIA: FACING THE 21ST CENTURY 20 (1986).

underclass. So, what he saw was the assimilation such that as the Irish and other white ethnic groups preceded Asian Americans, so too, Asian Americans would pass in whiteness or at least honorary whiteness.

What I would like to do in the time we have together is provoke you to think for yourselves, not persuade you to think as I do. I will do what law professor do here in this room every day, which is to ask questions.

The question is—are Asian Americans now white?

And I mean that to be as provocative as possible, and I actually have argued about this. I don't know if Asian Americans are white or not, but if Asian Americans are white, I would regard that not as a triumph but as a failure of race relations, and I would like to explain why.

Propositions work great as questions.

The first point is to look at the model minority myth anew. You know, as a scholar, I sometimes feel as if I have not done very much. The reason is I started the work that I do in part because of this image of the rocket scientist overachiever. I began the work that I did because of that stereotype that we can all do calculus in our head, that we learned to play the piano at the age of three, and the violin at the age of five, and maybe we were playing at Carnegie Hall, maybe the piano and violin simultaneously, by the time we were seven. You know, this image that you're familiar with that if you came home with an A-minus you were beaten by your parents, and so on, and that frustration that I had about this sentiment, as well as those questions about where I'm really from or the compliment, "My, you speak English so well," which my reply is always: "gee, thanks, so do you!"

That helped me to think through these issues, and to look at the model minority myth, the facts, and to ask: well, is it really true? Have Asian Americans somehow made it? Should they be an exemplar for other minorities?

And as I looked at the political use of Asian Americans, this image, the modern version dating from a *New York Times* Sunday Magazine article that came out in 1966, in which the author, point by point, contrasted Japanese Americans with African Americans and Hispanics for the purpose of saying that Japanese Americans were racially superior: very few juvenile delinquents, higher civic participation, greater wealth, and so on—in contrast to what he termed explicitly "problem minorities."[6]

As I did this work, I realized that there were so many other scholars who debunked this myth again and again and again looking at, for example, the selective nature of migration, the human capital of people who arrive, the variation among ethnic groups. I wonder if we've done very much because even now, distinguished scholars such as Cass Sunstein and others

6. William Petersen, *Success Story, Japanese-American Style*, N.Y. TIMES, Jan. 9, 1966, Magazine, at 20–21.

continue to propagate this myth, this notion that Asian Americans are somehow, either biologically or culturally superior, better.[7] Perhaps, they suggest with some trepidation and anxiety, Asian Americans even outperform whites, leading to the proposition that the next type of affirmative action you should have should be for whites who can't succeed if they're placed in a STEM— science, technology, engineering, or math— class that's heavily populated by Asian Americans.

This model minority myth has now gotten me started thinking about all this, this notion that behind this image, seemingly so flattering, was a dark side that could be easily turned on its head so that instead of being a compliment to Asian Americans it was an insult to others. To African Americans and Hispanics most obviously, but even beyond that, that it was used as an excuse for further discrimination toward Asian Americans. The notion: well, you're doing so well, what do you have to complain about? You're doing better than you would be doing in your homeland. How come the Asians are winning all the scholarships. Where are the real Americans at Berkeley and UCLA?—and so on, this sense, hearkening back to the Yellow Peril image, that Asian Americans were somehow so successful that they would take over, and that historically has been the racial stereotype. Not typically a stereotype of inferiority, but one of superiority.

That is why the Chinese Exclusion Act was passed and later extended to the Japanese and other Asian groups until there was an Asiatic Barred Zone.[8] It was not out of fear that Asian Americans would come here and fail. It was out of fear that Asian Americans would come here and succeed.

But here's where I have misgivings because despite all the work that some of these scholars, some in this group, have done about the model minority myth, it has returned with a vengeance, not just articulated by those who would hold us up as an example of with whom to beat other racial minorities, but by Asian Americans themselves who tout the "tiger mother" image, and who will claim, if not behind closed doors then perhaps even publicly, that Asian Americans, in fact, are superior, are doing better, should be used as an exemplar for others. And nowhere is this found more explicit than in the debate over affirmative action, which reduces all of our civil rights struggles to merely the question of who as undergraduates are admitted to Ivy League institutions and other selective schools like that, suggesting that all the means of government contracting, with employment, breaking through the glass ceiling, that none of that matters, and in which Asian Americans are persuaded to become the

7. Cass R. Sunstein, *Asians Make it Big in America*, BLOOMBERG VIEW, (Mar. 2, 2015, 10:50 AM), http://www.bloombergview.com/articles/2015-03-02/why-asian-americans-will-soon-be-the-wealthiest-americans.

