

2017

Bringing the Aliens Home: The Influence of False Narratives on Judicial Decision Making in the Amerasian Context

Trúc Doan

Follow this and additional works at: <http://scholarship.law.berkeley.edu/aalj>



Part of the [Law Commons](#)

Recommended Citation

Trúc Doan, *Bringing the Aliens Home: The Influence of False Narratives on Judicial Decision Making in the Amerasian Context*, 24 *ASIAN AM. L.J.* 69 (2017).

Available at: <http://scholarship.law.berkeley.edu/aalj/vol24/iss1/3>

Link to publisher version (DOI)

<http://dx.doi.org/>

This Article is brought to you for free and open access by the Law Journals and Related Materials at Berkeley Law Scholarship Repository. It has been accepted for inclusion in Asian American Law Journal by an authorized administrator of Berkeley Law Scholarship Repository. For more information, please contact jcera@law.berkeley.edu.

Bringing the Aliens Home: The Influence of False Narratives on Judicial Decision Making in the Amerasian Context

Trúc Doan[†]

INTRODUCTION	69
I. MAKING THE ‘REFUSE OF WAR’: A HISTORICAL OVERVIEW OF THE AMERASIAN HOMECOMING ACT	71
II. FALSE NARRATIVES	75
A. The Orphan Street Child	75
B. The “Miss Saigon”	79
C. “American Blood” / “American Face”	82
III. INFLUENCING JUDICIAL DECISION MAKING	86
A. <i>Chau v. I.N.S.</i> and <i>Chau v. U.S. Department of Homeland Security</i>	87
B. <i>Van Tran v. Colson</i>	89
C. <i>Brue v. Gonzales</i>	91
D. <i>Nguyen v. I.N.S.</i>	92
IV. “WE GO TOGETHER OR NOT AT ALL”: THE STORY OF ONE AMERASIAN	94
CONCLUSION	95

INTRODUCTION

*“[W]here the state has claimed a monopoly of truth . . . individual lives bear witness against the state.”*¹

*“God Almighty Himself hates the hybrid.”*²

In the genesis narrative of the Amerasian Homecoming Act of 1987 (AHA),³ Audrey Tiernan, a photographer for a Long Island newspaper, saw a teenage boy begging on the streets of Vietnam. Tiernan snapped a photo of the boy, Le Van Minh, and published it in *Newsday*.⁴ The photograph is

DOI: <https://dx.doi.org/10.15779/Z38G73734D>

Copyright © 2017 Regents of the University of California.

[†] J.D., 2016, UC Berkeley School of Law. I would like to thank Professor Leti Volpp, the *Asian American Law Journal*, and, always, my Ma and Ba. Ăn quả nhớ kẻ trồng cây.

1. VIEDA SKULTANS, *THE TESTIMONY OF LIVES: NARRATIVE AND MEMORY IN POST-SOVIET LATVIA* 28 (1998).

2. 51 CONG. REC. 2783 (1914) (statement of Rep. Slayden).

3. Amerasian Homecoming Act of 1987, H.R. 3171, 100th Cong. (1st Sess. 1987).

4. David Lamb, *Children of the Vietnam War*, SMITHSONIAN MAG. (June 2009),

striking not only because Le was on all fours as a result of his polio, but because Le had “long lashes, hazel eyes, a few freckles and a handsome Caucasian face.”⁵ Le was an Amerasian, the child of an American abroad and an Asian alien.⁶ Upon seeing this photo, four Long Island high school students petitioned Robert Mrazek, their congressman and a Vietnam veteran, to bring Le to the United States. As a result of the efforts of the heartbroken photographer and the idealistic students,⁷ Mrazek brought Le Van Minh to the United States, where he placed Le in the care of non-Vietnamese foster parents.⁸ Mrazek then worked with Representative Thomas Ridge of Pennsylvania to draft legislation that would eventually become the AHA.⁹ Not only did Mrazek play a vital part in the eventual immigration of tens of thousands of Amerasians and their family members to the United States, he saved an orphan street child and gave him a family.¹⁰ The only blemish on this flawless genesis narrative is the evidence that Le Van Minh was not an orphan.

According to Nguyen Quang Phong, the Vietnamese official who brought Le Van Minh to Mrazek when the congressman flew to Vietnam, Le had a mother and siblings who relied on his income from begging.¹¹ After Mrazek flew Le out of Vietnam, Le’s family “almost starved to death” until they were allowed to join him in the United States a year later.¹² As the Vietnamese official in charge of the Orderly Departure Program in the 1980s, Nguyen certainly had the incentive to embellish elements of Le’s story to further demonstrate the “heartless” actions of the Americans, but the silence on this version of Le’s story is indicative of the

<http://www.smithsonianmag.com/people-places/children-of-the-vietnam-war-131207347/?all>
[\[https://perma.cc/A5U3-C9U9\]](https://perma.cc/A5U3-C9U9).

5. *Id.*

6. The term “Amerasian” was first coined by author Pearl S. Buck in 1930. MaryKim DeMonaco, *Disorderly Departure: An Analysis of the United States Policy Toward Amerasian Immigration*, 15 BROOK. J. INT’L L. 641, 641 n.2 (1989).

7. During an address to the House of Representatives, Mrazek stated that his mission to rescue Le Van Minh was the “result of a campaign begun by an idealistic group of students.” 133 CONG. REC. 13327, 13327 (1987) (statement of Rep. Mrazek). Tiernan characterized herself as heartbroken in a later interview, recalling that when she looked down and saw Le Van Minh, “[i]t broke [her] heart.” Lamb, *supra* note 4.

8. See THOMAS A. BASS, VIETNAMERICA: THE WAR COMES HOME 45 (1996); Lamb, *supra* note 4.

9. TRIN YARBOROUGH, SURVIVING TWICE: AMERASIAN CHILDREN OF THE VIETNAM WAR 101 (2005) (hereinafter “YARBOROUGH, SURVIVING”); J. Kirk Felsman & Mark C. Johnson, *For Amerasians, a Welcome Mat Is Not Enough*, L.A. TIMES (Jan. 23, 1989), http://articles.latimes.com/1989-01-23/local/me-631_1_vietnamese-amerasians/ [<https://perma.cc/7GXJ-4JVL>].

10. According to Representative Dale Bumpers, “Congressman Mrazek made the journey to rescue from the streets of Ho Chi Mihn [sic] city—formerly Saigon—a young 15-year-old Amerasian boy, Le Van Mihn [sic]. Mihn [sic], who suffers from polio, was forced to live a life of desperate survival after his mother cast him out on his own at age 11.” 133 CONG. REC. 22923 (1987) (statement of Rep. Bumpers).

11. BASS, *supra* note 8, at 69, 71.

12. *Id.* at 71.

tension between the popular narratives surrounding Amerasians and their lived experiences.

This Note suggests that when these popular narratives are compared to the lived experiences of Amerasians, scrutinized in the legislative and historical context of the AHA, and situated in the larger framework of Asian American history, many of these popular narratives are unmasked as “false narratives.”¹³ This Note then argues that these false narratives do not exist in an abstract vacuum, but have a tangible legal effect in their influence on judicial decision making. Part I of this Note will present a historical overview of the AHA, its goals and implementation, as well as an overview of programs that preceded the Act. Part II will then analyze three “false narratives” surrounding Amerasians—(1) the orphan street child, (2) the “Miss Saigon,” and (3) the “American blood”/“American face.” Finally, Part III of this Note will examine cases in which the plaintiff or the defendant is an Amerasian to determine how these false narratives may influence judicial decision making.