8. Chinese Exclusion Act, Pub. L. No. 47-126, 22 Stat. 58 (1882); Immigration Act of 1917, Pub. L. No. 64-301, § 3, 39 Stat. 874, 875–78 (creating the "Asiatic Barred Zone"); Immigration Act of 1924 (The Johnson-Reed Act), Pub. L. No. 68-139, 43 Stat. 153.

modern day equivalent of the "angry white male."

When Michael Lind wrote his essay some 20 years ago, that was what all discussion was about here in California. In 1994, when voters passed Proposition 187, a precursor of sorts to Proposition 209, stripping those individuals who are undocumented of even basic benefits and social services, it was declared the "Season of the Angry White Male," following the taxpayer revolt of the 1970s. It was the notion that a silent majority had wisdom and would display that it had had enough of this nonsense of diversity and multiculturalism.

I would submit to you, I would posit that Asian Americans are now being positioned, are being presented as the new angry white male, that all of the rhetoric that was used then about innocent victims of affirmative action, about reverse discrimination, about the poor Appalachian coal miner's child compared to the wealthy African American doctor's child, that that rhetoric has been changed, as if you had a word search-and-replace with the Asian immigrant's child, and that it is essentially no different except that Asian Americans in this middle position have the unique privilege of both facing discrimination and being told that they don't face discrimination.

The discrimination itself becomes a basis for denial, the sense that, well, we're just getting our comeuppance, which also has long scholarly roots. The very first book, the very first scholarly study ever written about Chinese Americans was a book called *Bitter Strength* by Gunther Barth.[9] Although sympathetic to Chinese Americans, it posited that because Chinese immigrants were predominantly men, were sojourners, that they were here temporarily, that they were different than those coming from Europe who wished to settle, to put down their roots and become a member of the body politic, and that's why they faced discrimination, thus blaming the immigrants themselves. Never mind that European immigrants also displayed high rates of return immigration.[10]

Barth had it right. It was cause and effect but it was the other way around. It wasn't that Asian Americans who were here temporarily faced discrimination; it's that they faced discrimination and chose not to stay or could not arrive at all. This use of Asian Americans has historic roots, and what has happened now is, in lawsuits, in public press coverage, in the rhetoric, it's a transition that you could have predicted.

During the Presidential administration of Ronald Reagan, the Assistant Attorney General for Civil Rights was a gentleman named William Bradford Reynolds. As the highest law enforcement officer charged with protecting our equality, he made it his signature issue to

9. GUNTHER BARTH, BITTER STRENGTH: A HISTORY OF THE CHINESE IN THE UNITED STATES, 1850–1870 (1964).

10. RONALD TAKAKI, STRANGERS FROM A DIFFERENT SHORE 10–11 (1989).

attack affirmative action everywhere, believing and saying that the main civil rights issue facing this nation was not discrimination against racial minorities, it was not racial disparities, but instead, affirmative action programs that disadvantaged whites. In a singular piece of testimony that he submitted to Congress, Assistant Attorney General Reynolds said something in a parenthetical statement—and I invite you to look up the transcript for yourself—and that's how Asian Americans typically appear, in a parenthetical statement.[11] He noted that Asian Americans could be used rhetorically as an example instead of whites to attack affirmative action, and that might be more politically expedient.

How right he was, because by giving this issue the face of Asian Americans, suddenly, people are taken aback. Coalitions that would otherwise have brought together people of color now force Asian Americans to make a choice: to say, no, I'm not disadvantaged. I'm not a person of color. I have no sympathy for nor common cause with African Americans, Hispanics, and others, but instead I choose, at this defining moment in the dilemma, a moral choice to say I am no different than whites, thus individually and collectively making a statement about where we stand, not astride the color-line but very distinctively on one side of it, highlighting that very line, that division, that hierarchy.

The greatest irony about this is, and there will be an entire panel that will discuss it further, is that when you look at these cases, Lowell High School in San Francisco most famously, and most of the other cases as well—as my friend Jerry Kang, a professor at another UC law school, UCLA, wrote about—what we see typically is negative action toward Asian Americans, not that Asian Americans are particular victims of affirmative action unless they're treated even worse than whites, meaning that whites actually benefit from a form of affirmative action.[12]

This is the big lie. It's such a shocking way to treat Asian Americans that it's hardly ever noticed. If you go back and look at the coverage of the Lowell High School case right across the Bay, the flagship career public high school in the city of San Francisco, you'll find that when that was being litigated, the Chinese and Japanese, Chinese American and Japanese America students seeking admission under the selective standards had to score better than Blacks and Hispanics—yes, that is true—and better than Caucasians.[13]

What is odd about this, though, is no one ever notes the presence of this negative action, this affirmative action for the white applicants. It very rarely surfaces in public discourse because, I would suggest, perhaps it

11. WU, *supra* note 1, at 143.

12. 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, 20 (1996).