I. MAKING THE ‘REFUSE OF WAR’:¹⁴ A HISTORICAL OVERVIEW OF THE AMERASIAN HOMECOMING ACT

The processing and eventual immigration of Amerasians to the United States did not occur in isolation, but as a component of larger movements within the Vietnamese diaspora. The years following the Fall of Saigon on April 30, 1975 witnessed the bleeding of Vietnamese refugees out to sea. President Gerald Ford had implemented “Operation Babylift,” which airlifted hundreds of Vietnamese children out of Vietnam in the weeks prior to the Fall of Saigon, partly out of concern that the end of the Vietnam War would herald in an era of mass executions by the Viet Cong. While mass executions on the scale of millions did not come to pass, the new communist regime executed over 65,000 citizens, sent over a million Vietnamese to “re-education camps,” which primarily functioned as labor camps, and forcibly relocated over a million Vietnamese from the cities to New Economic Zones, where they struggled to grow food in nonarable land for a starving population.¹⁵ These actions by the Vietnamese

13. I use “false narrative” here to mean convenient claims that are repeated and retold, despite lacking in veracity. Although these false narratives, like stereotypes, may be true for a small minority of individuals in the group to which they are applied, their broad false brush is ultimately damaging.

14. See Ronald E. Yates, *Amerasian Children Living ‘Ghosts’ of Viet War*, CHI. TRIB. (May 13, 1985), http://articles.chicagotribune.com/1985-05-13/news/8501290939_1_vietnamese-viet-war-american-soldiers/ [<https://perma.cc/EJK8-QKZ7>] (“[T]he Americans regard these children in much the same way as they regard all those decaying helicopters and tanks they left behind. They are simply the refuse of war. They are like used and outdated military equipment. You throw it away. But here in Vietnam, we still have all the wreckage.”).

15. See NATHALIE HUYNH CHAU NGUYEN, *MEMORY IS ANOTHER COUNTRY: WOMEN OF THE VIETNAMESE DIASPORA* 30 (2009); YARBOROUGH, *SURVIVING*, *supra* note 9, at 45. The Vietnamese who were forcibly moved to New Economic Zones left behind property, which was then seized by the

government,¹⁶ coupled with the systematic oppression of former South Vietnamese and ethnic Chinese, led to the “boat people” crisis, wherein thousands of Vietnamese either escaped by boat or perished in the effort.

On May 31, 1979, the United Nations High Commission for Refugees (UNHCR), along with forty nations including the United States, created the Orderly Departure Program (ODP) as a way to reduce the deaths of Vietnamese refugees at sea.¹⁷ Through the ODP, the UNHCR and the Vietnamese government processed Vietnamese refugees under one of three categories: (1) Vietnamese with family members in the United States, (2) Vietnamese who were former government employees of the United States, and (3) Vietnamese with close ties to the United States “not otherwise defined by the first two categories.”¹⁸ Although Amerasian children were not originally included within the purview of the ODP,¹⁹ Don Colin, former head of the American ODP office in Bangkok, compiled a list of 3,000 Amerasian names and pushed the United States to include Amerasians under the third ODP category, as persons with close ties to the United States “not otherwise defined.”²⁰ Simultaneously, a group of Vietnam veterans and volunteer organizations pressured the Reagan administration and Congress to take action on behalf of the Vietnamese children left behind by American servicemen in Vietnam.²¹ In 1982, Senators Stewart McKinney and Jeremiah Denton introduced and successfully pushed Congress to pass the Amerasian Immigration Act (AIA),²² which granted top immigration priority to the children of American fathers in Vietnam, Korea, Laos, Cambodia, and Thailand.²³

Under the auspices of the AIA, Amerasians could immigrate to the United States provided that they already had American sponsors and were willing to renounce ties to their Vietnamese families.²⁴ Because the AIA

North Vietnamese. See BASS, *supra* note 8, at 14. An Amerasian woman described her experience in a New Economic Zone in the following manner: “They gave us a house with a mud floor and walls made of coconut leaves. We had to become rice farmers, although we had never planted rice before, and we almost starved to death waiting for the first harvest.” *Id.* at 180.

16. Hereinafter, “Vietnamese government” will refer to the government of the Socialist Republic of Vietnam.

17. PAUL JAMES RUTLEDGE, *THE VIETNAMESE EXPERIENCE IN AMERICA* 64 (1992); see also BASS, *supra* note 8, at 3.

18. RUTLEDGE, *supra* note 16, at 65.

19. BASS, *supra* note 8, at 37 (noting that in the original protocols establishing the ODP, there was no mention of Amerasians).

20. *Id.* at 38.

21. See CHUNG HOANG CHUONG & LE VAN, *THE AMERASIANS FROM VIETNAM: A CALIFORNIA STUDY* 6 (1994); *Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 2 (1982) (statement of Sen. Kennedy).

22. Amerasian Immigration Act of 1982, Pub. L. No. 93-359, 96 Stat. 1716.

23. See CHUONG & LE, *supra* note 21, at 10.

24. See *id.* at 11; see also JAMES M. FREEMAN & NGUYEN DINH HUU, *VOICES FROM THE CAMPS: VIETNAMESE CHILDREN SEEKING ASYLUM* 155 (2003).

required the biological Vietnamese mothers of Amerasians to sign irrevocable releases to their children, it forced Amerasian children, many of whom were still minors, to choose between their families and immigration to the United States.²⁵ The lack of diplomatic relations between the United States and Vietnam worked as a further impediment to the successful implementation of the AIA. The absence of an American consulate in Vietnam prevented the United States from conducting interviews for AIA applicants in that country.²⁶ In addition, the United States insisted on categorizing Amerasians as Vietnamese refugees, in spite of the Vietnamese government's claims that Amerasians could not be refugees because they did not suffer from official persecution and furthermore, were abandoned American citizens.²⁷ As a result of this disagreement and the backlog created by the lack of diplomatic relations, the Vietnamese government placed a moratorium on the processing of Amerasians through the ODP in 1986.²⁸ Although approximately 4,500 Amerasians and 7,000 of their relatives were able to immigrate from Vietnam through the ODP between 1982 and 1988,²⁹ many scholars consider the AIA ineffective in bringing most willing Amerasians to the United States.³⁰ The ineffective AIA may have spelled the end for Vietnamese Amerasian immigration to the United States if not for, according to the popular narrative, the fateful meeting between Audrey Tiernan and Le Van Minh.

Congress passed the Amerasian Homecoming Act in 1987. Eventually codified as a statutory note to 8 U.S.C. § 1101, the Act provides that an alien residing in Vietnam who “establishes to the satisfaction of a consular officer or an officer of the Immigration and Naturalization Service after a face-to-face interview” that the alien was born between 1962 and 1976 and “was fathered by a citizen of the United States” may be issued an immigrant visa to the United States regardless of any numerical limitations created by the Immigration and Nationality Act.³¹ As a compromise to prior

25. See Bonnie Kae Grover, *Aren't These Our Children? Vietnamese Amerasian Resettlement and Restitution*, 2 VA. J. SOC. POL'Y & L. 247, 262, 264 (1995). Volunteer agencies have noted since the AIA's inception that this requirement may end up breaking apart the families of Amerasians. See Colin Campbell, *Doubts Expressed on Amerasian Law*, N.Y. TIMES (Dec. 22, 1982), <http://www.nytimes.com/1982/12/22/world/doubts-expressed-on-amerasian-law.html> [<https://perma.cc/ES68-QMG8>].

26. See YARBOROUGH, SURVIVING *supra* note 9, at 65; BASS, *supra* note 8, at 37–8.

27. See CHUONG & LE, *supra* note 21 at 13; BASS, *supra* note 8, at 41. Mai Chi Tho, former chairman of the Ho Chi Minh City Council, stated that there was “no discrimination against [Amerasians]” and that the “United States [was] the main obstacle in solving this problem” by only accepting a few hundred Amerasians a month. See Yates, *supra* note 14.

28. See CHUONG & LE, *supra* note 21, at 13; DeMonaco, *supra* note 6, at 644.

29. See Bernard Scott Lucious, *In the Black Pacific: Testimonies of Vietnamese Afro-Amerasian Displacements*, in DISPLACEMENTS AND DIASPORAS: ASIANS IN THE AMERICAS 127 (Wanni W. Anderson & Robert G. Lee, eds., 2005).

30. See DeMonaco, *supra* note 6, at 643–44.

31. Amerasian Immigration, Pub. L. No. 100-202, 101 Stat. 1320-184 (1987).

disagreements, the United States agreed to officially classify the Amerasians as immigrants, while granting them refugee benefits.³² The Vietnamese government allowed U.S. officials to travel to Vietnam from the Bangkok office to interview potential Amerasians and accepted half a million dollars to establish an Amerasian Transit Center in Ho Chi Minh City that was designed to house, feed, and clothe potential Amerasians as they underwent the program's interviewing process.³³ After proper preparations were put in place, the AHA went into effect on March 21, 1988.³⁴

Amerasians brought their families and all remaining supporting documentation to their interviews with U.S. officials. Despite the Vietnamese government's dissemination of information on the program in Vietnam, many Amerasians, as a result of living in the countryside or lack of funds, could not apply for the program.³⁵ After approval by the United States, Amerasians were flown first to the Philippine Refugee Processing Center, where they spent anywhere from six months to a year learning English and adjusting to their new lives in the United States.³⁶ Amerasians, upon arrival in the United States, were sent to one of fifty-five "cluster sites" and received three months of social services.³⁷ By utilizing the "cluster site" system, the United States sought to diffuse any potentially negative economic impact on a specific region.³⁸ Furthermore, the United States hoped to incentivize self-sufficiency by placing a time limit on social services received.³⁹ By the time the program began to die down in 1994, it had brought approximately 20,300 Amerasians and 56,700 of their relatives to the United States.⁴⁰ This number far exceeded the original projection provided to Congress, which estimated that there were at most 30,000 Amerasians and their family members residing in Vietnam.⁴¹ While it allowed for far more Amerasians and their family members to immigrate than the AIA, scholars have considered the AHA flawed because it did not

32. See BASS, *supra* note 8, at 45; Grover, *supra* note 25, at 264.

33. BASS, *supra* note 8, at 53; Patrick Mott, *The Amerasian Transit Center in Ho Chi Minh City Marks the First Stop in a Long Journey for the Children of Vietnamese Mothers and American GI Fathers to Claim an Uncertain Birthright in the U.S.: Haven's Gate*, L.A. TIMES (Feb. 28, 1992), http://articles.latimes.com/1992-02-28/news/vw-3174_1_amerasian-transit-center/ [https://perma.cc/W8HH-FH8K].

34. See *State Dept. Implements Amerasian Immigration Legislation*, 65 INTERPRETER RELEASES 212 (1988).

35. U.S. GEN. ACCOUNTING OFFICE, VIETNAMESE AMERASIAN RESETTLEMENT EDUCATION, EMPLOYMENT, AND FAMILY OUTCOMES IN THE UNITED STATES 3 (Mar. 1994), <http://www.gao.gov/assets/220/219318.pdf> [https://perma.cc/ZF9P-F63F] (hereinafter "USGAO").

36. See *id.*

37. See BASS, *supra* note 7, at 7-8; CHUONG & LE, *supra* note 20, at 24.

38. See CHUONG & LE, *supra* note 20, at 24.

39. USGAO, *supra* note 34, at 40.

40. FREEMAN & NGUYEN, *supra* note 23, at 155.

41. See USGAO, *supra* note 34, at 2.

grant citizenship to Amerasians,⁴² failed to adequately assist Amerasians in adjusting to life in the United States,⁴³ was marred by fraud, and left many Amerasians behind in Vietnam. These flaws of the AHA, as well as the ineffectiveness of the AIA, may be better understood when considered in conjunction with how the Amerasian amendments relied upon and then further perpetuated three false narratives.

II. FALSE NARRATIVES

A. *The Orphan Street Child*

Le Van Minh was not an orphan, but he became one the moment Audrey Tiernan pointed her camera at him. The United States, through its media outlets and its government officials, portrayed many, if not all, Amerasians as orphan street children who faced systematic oppression and daily discrimination in Vietnam. The image of the Amerasian child evoked pity not only because it was difficult, but because it was difficult and alone. Congressmen relied on this narrative of the orphan street child in securing passage of the Amerasian Immigration Act of 1982 and the Amerasian Homecoming Act of 1987. During the hearings on the AIA, multiple congressmen and testifying witnesses repeated the refrain that Amerasians were “abandoned” children. Senator Jeremiah Denton contended that “Amerasian children are abandoned sons and daughters.”⁴⁴ Reverend J. Alfred Carroll, in a letter supporting the proposals claimed that Amerasian children were “abandoned sons and daughters” and that “[o]riental societies look upon youngsters abandoned by their fathers as outcasts, belonging to no one.”⁴⁵ Similar claims were made in the congressional debates leading up to the enactment of the AHA. Representative Dale Bumpers claimed that the mothers of Amerasians often responded to their feelings of shame “by disassociating themselves with the children and casting them out on the street to fight for survival or perish.”⁴⁶ Representative Robert Dornan of California echoed these sentiments in claiming that Amerasians “still wander the streets of Saigon, spat upon, looked down upon, wanted by no one.”⁴⁷ These congressional findings relied upon and reflected media portrayals of Amerasians as “abandoned” children.⁴⁸

42. See Rayminh Ngo, *America's Forgotten Progeny: Taking Nguyen v. INS a Step Beyond the Court Opinion*, 4 UTAH L. REV. 1209, 1226 (2006).

43. See Robin S. Levi, *Legacies of War: The United States' Obligation Toward Amerasians*, 29 STAN. J. INT'L L. 459, 492 (1993).

44. *Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 13 (1982) (statement of Sen. Denton).

45. *Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 46 (1982) (letter of Reverend J. Alfred Carroll).

46. 133 CONG. REC. 22923 (1987) (statement of Rep. Bumpers).

47. 133 CONG. REC. 10827 (1987) (statement of Rep. Dornan).

48. An article published in *Smithsonian Magazine* described Amerasians as “abandoned by their

Newspapers, magazines, and even scholars routinely referred to Amerasians as *bụi đời*, which translates to “children of the dust.” A Chicago Tribune article from 1985 claimed that Amerasians “are what the Vietnamese call the ‘children of the dust.’”⁴⁹ Ernest C. Robear stated that “Vietnamese disparagingly refer to [Amerasians] as *bụi đời*.”⁵⁰ Ted Engelmann, a photographer and Vietnam veteran, similarly claimed that Amerasians “were called by Vietnamese, *bụi đời* (the dust of life), the poorest of the poor.”⁵¹ Yet, that is not the meaning of the term *bụi đời*. *Bụi đời* refers not to Amerasians specifically, but street children generally, usually those who have turned their backs on their families for a rough life on city streets. For fluent Vietnamese speakers, hearing *bụi đời* would not call to mind the image of an Amerasian, but the image of defiant street children generally. By equating street children generally with Amerasians specifically and mistranslating the Vietnamese term *bụi đời* to encompass both street children and Amerasians, media portrayals of Amerasians in the United States signify that most, if not all, Amerasians are orphan street children. This is contrary not only to the lived experiences of Amerasians, but studies conducted of them.