13. Frank Wu, *Preferential Pawns: Anti-Affirmative Action Interests Use Asian-Americans for Political Gain*, THE RECORDER, July 7, 1995, at 1.

seems only natural that when our attention is directed to issues of race, we tend to blame African Americans and Hispanics. It seems almost nonsensical to suppose that the majority somehow has created this situation for Asian Americans when we ourselves strive to join that majority.

My first point, my first question to you is: whether or not we as a community, whether we as individuals, for whatever reasons we may have, instead of rejecting the model minority myth have either inadvertently or deliberately embraced it, and said that, yes, we will overachieve, that yes, it is racial or cultural, it is ingrained, perhaps it is immutable, that there is something about what we have done here that warrants our disproportionate representation in certain fields while we ignore the disparities within, the disparities across disciplines, and the term Asian American itself masking internal differences.

Second, the other image, the predominant theme running through the history of Asian Americans from the very first arrivals—this is, obviously, 1830s to this day—is the Perpetual Foreigner Syndrome. This sense that we cannot possibly belong is exemplified by the internment of Japanese Americans, 120,000 individuals, two-thirds of them born in this nation and therefore citizens, that we could not be trusted, that blood will tell, that we truly would be actually loyal to the emperor of Japan or to some other sovereignty or that we could never assimilate, that we would not be Christian, could not speak English, could not truly join, did not understand democracy, were inscrutable, would not somehow wish for the same freedoms that others whose forbearers had come on the Mayflower wish for.[14]

It is demonstrated in the cases in 1922 and 1923 of *Ozawa* and *Thind*,[15] long forgotten cases until a member of this faculty, Ian Haney López, analyzed them and showed how the United States Supreme Court actually took on the very question of who qualified as white, who was Caucasian.[16]

In one case, the Court held without difficulty that someone of Japanese descent, though literally white, and though assimilated, wasn't Caucasian, and therefore couldn't naturalize, couldn't overcome a racial bar by which he had to prove he was a free white person.

Within a year, then looking at someone of South Asian descent who argued that, biologically, that according to all of the latest science, he wasn't just Caucasian—he used a term that's been discredited since—he said he was actually Aryan. And the Court then said, sure, it may well be true that according to some social scientists, you would be Caucasian or Aryan, but nonetheless, to the man on the street, the average passerby,

14. GREG ROBINSON, A TRAGEDY OF DEMOCRACY 13 *passim* (2009).

15. Ozawa v. United States, 260 U.S. 178, 189–98 (1922); United States v. Thind, 261 U.S. 204, 206 (1923).

16. IAN HANEY-LOPEZ, WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE 56–78 (2006).

you're not white in the sense that we mean, and therefore you, too, are ineligible to citizenship.

These were cases in which the court quite explicitly said that there is a community, that we the people defines this nation and that has boundaries, and that those boundaries are racial and ethnic in nature, that they are based on ancestry and blood, not based on culture or ideals or whether you subscribe to the Constitution and Bill of Rights. But for so long, many of us have fought the Perpetual Foreigner Syndrome, insisting that we are not Orientals, not Asians, not foreigners, but Asian Americans, a term coined in 1968 by scholar Yuji Ichioka,[17] a term that embraces a pan-ethnicity that is absent altogether in Asia where there is no love lost amongst those who here are told, "You all look the same." The Chinese hate the Japanese, and on and on and on.

The term "Asian American" says that here in the United States, we will embrace what is dismissed as idealism or imperialism across the Pacific, and we will insist that we are American, not just that we are Asians that have come here as sojourners and temporary residents whose hearts belong elsewhere, but that we've put down roots. We have established families. There are now sixth-generation Californians of Asian descent who play baseball and eat apple pie and do whatever else you want to do as the symbol of true belonging to this nation and its cultural traditions.