Although testimony exists by some Amerasians that they did become orphan street children after the end of the Vietnam War, this testimony does not support the false narrative that most Amerasians were homeless and without families, especially when considered in light of competing testimony and studies. In their study on Amerasians in 1994, Chung Hoang Chuong, a former Professor of Asian American Studies at San Francisco State University, and Le Van, a consultant for the Bilingual Education Office of the California Department of Education, found that 75 percent of the Amerasians in their study identified their primary caretaker growing up as their mother or grandmother.⁵² Another 8 percent answered that they lived with adoptive parents.⁵³ Chuong and Le concluded that “[t]his revises the assumption that Amerasians were children of the streets of Saigon, without a normal childhood and hence, lacking love and support.”⁵⁴

Similarly, a volunteer tutor in a program for Amerasians told two interviewers that, while some of the Amerasians they encountered suffered from abuse, “others grew up in stable families and went to school just like

mothers at the gates of orphanages” and found that “[t]heir destiny was to become waifs and beggars, living in the streets and parks of South Vietnam’s cities, sustained by a single dream: to get to America and find their fathers.” Lamb, *supra* note 4.

49. Yates, *supra* note 13.

50. Ernest C. Robear, *The Dust of Life: The Legal and Political Ramifications of the Continuing Vietnamese Amerasian Problem*, 8 DICKINSON J. INT’L L. 125, 125 (1989).

51. Ted Engelmann, *Who Are Our Fathers?*, 94 J. AM. HIST. 163, 166 (2007).

52. CHUONG & LE, *supra* note 21, at 53.

53. *Id.*

54. *Id.*

everybody else.”⁵⁵ At the behest of Congress, the United States General Accounting Office (USGAO) conducted a study of Amerasian settlement in the United States. When the USGAO asked Amerasians what they liked individually about Vietnam and the United States, the USGAO found that the Amerasians in their study “preferred the personal and family relationships in Vietnam, which they regarded as more affectionate.”⁵⁶ If Amerasians were not orphans when they applied through the AIA or the AHA, the execution of those programs ensured that they would be by the time they arrived in the United States.

In much the same way that the AIA made orphans out of those with families by forcing the mothers of Amerasians to sign release forms to their children, the early implementation of the AHA stipulated that Amerasians had to choose one set of family members to accompany them. Amerasians applicants could bring either their parents or their spouse and children, but not both.⁵⁷ This coerced Amerasians into choosing between their spouse and their parent, thereby making orphans of those who chose their spouse. These regulations suggest that the false narrative of the orphan street child was not merely a harmless exaggeration that Congress unknowingly relied upon, but may have served other government policies. Jane K. Lipman has argued that this coupling of the inclusion of Amerasian children with the exclusion of their Vietnamese mothers serves the twin goals of presenting Amerasians as “innately American” while erasing the sexual history of the Vietnam War.⁵⁸ Along with these potential goals, the perpetuation of the Amerasian orphan street child narrative through immigration regulations serves the salvation narrative necessary during this period to rewrite the Vietnam War in the United States’ favor. The existence of Vietnamese mothers and families who care for Amerasians mitigates the necessity of U.S. intervention and “rescue.” Furthermore, the presence of Vietnamese mothers complicates the portrayal of Amerasian children as members of the enlightened Occident in conflict with the barbaric Orient,⁵⁹ for the very mothers of these children belong to said Orient.

Even after Amerasians were allowed to immigrate to the United States with their families, allegations of mass fraud gave new life to the false narrative of the Amerasian orphan street child. Although some of the allegations of fraud centered around the Amerasians themselves, with claims that they were Eurasian or “pure” Vietnamese who happened to look

55. Donald A. Ranard & Douglas F. Gilzow, *The Amerasians*, in *IN AMERICA: PERSPECTIVES ON REFUGEE RESETTLEMENT* 1, 1 (1989).

56. USGAO, *supra* note 35, at 78.

57. See CHUONG & LE, *supra* note 21, at 14.

58. See Jane K. Lipman, “*The Face Is the Road Map*”: *Vietnamese Amerasians in U.S. Political and Popular Culture, 1980–1988*, 14 *J. ASIAN AM. STUD.* 33, 49–50 (2011).

59. See *infra* Section II.D..

Amerasian,⁶⁰ the primary fraud concern was one of fake families, of unrelated Vietnamese “buying” Amerasian children and forging documents to fool U.S. officials.⁶¹ The United States estimated that “up to half of the accepted Amerasian families” were fake.⁶² These estimates of fraud led to a high rejection of Amerasian applicants.⁶³ Even if the Amerasian children had families, they remained orphans because their families were not verified by the United States.

Situating these fraud allegations in the larger context of Asian American history reveals that they operate in a tradition that presents Asians as manipulators seeking to illegally enter the United States. Lipman notes that Amerasian paper families had “historical antecedents” in Chinese “paper sons” and “paper daughters,” wherein Chinese Americans circumvented the Chinese Exclusion Act through the creation of false family ties.⁶⁴ This historical antecedent placed a presumption of fraud in the minds of interviewing officials. Because Amerasian immigration operated in the larger context of Asian American history, where Asian Americans were continually viewed as manipulative and interchangeable,⁶⁵ U.S. officials were concerned about fraud even before the first Amerasians arrived through the Amerasian Immigration Act. Speaking on the proposed Amerasian legislation, Senator Alan K. Simpson voiced his belief “that the American people wish to be certain that we are admitting an identifiable group of persons, that we are avoiding fraud.”⁶⁶ Alan C. Nelson, Commissioner of Immigration and Naturalization, addressed similar concerns by the State Department by arguing that “any administrative problems caused by the possibility of fraud are far outweighed by this country’s moral obligation to Amerasian children.”⁶⁷ As a result of these

60. In an interview with *The Boston Globe*, one State Department official expressed the concern that the applicants could be the “children of British or Russians or Africans” since “[w]e weren’t the only ones in Vietnam.” Indira A. R. Lakshmanan, *The Children They Left Behind*, BOS. GLOBE (Oct. 26, 2003), http://www.boston.com/news/globe/magazine/articles/2003/10/26/the_children_they_left_behind/ [https://perma.cc/3SZ8-4VD4].

61. See Trin Yarborough, *Abandoned Amerasian Children of GIs Have Shattered Lives*, ORLANDO SENTINEL (May 9, 2005), http://articles.orlandosentinel.com/2005-05-09/news/0505090102_1_vietnamese-amerisians-chau-abandoned.

62. Lipman, *supra* note 57, at 52.

63. ROBERT MCKELVEY, *THE DUST OF LIFE: AMERICA’S CHILDREN ABANDONED IN VIETNAM* 16 (1999). By 1994, the United States rejected between 80–90 percent of Amerasian applicants. USGAO, *supra* note 34, at 2.

64. See Lipman, *supra* note 58, at 51–52.

65. In her history of the Chinese Exclusion Act, Erika Lee argued that “portrayals of Chinese as crafty, dishonest, cunning, and intelligent” fueled the anxiety about undocumented Asian immigration to the U.S. Journalists tracking Chinese immigration “required ‘all the ingenuity that a white man always requires in dealing with a Chinaman,’” not least because the Chinese looked so alike, immigration officials had difficulty distinguishing between individuals. See ERIKA LEE, *AT AMERICA’S GATES: CHINESE IMMIGRATION DURING THE EXCLUSION ERA, 1882–1943*, at 84 (2003).

66. *Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 1 (1982) (statement of Sen. Simpson).

67. *Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration*

concerns, paper families become a self-fulfilling prophecy. U.S. officials feared the threat of fraud and, thus, saw fraud in the families they interviewed.