And yet here, too, I have my doubts. I wonder if maybe I've gotten it wrong because as I look at the students who we teach across the Bay, as I look at campuses such as this, I see something that's actually exciting, that's worthy of praise, that's much more complicated than the simple standard of assimilation into a bland American identity. I see, instead, people who are transnational, who are bi-cultural in a full sense, one that I could never claim.

Every time I visit China or Taiwan or Hong Kong, I realize my mother was right; I should've paid attention in Chinese school. My friends who are white, who lament the possibility that China will rise as a rival to America sometimes say to me, "That would really work out well for you," to which I want to say: are you crazy? If that happened, that would mean every choice my family has made for three generations turns out to be wrong. I'm just sunk if China were ascendant and America descendant. My grandparents fought communism, and then fled from mainland China to Taiwan. My parents emigrated from Taiwan to the United States. I put down roots here, being born here and being brought up in a suburb of Detroit, Motor City, and like so many of you in this room, being unable in some way, and perhaps as a child unwilling, to have retained the cultural heritage that some would assign to me.

17. K. Connie Kang, *Yuji Ichioka, 66; Led Way in Studying Lives of Asian Americans*, L.A. TIMES, Sept. 7, 2002.

That was a model that, I think, existed certainly in the 1970s before multiculturalism had been invented as a term, certainly in the Midwest where there was no critical mass of people with this color of skin, this texture of hair, this shape of eyes, where the Vincent Chin killing took place. But now, in 2015 in California, the whole world has changed.

It is dazzling, it's dizzying, and sometimes I am taken aback myself to see that there are those individuals who we welcomed in the 1L class who were not just fluent at the level of cocktail party chit-chat but who could conduct business in not just two languages, but three languages or more. There were those individuals who had spent significant parts of their lives on two continents, who are part of the 1.5 generation, who could not answer and should not be forced to declare a single place of origin. Never mind the umbrage you take at the question: where are you from? Where are you really from? The entire framework of supposing that each of us is just from one place may be outmoded, flawed, outdated, just not true to the world that we inhabit now.

The second point of doubt for me is that I wonder if everything I have insisted upon all these years—that I am an American—if it is as nonsensical to those in Asia as it is to my neighbors in Detroit in the 1970s. For after a time when those of whom I've taught who are Chinese, and I have taught in China, though using the English language, they remark to me, "Well, you're really an American. You just look Chinese."

I'm not quite sure what to make of that. I suppose they mean that as a compliment. I can't be sure. The demographic change here in America has proceeded apace exactly as you would expect it to. There's been intermarriage. There are now Asian Americans who could trace their roots to the Mayflower, and when I say that people look at me as if to say, well, the rest of what you said was silly enough, but that's just absurd. But it is true. There are Asian Americans who can trace their roots to the Mayflower for the simple reason that their roots can be traced around the world. They are the progeny of mixed marriages again and again and again, so that it's not clear what exactly their bloodline is. They are truly products of the New World.

There are Asian Americans, too, who have adoptive parents who are white, who are Jewish, who have raised them in a tradition that would have been unrecognizable, if not an anathema, to their biological ancestors if you go back far enough, yet who in their own way, lead entirely authentic lives of their own within families that have nurtured and cared for them.[18]

This suggests that there is a different type of way of being Asian American. It is not simply to insist that I am not the model minority or perpetual foreigner, not in a negative sense, but perhaps we could embrace

18. *See, e.g.*, Andy Newman, *A Chinese Orphan's Journey To a Jewish Rite of Passage*, N.Y. TIMES, Mar. 8, 2007, at A1.

this notion that Asian America is being made and remade again and again and again, in the same way that for white ethnic groups before us, ethnicity becomes almost symbolic. St. Patrick's Day was this week, and for a day we're all Irish, right? And we celebrate that. People wear buttons that say, "Kiss me, I'm Irish," and still buy signs that say, "Parking reserved for the Irish only."

It is yet, though, to be seen whether that same sentiment will carry over to the Chinese, whether we will have those same buttons, the same signs, or whether we will have instead those negative instances such as in places—Pekin, Illinois, where the high school mascot for the team was the "Chinks."[19] No, I'm not making that up. You can Google it.

And where these notions of performing in "yellow face," of adopting another's identity and cultural traditions are not so respectful. They are not so embracing and positive, but instead are pejorative and dismissive, and caricatured. Nonetheless, these are the changes that we see, and so I wonder if maybe what is happening now is that even as we explode the black-white paradigm, we remain in its grip in this way.

Now, I'll close with another quote and a reflection, and then I'd like to engage in dialogue. I wonder if, even as Asian Americans are accepted in a way that I would not have been—I never would have thought, nor would my parents have thought, that I could make a living as a lawyer, much less as a law professor, much less heading a law school, because law is so different than what my parents were trained in. Law is culturally determined. It depends on language. It depends on our being able to persuade others, and my parents, who spoke with accents though they wrote grammatically perfect English which, by the way, just makes you more of a foreigner; the only people who write grammatically perfect are those who studied it and learned it, and were corrected and disciplined until they had mastered it.

Well, they knew that, for them, they'd have to seek refuge in numbers because engineering, science, technology, mathematics, that would be the same no matter where you were. They figured that they wouldn't face the sort of bias who would catch someone who didn't laugh at the right time at television or who didn't know what fork to pick up at a fancy dinner. Yet, it turns out that even in fields like that, STEM fields, there is a glass ceiling. As Asian Americans, we reach a certain level but don't get promoted beyond middle management, and then it turns out that those of us who were born here, who are assimilated, though we face our own barriers—it is not automatic, this acceptance—nonetheless, we can break through in a way that wouldn't have been thought possible. It isn't just that we're good at math and science. It is that we can prevail as advocates. We can be trial

19. Bob Dyer, *'Orientals' not the same as 'Texans'*, AKRON BEACON JOURNAL, June 18, 2011, http://www.ohio.com/news/orientals-not-the-same-as-texans-1.191567.

lawyers. We can be court lawyers. We can do the work that is done at a law school such as this just as well as anyone else regardless of origin. So, this success that we're achieved puts us in a precarious position. It gives us this choice, a choice of who we will be, what we will be, collectively and individually.

And here I return to a quote that when I read it made me really angry, but over time I've come to terms with this, and I think, actually, that this particular writer had a very important point to make that we would do well to consider. The Nobel laureate Toni Morrison wrote an essay at about the same time Michael Lind wrote his essay. And Toni Morrison, known for her novels *The Bluest Eye*, *Beloved*, so many others that were transformative of American letters, wrote an essay—not a work of fiction but an essay—just as this demographic change was becoming apparent, and she made a provocative claim of a turn of phrase that I could not duplicate. She asked whether, perhaps, the success of these new immigrants was "on the backs of Blacks."[20]

"On the backs of Blacks," and as I said, at the time, I read that and I thought, wow, Toni Morrison, someone who I respect, someone who I thought of as progressive, is advocating for racial justice—it was horrifying that she would see people like us, people like me, as somehow threatening in this way.

And over time, I wonder if maybe she didn't have it just right because the more Asian Americans become the new victims of affirmative action, the more Asian Americans become a voting bloc that might favor candidates who will attack affirmative action, the more Asian Americans who make these political choices, the more they behave like whites, and we're right in the middle. If you look at the data, and I know there are others who are real social scientists who know this far better than I do who are in this room, the data suggests, to me at least, that Asian Americans are about in the middle. Yes, we face housing discrimination and so on, but on average, with significant variation among ethnic groups, we don't—and I know we don't want to compare suffering—but we don't have it quite as bad as African Americans and Hispanics, on average. Now, the same is true with so many aggregate measures that we might look at.

We are inching toward likeness to whites in this way, but here's where I would close, on this thought, that as we, Asian Americans, make it, as we are accepted, and perhaps we are accepted specifically, expressly because of the position we take on affirmative action, that this turning point, this moment, gives us an opportunity, a choice that we face, signs to take, as we're so often asked: does that now in its own way reveal that there are two sides? The choice must be made, that at the end of the day it isn't race

20. Toni Morrison, *On the Backs of Blacks*, TIME, Dec. 2, 1993, http://content.time.com/time/magazine/article/0,9171,979736,00.html.

beyond Black and White, no matter whether we like it or not, however we choose to write the scripts of our lives, we are nonetheless forced to confront this American legacy, this burden of the discrimination of the past, of chattel slavery, of Jim Crow, of everything that is wrong with this great society of ours, and we then must choose. When we talk about affirmative action, when we talk about Ferguson, when we talk about anything else, when we look at the 1992 Los Angeles riots or uprising—the very choice of term indicating our stance—which side will we choose? Thank you.

QUESTION AND ANSWER PERIOD

Moderator: We'll now open the floor for questions or comments for the dean.

Wu: I promise not to do what law professors do. I will not say, "That's a good question. What do you think?" If you ask me a question, I will actually answer it. I will do my level best. It's a rare opportunity. You know, law professors, we take a pledge when we become a law professor: never again answer a question.