The high percentage of fraud estimated by U.S. officials does not prove paper families existed on such a scale but, instead, could be the result of the personal biases of interviewers and the fear felt by interviewees. One interviewer of Amerasians stated her belief that “[w]e’re watering down our gene pool with Amerasian mental cases. We’re flooding the social welfare system with fake families. We can’t afford it. ODP has the lowest return on investment of any government program.”⁶⁸ As a result of these beliefs, the interviewer “assume[d] fraud in every case” she saw.⁶⁹ Another interviewer confided that “every Amerasian case is fraud until proven otherwise.”⁷⁰ When asked why the husband of an Amerasian woman was rejected, an associate director of the program responded by expressing her doubts about the validity of the couple’s marriage, questioning why a handsome, intelligent Vietnamese man would marry an Afro-Amerasian woman who was “not especially attractive.”⁷¹ The high estimate of fraud could also be the result of a failure to perform to the expectations of U.S. interviewers during interviews. As Luu Van Tanh, a Vietnamese official in charge of the ODP, noted, Amerasians and their family members may have given inconsistent answers to U.S. interviewers because they felt afraid or intimidated.⁷² Indeed, it is unclear how many American citizens would have consistent answers with their family members if asked detailed questions about their childhoods in a high stakes environment. While the high estimates of fraud may not reflect reality, it does further the false narrative of Amerasians as orphan street children. When U.S. officials and the American media did acknowledge the families of Amerasians, this acknowledgement was accompanied by the false narrative of how these families formed.

B. The “Miss Saigon”

In Stanley Kubrick’s film *Full Metal Jacket*, released the same year that Congress passed the Amerasian Homecoming Act, a Vietnamese prostitute approaches two American soldiers in the Vietnamese city of Da

& *Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 39 (1982) (statement of Comm’r Nelson).

68. BASS, *supra* note 8, at 54. As incendiary as such language may seem, this interviewer was not alone in her beliefs. A 1992 report by the U.S. General Accounting Office on the Amerasian program concluded that “fake Amerasians and fake family members break U.S. immigration laws and consume some of the resources and privileges which are not properly theirs.” YARBOROUGH, *SURVIVING* *supra* note 9, at 136–37.

69. BASS, *supra* note 8, at 55.

70. MCKELVEY, *supra* note 63, at 8.

71. *Id.* at 26.

72. BASS, *supra* note 8, at 1–2.

Nang and utters the infamous line, “Hey baby, you got girlfriend Vietnam? Well, baby, me so horny. Me so horny. Me love you long time.”⁷³ This interaction exemplified the popular narrative of the relationships between American soldiers and Vietnamese women. In this popular narrative, as portrayed in the 1989 musical *Miss Saigon*, the relationship between the parents of Amerasians is one between an American soldier—who already has an American fiancée or wife—and a Vietnamese prostitute or bargirl.⁷⁴ The relationship, if it can be characterized as such, is temporary, commercial, and purely sexual. It is the antithesis of a marital union. The popularization of this false narrative not only perpetuates the stereotype of the exotic, hypersexual Asian woman,⁷⁵ it also acts as an impediment to Amerasians claiming derivative citizenship, which is granted to the progeny of married couples.

The “Miss Saigon” false narrative fails to account for the institutional design that incentivized commercial sexual relations and deterred marriage between American soldiers and Vietnamese women. The U.S. military incentivized temporary, commercial sexual relations by making it easier for soldiers to safely engage in them.⁷⁶ An American compound near one military base in Vietnam gave sex workers “entertainers’ cards” and regular health checkups by U.S. doctors to reduce the spread of venereal disease among American soldiers.⁷⁷ Conversely, the U.S. military enacted policies to deter marriage and marriage-like relationships between American soldiers and Vietnamese women.⁷⁸ American soldiers could not marry Vietnamese women without first obtaining consent from their commanding officer.⁷⁹ Commanding officers often delayed giving such consent until the soldier had already returned to the United States.⁸⁰ In some cases, the soldiers were transferred while their Vietnamese partners

73. FULL METAL JACKET (Warner Bros. 1980).

74. One interviewer for the Amerasian Homecoming Act, who also acted as a senior American official in Vietnam, confided that he “used to avoid contact with Amerasians” because he “thought their mothers were a bunch of whores.” BASS, *supra* note 8, at 26. This same senior official later went on to conclude that he thought some Amerasians engaged in sex work because there was a “racial thing” there, “something genetic.” *Id.* at 27.

75. As Erika Lee observes, the stereotype of the hypersexual Asian woman who threatens the preferred relations between white heterosexual men and women extends as far back as the 19th century with the 1875 Page Laws and 1882 Chinese Exclusion Act. *See* LEE, *supra* note 65, at 24, 26.

76. Some military brothels were set up by military commanders. At times, the military even regulated the prices of commercial sex work. *See* Levi, *supra* note 43, at 467.

77. YARBOROUGH, SURVIVING *supra* note 9, at 18.

78. *See* Kristin A. Collins, *Illegitimate Borders: Jus Sanguinis Citizenship and the Legal Construction of Family, Race, and Nation*, 123 YALE L. J. 2134, 2211 (2014). Collins notes that the U.S. military “vigorously and systematically discouraged marriage for American service personnel in Vietnam, placing a wide array of bureaucratic and financial obstacles in front of marriage aspirants.” *Id.*

79. Grover, *supra* note 25, at 256.

80. *Id.* Levi argued that bureaucracy made it “incredibly difficult” for U.S. servicemen to bring their foreign families back to the United States. *See* Levi, *supra* note 43, at 467.

were pregnant.⁸¹ Contrast this with how the U.S. military encouraged its soldiers to marry their European girlfriends during World War II and how the federal government ensured the immigration of these European women and their citizen children with the War Brides Acts.⁸²

In addition to its silence on an institutional design that deterred marriage, the “Miss Saigon” false narrative does not address countervailing evidence that most of the mothers of Amerasians were not sex workers at all and that the relationships they engaged in were not temporary or purely sexual. Chuong and Le’s study of Amerasians concluded that the majority of mothers of Amerasians had “a regular job and were employed in legitimate work.”⁸³ Another study by the U.S. Catholic Conference in 1985 found that the average length of time of the relationships engaged in by the parents of Amerasians was two years and that “the women were not the prostitute or bargirl type that Hollywood has portrayed in their Vietnam war productions.”⁸⁴ Chuong and Le reached a similar conclusion, finding that the most important point to note from their study “is that the image of a bargirl mother hanging on to the arm of a young American soldier, spending his money, the children of their relationship lacking in love and support from a complete family, is not the norm.”⁸⁵

Furthermore, evidence exists that some of these Vietnamese women, by cohabiting with a man during wartime, when weddings and the signing of marriage licenses were not a pressing concern, considered themselves in common law marriages. One such woman told an interviewer, “If a Vietnamese woman lived in a long-term relationship with a man, the Vietnamese referred to him as her husband.”⁸⁶ Similarly, many Vietnamese mothers, in interviews with Steven DeBonis for *Children of the Enemy*, referred to the fathers of their Amerasian children as their “husbands.”⁸⁷ The denial of Vietnamese common law marriages resulted in the denial of derivative citizenship to Amerasians.

In her article *Illegitimate Borders*, Kristin A. Collins contends that *jus sanguinis* citizenship laws were shaped by and helped to shape a racial nation-building project, one that excluded nonwhite children from citizenship.⁸⁸ Historically, as Collins argues, officials evaluating the

81. See Lakshmanan, *supra* note 60.

82. See Collins, *supra* note 78, at 2208.

83. CHUONG & LE, *supra* note 21, at 67.

84. *Id.* at 29. An article for the *Boston Globe* found that “most Amerasian offspring were the product of longer relationships.” Lakshmanan, *supra* note 60; see Levi, *supra* note 43, at 466.

85. CHUONG & LE, *supra* note 21, at 71.

86. YARBOROUGH, SURVIVING *supra* note 9, at 11. One Vietnamese woman described her common law marriage to a Vietnamese man by saying, “[W]e get married, but we don’t make paper . . . you know. We just live like husband and wife.” STEVEN DEBONIS, CHILDREN OF THE ENEMY: ORAL HISTORIES OF VIETNAMESE AMERASIANS AND THEIR MOTHERS 210 (1995).

87. DEBONIS, *supra* note 86, at 187, 200, 210.

88. See Collins, *supra* note 78, at 2138, 2144.

derivative citizenship status of individuals “employed a definition of marriage that denied the legality of marriages that American men entered into ‘beyond Christendom’—marriages that frequently involved interracial unions.”⁸⁹ Whatever the intent of the parents or the marriage customs of the foreign country, marriage was defined by American standards.⁹⁰ In shaping *jus sanguinis* citizenship laws to exclude nonwhite children from citizenship, courts applied the legal maxim of *semper praesumitur pro matrimonio*: always presume marriage to derivative citizenship cases where the mother was white, but not to ones where the mother was Asian.⁹¹

The continuance of the “Miss Saigon” false narrative not only perpetuates the stereotype of the exotic, hypersexual Asian female, fails to reflect the lived experiences of Vietnamese women, and erases the role institutional design plays in determining outcomes, it also serves to exclude Amerasian children from citizenship by establishing a *numquam praesumitur pro matrimonio*—never presume marriage—standard. Despite the lack of a marital union between their parents, Amerasians could still be perceived as having a claim on the United States as a result of their biology.

C. “American Blood” / “American Face”

*“The compassion of our people for its children, truth, justice, and freedom—these are the issues at stake before us today as we consider this important legislation that not only affects the half Americans that we have forgotten in Asia for so long, but also us as a nation for it will tell us who we are.”*⁹²

*“The U.S. government was making bargaining chips of these children. They didn’t give a shit if they lived or died.”*⁹³

The enactment of the Amerasian Immigration Act of 1982 and Amerasian Homecoming Act of 1987 relies strongly on the physical features of Amerasians, on their “American blood” and their “American face.” Speaking in favor of the Amerasian proposals, Senator Denton claimed that the United States should be committed to Amerasians “because they have American blood.”⁹⁴ Media portrayals and scholarship on Amerasians also focus on and do not question the existence of an

89. *Id.* at 2160.

90. *Id.* at 2163–64.

91. *See id.* at 2168–69.

92. *Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 65 (1982) (statement of Father Keane).

93. Statement by John Shade of the Pearl S. Buck Foundation. BASS, *supra* note 7, at 40.

94. *Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 13 (1982) (statement of Sen. Denton).

Amerasian's "American blood" and "American face." In his book on Amerasians, Thomas Bass stated that all an individual needed for admission to the United States was "an American face."⁹⁵ MaryKim DeMonaco, in her article on Amerasian immigration, claimed that Amerasians were ostracized as a result of their "American features."⁹⁶ Despite its repetition, the phrases "American blood,"⁹⁷ "American face," and "American features" are, in some ways, devoid of meaning.

These terms are meaningless unless there exists a uniform or default "American." "American" is a national, not racial or ethnic, categorization. In the putative melting pot of the United States, there is no standard "American face" or "American feature[s]." When one can become American through immigration or naturalization, there is no "American blood." In fact, Amerasians were Americans who did not have a claim on what is arguably the epitome of an American identity—citizenship. The implementation of the Amerasian amendments demonstrates that though the existence of "American blood" or an "American face" is a false narrative, it is a false narrative that works to position Amerasians as members of the aggrieved "West" in conflict with the cruel and unreasonable "East."

Amerasians who lacked legitimating documentation could only hope that they would appear physically convincing in interviews. After the Fall of Saigon, many mothers of Amerasians feared reprisal by the new regime and, acting on this fear, destroyed any corroborating evidence of their relationships with Americans.⁹⁸ Among the documents burned or discarded were photographs and letters. As a result, many Amerasians showed up to their face-to-face immigration interviews with little to no corroborating documentation.⁹⁹ Interviewers accepted or rejected applicants based on the presence of an "American face" or "American features," which included "the color of their hair and skin or the shape of their eyes and noses."¹⁰⁰ The persuasiveness of a potential Amerasian face depended on where it fell on the Asian to non-Asian spectrum, with the "American face" located at the non-Asian end of the spectrum. Amerasians were more convincing, and thus more "American," the less Asian they appeared.

In much the same way that Asian Americans seeking to naturalize in the late 19th century must either claim that they were White or Black, Amerasians without supporting documentation could only hope to pass

95. BASS, *supra* note 8, at 35, 60.

96. DeMonaco, *supra* note 6, at 649.

97. Amerasians themselves have used such language in describing themselves as well. In an interview, Thu Thuy Le, an Amerasian, claimed that her "blood and [her] father are American." Noy Thrupkaew & Julia Savacool, *What Happened to These Children of War?*, MARIE CLAIRE (May 3, 2007), <http://www.marieclaire.com/politics/news/a498/children-war-1/> [<https://perma.cc/QE3K-A9B7>].

98. See CHUONG & LE, *supra* note 21, at 47.

99. See Engelmann, *supra* note 51, at 166.

100. See MCKELVEY, *supra* note 63, at 7.

their face-to-face interviews by claiming that their fathers were White or Black. The false narrative of the “American face” suggests that there is a default American face and that this face is one that is White or Black. An Amerasian with an “American face” has a face “[a]dorned with cowlicks and spattered with freckles,” making them “resemble midwestern members of Future Farmers of America.”¹⁰¹ Amerasians have “blond hair or afros.”¹⁰² Amerasians had “round eyes, thick eyebrows, detached earlobes, hair on the arms, and white skin.”¹⁰³ Amerasians had “yellow hair or black skin.”¹⁰⁴ Amerasians with fathers who were Asian American, Native American, or Latino found their features too similar to Asian features to make a persuasive claim of Amerasian status.¹⁰⁵

By positioning Amerasians as White or Black Americans, but not Asian Americans, the United States could rewrite the history of the Vietnam War in its favor while simultaneously projecting the American, capitalist, and western system as superior during the last decade of the Cold War. Scholars have argued that the “American Orientalist ideology . . . homogenize[s] Asia as one indistinguishable entity and position[s] and define[s] the West and the East in diametrically opposite terms, using those distinctions to claim American and Anglo-American superiority.”¹⁰⁶ The legislative record preceding the Amerasian amendments reflects this American Orientalist ideology. Senator Jeremiah Denton argued that Amerasian children were treated with discrimination and cruelty “for reasons grounded in Asian culture,” which “resist[s] assimilating children of mixed parentage.”¹⁰⁷ This is in contrast to American senators, who are “motivated by compassion.”¹⁰⁸ Commissioner Alan C. Nelson presents a similar dichotomy by following his claim that Amerasians face a lack of

101. *Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 21 (1982).

102. BASS, *supra* note 8, at 27.

103. *Id.* at 73.

104. *Id.* at 134–35. Other descriptions of Amerasians include having the “blue eyes or the black skin of their fathers.” See Seth Mydans, *Vietnamese Find No Home Here in Their Fathers’ Land*, N.Y. TIMES (May 28, 1991), <http://www.nytimes.com/1991/05/28/us/vietnamese-find-no-home-here-in-their-fathers-land.html?pagewanted=all> [<https://perma.cc/49CK-8V4E>].

105. See CHUONG & LE, *supra* note 21, at 11–12.

106. LEE, *supra* note 65, at 25.

107. *Amerasian Immigration Proposals: Hearing Before on S. 1698 the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 13 (1982) (statement of Sen. Denton). Reverend J. Alfred Carroll made similar broad generalizations about the backwards and cruel “Orient,” claiming: “The abandoned sons and daughters of American servicemen endure miserable lives in the Orient. Oriental societies look upon youngsters abandoned by their fathers as outcasts, belonging to no one.” *Amerasian Immigration Proposals: Hearing Before on S. 1698 the Subcommittee on Immigration and Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 46 (1982) (statement of Rev. J. Alfred Carroll).