Audience member: Hi, Dean Wu. So, when you said "make a choice," what are the actual things people can do to make that choice? Does that mean voting? Does it mean talking to your friends? Does it mean organizing your neighbors?

Wu: I'll give you three very concrete examples.

First, here's something that happens. If this has not happened to you, it will. You get to go to a meeting, a meeting of important people. At one of those meetings, when you show up, they want to say, "No, no, you're meeting's down the hall." Because you don't quite look like you belong in that meeting where decisions will be made. And in a meeting like that, there'll be some conversation beforehand, some chit-chat. People will get to know one another, and somebody might say something. They're not going to use the "N" word. They're more sophisticated than that, although as it turns out, some people aren't. But they might say something about "those people." They might say something about current events. They might say something about people who "deserve to be shot," and so on. You have a choice. You can go on. You can laugh at the joke. You can say, "That's right." You can join the club in that moment by how you respond or you can say, "I'm sorry, excuse me? What was that you just said?" Or you can be more aggressive than that in your response, and you might not be invited back to that room for that meeting where important decisions are being made. That's the first example. It's easy for us.

You know, I love the San Francisco Bay area. This is a place where people can truly define themselves. When my wife and I—well, actually, my wife is Japanese American, from St. Louis. She's also from the Midwest. When we arrived here, we remarked to one another: look at all these Asians! We hadn't been someplace with that many Asians, and I

don't just mean Asians. I mean people who, and that's a pejorative phrase, are "fresh off the boat" to people who are more assimilated than I am, right? I mean, our next door neighbors are third-generation Chinese Americans. I am quite sure they know far less Chinese put together as a couple than I do, and that's remarkable to me because they're about the age of my parents, and I say this not discouragingly. It's just, I hadn't grown up around this diversity. The bank teller, the firefighter, the cops are all Asian.

You know, when my wife and I moved here to look for a place to live, we went to brunch. We were on East Coast time. We went to breakfast about 6 am at one of the few places that was open, and these four burly cops come in, just coming off their shift. Three of the four burly guys—I mean, these were big guys—are Asian American. You know, Asian Americans in law enforcement—I would wager the city of Detroit, the entire city of Detroit—heck, count the suburbs—there's probably one Asian American cop total, ever, right? And here it's totally normal.

What does that have to do with anything? That's a caveat because the rest of the world isn't like this. Get in your car and drive one hour. All you have to do is drive one hour. Drive to Bakersfield, Fresno, Sacramento. You don't have to get very far. Drive through a suburb, the most distant suburb of San Francisco in Contra Costa County, and you will encounter people who will look at you. You will encounter people who will want to touch your hair because they just want to know what it feels like. You know, you'll get the "ching-chong Chinaman" stuff, the kung fu moves on the sidewalk, and all of that. So, it's easy to forget it here but there's so many places you can go.

Suddenly, this isn't a hypothetical that law professors make up. This is the sort of thing you'll just confront when you least expect it. You know, when two people go for the same parking space and then you get it, and they roll down their window: "Go back to where you came from!" You know, "you Asian drivers," and on and on and on, right? And you're thinking, wow, this is about a parking space and suddenly it's a racial incident, right?

The second is exactly what you suggest. Which way will we vote? How will we encourage our cousins to vote? How will we talk to them about affirmative action? Because I've been in settings, social settings, and you have been, too. People flatter me and they will flatter you. They say, "Well, you're a law professor. You might know something about this." They'll say to you, "You're a law student. You must know something about this," and then they'll say, "How come all these unqualified Blacks and Hispanics are getting into Berkeley?" Right? And the very framing of it, it doesn't just show where they're coming from. It shows how they've made up their mind.

That's the opportunity, in how you vote and how you talk about these issues, and how you frame them. So much of this is invisible. One of the

things we teach you in the first year of law school—you've already forgotten, those of you who are 2Ls and 3Ls, it comes naturally—we teach you when you're writing your very first brief that the question you present practically determines the answer you get. That's why you would labor over it, why in the Supreme Court, the advocacy about how to phrase, what are the issues that have come before the court, and that's so important because if you frame this as: "Aren't Asian Americans the innocent victims of affirmative action?" you've answered the question. But if you frame this as, "What will we do as a society to address racial discrimination and racial disparity affecting especially people of color?" that's an entirely different framing. Anyone who does survey research will tell you, paradoxically—seemingly, but not really—that people will answer that they are all in favor of diversity, opportunity, critical mass, representation, and entirely against affirmative action and quotas. They're all in favor of the outcome; they're just against the methods. They like the ends that we want to achieve. They're idealistic. They just don't like the means that are necessary to get there.