108. *Amerasian Immigration Proposals: Hearing Before on S. 1698 the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 46 (1982) (statement of Rev. J. Alfred Carroll).

acceptance in their own cultures and communities with the statement that the United States “is amazing in its receptivity to accepting people of different backgrounds and cultures.”¹⁰⁹ Similarly, during the congressional debates leading up to the enactment of the AHA, Representative William F. Clinger stated that Amerasians were “persecuted by a culture that does not recognize them as people.”¹¹⁰

When the “American Orientalist ideology” is applied to Amerasians in Vietnam, it allows the United States to rewrite its loss during the Vietnam War as a victory and its military engagements as acts of righteousness. Yên Lê Espiritu argues that the narrative of passive and helpless refugees in need of American rescue remakes the U.S. participation in the Vietnam War as “necessary, moral, and successful.”¹¹¹ Similarly, the portrayal of Amerasians as Americans suffering under a backwards Oriental culture and a brutal communist regime,¹¹² both of which seek homogeneity in contrast to the heterogeneity and acceptance of the West and of capitalism, rewrite the U.S. participation in the Vietnam War as necessary and moral. Noam Chomsky, in his article “Visions of Righteousness,” argues that the U.S. engaged in a postwar agenda of reframing the Vietnam War to mitigate its crimes by making the “perpetrator of the crimes . . . be seen as the injured party.”¹¹³ By projecting itself onto Amerasians, the U.S. superpower could transform itself into an injured party that ultimately triumphs by escaping from the communist East. Furthermore, such a rewriting situates the United States in a position of moral superiority over communist states at a critical juncture in the Cold War.

On June 12, 1987, while Congress was in the process of debating the AHA, President Ronald Reagan demanded in a speech in West Berlin, “Mr. Gorbachev, open this gate! Mr. Gorbachev, tear down this wall!”¹¹⁴ Two years later, demolition of the Berlin Wall began. Considered in conjunction with international politics during the 1980s, the false narrative of the “Amerasian face” may explain the underlying motive of the Amerasian amendments and Amerasian immigration. Photographs of Amerasian

109. *Amerasian Immigration Proposals: Hearing Before on S. 1698 the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 44 (1982) (statement of Comm’r Nelson).

110. 133 CONG. REC. 14573 (1987) (statement of Rep. Clinger).

111. Yên Lê Espiritu, *Toward a Critical Refugee Study: The Vietnamese Refugee Subject in US Scholarship*, 1 J. VIETNAMESE STUD. 410, 421 (2006).

112. During congressional hearings, Walter Matindale testified that the greater tragedy for Amerasians was that they “live[d] under a Communist regime,” which, because of its “failures as a government and system,” cannot feed or educate its own citizens. *Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 78 (1982) (statement of Sen. Walter Matindale).

113. Noam Chomsky, *Visions of Righteousness*, in CULTURAL CRITIQUE 10, 14 (1986).

114. Peter Robinson, *Tear Down This Wall*, NAT’L ARCHIVES, <https://www.archives.gov/publications/prologue/2007/summer/berlin.html/> [<https://perma.cc/XT8B-NRLX>] (last visited Mar. 23, 2017).

children suffering in Vietnam may have indeed moved the hearts of the American public and of their elected officials, but they also presented to the world how easily the United States superpower, through its representatives with “Occidental features,”¹¹⁵ could be oppressed by a communist Asian country and culture.¹¹⁶ A pastor testifying at the hearing for the Amerasian Immigration Act argued that passing the bill was of “the utmost importance to us as a nation” because it would allow us “to be free from the one criticism that does so much damage to us in the countries of Asia, namely, that we are a country of barbarians who would abandon even its own flesh and blood.”¹¹⁷ While the U.S. government may claim that it enacted the Amerasian amendments as a result of compassion, such claims do not comport with the Department of Defense’s statement in 1970 that “[t]he care and welfare of these unfortunate children . . . has never been and is not now considered an area of Government responsibility nor [sic] an appropriate mission for the Department of Defense to assume.”¹¹⁸ If the U.S. government was aware of and denied responsibility for Amerasians in 1970, what changed in the intervening decades save for its loss in the Vietnam War and developments during the Cold War?

Locating the false narrative of the “American face” and “American blood” in the historio-political context of the Cold War suggests that the terms “American face” and “American blood” were repeatedly used to present Amerasians as decidedly members of the West, thus falling under the U.S. sphere of influence during the Cold War. Their mass immigration to the United States from the barbaric and communist East then signified the superiority of the U.S. model in world affairs.

III. INFLUENCING JUDICIAL DECISION MAKING

While some theories of jurisprudence posit that judges are objective, impartial observers of reality who are untouched by and do not touch social strictures, Laurence H. Tribe used 20th century developments in physics to argue that judges were not neutral actors, but actors informed by and who inform social strictures.¹¹⁹ Legal decisions are not only informed by the

115. See Grover, *supra* note 25, at 254.

116. During a congressional hearing on Amerasian proposals, Reverend J. Alfred Carroll contended that “[t]he United States is considered barbaric and is ridiculed because we abandon our offspring.” *Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 46 (1982) (statement of Rev. J. Alfred Carroll).

117. *Amerasian Immigration Proposals: Hearing on S. 1698 Before the Subcomm. on Immigration & Refugee Policy of the S. Comm. on the Judiciary*, 97th Cong. 65 (1982) (statement of Father Keane).

118. BASS, *supra* note 8, at 34. In addition to this statement by the Department of Defense, Robert McKelvey contended that “[f]or years, in fact, the U.S. government argued that Amerasians were Vietnam’s responsibility and took no interest in what became of them.” MCKELVEY, *supra* note 63, at 11.

119. See Laurence H. Tribe, *The Curvature of Constitutional Space: What Lawyers Can Learn*

personal biases of judges, they “restructure[] the law itself, as well as the social setting in which law operates.”¹²⁰ Applying the Heisenberg principle, which states that an “observer is never really separate from the system being studied,” and the idea of pervasive interaction to judicial decision making, Tribe argues that the decisions of judges are not only informed by the nonlegal “backdrop” of the world in which the decisions are made, but that they inform this backdrop.¹²¹ Applying Tribe’s framework to opinions in which either the plaintiff or the defendant is an Amerasian demonstrates how false narratives can affect judicial decision making.

A. *Chau v. I.N.S. and Chau v. U.S. Department of Homeland Security*

The opinions of the courts in *Chau v. I.N.S. (Chau I)* and the subsequent *Chau v. U.S. Department of Homeland Security (Chau II)* illustrate how false narratives can seep into determinations of citizenship for Amerasians.¹²² Dung Van Chau was born in Vietnam in 1971 to a Vietnamese mother.¹²³ Chau immigrated with his mother to the United States in 1984, where he became a permanent resident.¹²⁴ After Chau was convicted of two crimes of moral turpitude, the Immigration and Naturalization Service (INS) began deportation proceedings against Chau in 1996.¹²⁵ At his deportation hearing, Chau claimed that his status as a U.S. citizen rendered him nondeportable.¹²⁶ Chau founded this claim on two grounds: (1) that, although the identity of his father was unknown, it was likely, based on testimony, that his father was a U.S. citizen, which entitled Chau to derivative citizenship; and (2) that Chau was admitted to the U.S. as a child of a U.S. citizen under the Amerasian Immigration Act of 1982, which rendered him a U.S. citizen upon arrival.¹²⁷ The Immigration Judge held that the INS failed to establish that Chau was an alien and terminated deportation proceedings.¹²⁸ The Board of Immigration Appeals (BIA) reversed that decision.¹²⁹

The Ninth Circuit, in its review of the BIA’s decision, found that there were issues of material fact regarding Chau’s claim to U.S. citizenship and transferred the matter to a district court for a *de novo* determination of

from *Modern Physics*, 103 HARV. L. REV. 1,(1989).

120. *Id.* at 8.

121. *Id.* at *19–20.

122. See *Chau v. I.N.S. (Chau I)*, 247 F.3d 1026 (9th Cir. 2001); *Chau v. U.S. Dep’t of Homeland Sec. (Chau II)*, 424 F. Supp. 2d 1159 (Dist. Ct. Ariz. 2006).