Third—another way that this arises is in a conference such as this. Do you come to something that's labeled as Asian American? Do you work on the journal? Do you identify yourself in this way, in a way that your ancestors would not and some of your cousins would not? Do you, if you have these opportunities, say and articulate your identity in these terms? Or is it something that you distance yourself from, where you state that's not me, those are some radicals? Is it something that for you is a meaningful part of your life, these opportunities to engage in and create community? And more than just among Asian Americans because to say you're Asian American is not a small thing. It is to say that you will align yourself with the people who your grandparents were at war with their grandparents, right? But will you then reach out further?

Will you say that, well, after this symposium, after this event, I'll go to an event sponsored by the BLSA (Black Law Students Association) not just to check it out, but I'll actually go. I'll join. I'll become a member. I'll take part in activities. I will embrace this cause because it is my cause. It just has a different face on it, and that step isn't easy. I don't mean to suggest that we all have to do this or that we can do it without difficulty. It's frustrating. It makes people angry. You know, to have to go to that many meetings makes people frustrated. But it makes people angry because sometimes you'll show up someplace and people will tell you you're not wanted. If people said this to me as they've said this to you: "You're not a minority. You're not the type of minority that we need?" Right? And you want to ask them: what type of minority do you need? That's actually a worthwhile question, not just rhetorically, because it gets us to ask, what are the real issues here? What is actually at stake? Is it the thought of temptation? Because as angry as it makes me to be told that I'm not a

minority, and I'm not like either so I just don't exist or belong, it also makes me angry when people who are confronted, and I understand they feel it's offensive—sometimes this happens to people in my group, perhaps people on this campus, get asked, "Why don't you have more African Americans and Hispanics as professors, as deans, as graduate students, as undergraduates? You have none in this entire program." And their instant response is, "Oh, but look at all these Asians!" That makes no sense whatsoever, right? It makes no sense just at a logical level because the fact that you have a bunch of Asians doesn't mean that you're not discriminating against African Americans or Hispanics. It doesn't mean anything at all, but that move, that shift deliberately—maybe not deliberately—but effectively pits Asian Americans on the one hand and African Americans and Hispanics on the other hand because it suggests we're fungible and not individuals, that this is tokenism, it's symbolism. All we need to do is show a certain number and we're all set. There are actual issues here that matter.

So, in my view, I would say this is true of my institution and this institution, and I'm willing to be held accountable. There's something wrong with a public institution of higher education that has no African Americans or Hispanics or Southeast Asians, or if it has one per section. Now, I'm not making up these numbers. If you look at California law schools right after the passage of Prop. 209 in 1996, the numbers of some demographics have dropped to zero or one.

I don't have a highfalutin constitutional law theory as to why that's wrong. There's something wrong with that, and however you want to look at it, and I'm not saying we need proportionality or quotas or something like that. I'm saying that's it's not the same to have a society that looks as it does, and classrooms and meetings of deans and other important people that look as they do. Sooner or later, somebody is going to notice, and they're going to say something, and it won't be very nice. So, there, too, we have a choice of which side we stand on.

Anyway, we have time for just one last question, then I know there's a whole panel of guests. Oh, by the way, anything I don't answer, the panelists afterwards will take care of. They're all friends of mine.

Audience member: Thank you so much. I just have a question because the title of the lecture is "Are Asian Americans Now White?" So, I'm asking if maybe you could expand a little bit on, particularly taking into account gender, so I ask: are Asian American men more white or are Asian American women more white in the kind of question of assimilation or respectability politics or even the fight for or against affirmative action?

Wu: Yeah, that's a good question because there are gender issues involved here, right? There's the whole emasculization of Asian American men. "Oh, he's not gay, he's just Asian," right? There's the exoticization of

Asian women. You know, the geisha image, the "open the kimono" phrasing in business transactions, and so on. So, gender is very much a part of all this.

Consider this. How about Keanu Reeves and Tiger Woods? I assume you're familiar with who these folks are. Keanu Reeves isn't just white. He's an archetype of white. Keanu Reeves' first big movie was "Bill & Ted's Excellent Adventure."[21] Now, as a law school dean, I have to condemn stoner movies but I can't think of a more characteristic movie of its kind. Keanu Reeves is—I can't remember if he's Bill or Ted. It doesn't matter. They probably don't recall themselves. He doesn't just play a white guy. He plays a southern California dude, right? He's quintessentially 1980s, southern California, stoned, blasé—he could not be more white, a white guy hanging out at the mall.

Except Keanu Reeves is half Asian. His father was Hawaiian Japanese, and yet, in movie after movie—"Point Break,"[22] 1989, directed by Kathryn Bigelow, best zen surfer movie ever made. It's a shame they're remaking it. A definitive movie, right? You would only know Keanu was half-Asian if you were a real fan of wooden acting, right? No, actually, let me be clear: I'm a huge fan.

If Keanu Reeves could be cast as Johnny Utah, he's quintessentially white, right? There's no ethnicity to it. I'd say he was Johnny Utah, right? "Street Kings"[23] a neo-film noir, from a few years back, set in Los Angeles. He did not just play a white guy. Keanu Reeves plays a bigoted white guy who uses racial slurs in the first 90 seconds of the movie, racial slurs directed toward Asians.

"The Matrix," great trilogy—well great movie, two bad sequels—nobody knows about Keanu. He's a closeted Asian guy, right? He has passed. He's white.

Compare Tiger Woods. Tiger is famously of mixed race background, right? Youngest golfer to win the Masters, he goes on the Oprah Winfrey show, talks about being "Cablinasian,"[24] made up this word for himself because he's Caucasian, Black, Native American, Asian.

We have all forgotten this because he's become such a superstar. He's known by only one name. That's how you can tell these guys have made it. One name, you know who it is.

Tiger Woods is not quite half Asian. It's not quite clear, proportionally, what he is, and that's part of the mystery, right? Because after he becomes this phenomenal superstar athlete, there's this unseemly fight—totally forgotten now, but you can go back and take a look.

21. BILL & TED'S EXCELLENT ADVENTURE (Orion Pictures and Nelson Entertainment 1989).

22. POINT BREAK (Largo Entertainment and JVC Entertainment Networks 1991).

23. STREET KINGS (Fox Searchlight Pictures 2008).

24. Gary Younge, *Tiger Woods: Black, white, other*, THE GUARDIAN, May 28, 2010, http://www.theguardian.com/sport/2010/may/29/tiger-woods-racial-politics.

There's a fight between African Americans and Asians about who gets to claim Tiger Woods's image. Is he Black? Is he Asian? What is he, right?

And so, African Americans say, well, he talks about trying to play on segregated golf courses, and it would be a shame if having made it, he distanced himself from Black people. There's something morally reprehensible about that, making it and then distancing yourself from all that is Black.

Then Asians responded with, and I'm not making this up, Asians responded with: yes, but mathematically, he's more Asian than anything else. Can you talk about a more stereotyped argument? He played for the Thai national team, he's a Buddhist, and then some people actually said: and if you look from the eyes up, you know, he's sort of Asian.

So then, the defining moment—I have not made anything up. You can Google all of this. After he wins the Masters, the Masters has got all of these traditions. The person who wins the Masters gets to pick the dinner menu for everyone who's competing.

You may recall, there was another contestant twice Tiger Woods's age named Fuzzy Zoeller. Fuzzy happened to be Southern, and trailed by camera crews who asked him—he'd just been defeated by Tiger Woods, as had dozens of other veterans of the PGA—Fuzzy was asked: well, what do you think of this guy Tiger Woods? He's only 18. Fuzzy Zoeller—he would later apologize tearfully, and he would explain he didn't know he was being recorded—and this is someone who actually knows Tiger Woods, the human being, not like the rest of us, someone who's competing against Tiger Woods. Fuzzy Zoeller says to the camera crew, "You tell that boy"—now, that's interesting. Does he mean "boy" as in young person, younger than me, or does he mean "boy" the way Southern gentlemen have used "boy" for a long time, which is pejoratively? "You tell that boy not to serve fried chicken and collard greens at the dinner."[25] So in Fuzzy Zoeller's eyes, never mind that Tiger Woods is, I don't know, three-eighths Thai and Buddhist. He could've said: tell that boy not to serve lemongrass chicken and tofu. But he didn't say that. He identified Tiger Woods as Black.

So, what's my point? My point here is Keanu Reeves is white, Tiger Woods is Black, but they're both Asian. How did that happen? Because we're forced toward these poles, and that's where we end up boxed in. When you add gender, it does become much more complicated, and some of these same patterns reappear but then there's this added layer of sexual submissiveness and all these other images that aren't new. They've been around for decades, if not centuries.

Thank you. It's been an honor.

25. WU, *supra* note 1, at 294.