123. *Chau I*, 247 F.3d at 1028.

124. *Id.*

125. *Id.*

126. *Id.*

127. *Id.* at 1028–29.

128. *Id.* at 1027.

129. *Id.*

Chau's citizenship.¹³⁰ Despite transferring the matter to a district court for *de novo* review, the Ninth Circuit nonetheless addressed the significance of Chau's admission to the U.S. through the Amerasian Immigration Act.¹³¹ The court found that an Amerasian's admission to the U.S. through the AIA did not preclude the INS from contesting that an Amerasian was indeed the child of a U.S. citizen.¹³² While admission through the AIA may be probative evidence, it was not determinative.¹³³

On a motion for summary judgment filed by the INS, the district court determined that Chau was not entitled to derivative citizenship by relying partially on facts that aligned with false narratives.¹³⁴ Chau was not entitled to derivative citizenship because the evidence did not demonstrate that (1) Chau's father was indeed a U.S. citizen and that (2) Chau's father met the physical presence requirement for derivative citizenship.¹³⁵ In its recitation of the relevant facts, the court noted that Chau's mother and father met "on two occasions at a bar in Vietnam and that [Chau's mother] was pregnant one month after meeting."¹³⁶ The court went on to note that Chau's mother did not speak English and Chau's father did not speak Vietnamese.¹³⁷ Chau's father was dressed in a paratrooper's uniform when Chau's parents met.¹³⁸ The court found that the paratrooper's uniform did not necessarily indicate that Chau's father was a U.S. serviceman and, even if he was, service in the U.S. military did not necessarily indicate citizenship.¹³⁹ As the only evidence presented by Chau for his claim of derivative citizenship was his mother's testimony, the court found that Chau presented insufficient evidence and granted summary judgment to the INS. In doing so, the court did not again mention the circumstances under which Chau's parents met and the language barrier between them.

By first reciting facts that it then does not use in its analysis, the court reveals its understanding of the case and of the underlying narrative supporting its decision. Of the entirety of Chau's mother's testimony, the court recited only a few key facts, two of which it did not again use in its analysis. Rather than merely existing as superfluous language, these unused facts may have contributed to the court's understanding of Chau as both an

130. *Id.* at 1028.

131. *Id.* at 1030.

132. *Id.* at 1031.

133. *Id.* at 1032.

134. *See Chau II*, 424 F. Supp. 2d at 1159 (Dist. Ct. Ariz. 2006).

135. *Id.* at 1164–66. The court found that Chau did not enter the United States through the AIA, but as a refugee. Chau argued that he immigrated as a refugee because the AIA had required that his mother "irrevocably release" him for immigration. Refugee status allowed Chau to immigrate with his family, which the AIA did not permit. *Id.* at 1164.

136. *Id.* at 1160.

137. *Id.*

138. *Id.*

139. *See id.* at 1165.

Amerasian and an alien. Specifically, the court noted that Chau's mother and father met only twice and that they met twice at a bar.¹⁴⁰ By focusing on these details, the court reveals its understanding of the relationship between Chau's parents as one reflective of the "Miss Saigon" false narrative. The emphasis on the location of their meetings, a bar, and the lack of frequency implies that Chau's mother was a bar-girl and that the relationship was transitory at best and commercial at worst. This implication is furthered by the court's finding that Chau's parents faced language barriers. Because U.S. citizenship laws prioritize marriage and marriage-like relationships between the parents of those claiming derivative citizenship, the "Miss Saigon" false narrative underlying the court's opinion made it less likely that the court would find in Chau's favor.

B. *Van Tran v. Colson*

As demonstrated by *Van Tran v. Colson*, courts have relied on false narratives regarding Amerasians in sentencing decisions as well as deportation proceedings.¹⁴¹ Heck Van Tran was born in Vietnam in 1966 to a Vietnamese woman and an American serviceman.¹⁴² Van Tran immigrated with his mother to the United States in 1983 and was convicted of three counts of felony murder in 1993.¹⁴³ He received the death sentence.¹⁴⁴ A Tennessee district court denied Van Tran's petition for a writ of habeas corpus.¹⁴⁵ Van Tran appealed to the Sixth Circuit, where he claimed that his execution would violate the Eighth Amendment as he was intellectually disabled.¹⁴⁶ The Sixth Circuit held that the district court applied an improper legal standard in its assessment of Van Tran's intellectual disability.¹⁴⁷ As a result, the Sixth Circuit vacated and remanded the district court's denial and granted a conditional writ of habeas corpus to allow the state courts to determine Van Tran's claim of intellectual disability under the proper standard.¹⁴⁸

In its finding that Van Tran did not sufficiently demonstrate "mental retardation," the district court relied on the state appellate court's reasoning.¹⁴⁹ Additionally, the state appellate court had affirmed the state trial court's denial of relief and agreed with the state trial court's rejection

140. *Id.* at 1160.

141. *See Van Tran v. Colson*, 764 F.3d 594 (6th Cir. 2014).

142. *Id.* at 598.

143. *Id.*

144. *Id.*

145. *Id.* at 597.

146. *Id.*

147. *Id.*

148. *Id.*

149. *Id.* at 603.

of the testimony of expert witnesses.¹⁵⁰ Although two psychologists concluded that Van Tran was “mentally retarded” under the state’s definition and that deficits in Van Tran’s adaptive behavior manifested themselves during his developmental period,¹⁵¹ the state appellate court found that it was Van Tran’s atypical childhood as an Amerasian in Vietnam that caused these deficits.¹⁵² The state appellate court found Van Tran’s “social history reveal[ed] abuse, neglect, and social ostracism” and that Van Tran “essentially ‘lived on the streets’ until age seventeen when he came to this country.”¹⁵³ The state appellate court went on to find that Van Tran’s late development could have been the result of neglect, rather than neurological deficit, and that “[t]he evidence of poverty, child abuse, lack of education, family dysfunction and poor social conditions [were] not enough to demonstrate that any deficits manifested during the developmental period.”¹⁵⁴ The Sixth Circuit found that the district court and the state appellate court erred not only in disregarding other evidence that Van Tran’s intellectual deficits manifested themselves before Van Tran reached the age of majority,¹⁵⁵ but also in relying on causal analysis unsupported by expert testimony.¹⁵⁶ The false narrative of the “orphan street child” undergirded the reasoning of the state appellate court and the Sixth Circuit, first to work against Van Tran and then to function in his favor.

The state appellate court could conclude that Van Tran’s childhood, rather than his intellectual disability, caused his deficits in adaptive behavior because it could situate him in the greater context of other Amerasian children. Although Van Tran may have indeed faced difficulties in his childhood, the state court found that Van Tran “essentially ‘lived on the streets’” without consistent caretakers in spite of the evidence that Van Tran lived with his mother and immigrated with her to the United States.¹⁵⁷ By situating Van Tran in the greater context of the “orphan street child” false narrative, the state appellate court could question Van Tran’s claims that he had intellectual disabilities. As other Amerasians also suffered from emotional and mental difficulties as a result of being “orphan street children,” Van Tran’s position actually did not appear that unique. By situating Van Tran in a narrative that encompasses other Amerasians like

150. *Id.* at 601.

151. *Id.* at 600.

152. *Id.* at 600–01.

153. *Id.* at 601.

154. *Id.* at 602.

155. *Id.* at 616. Such evidence includes Van Tran’s poor performance in school, his delay in achieving developmental milestones like speech, and his subaverage I.Q. level. *Id.*

156. *Id.* at 616–17. The trial court and state appellate court found that Van Tran’s childhood and other risk factors *caused* Van Tran’s deficits in adaptive behavior, rather than aggravated the deficits caused by intellectual disability. *Id.*

157. *See id.* at 598, 601.

him, the court could conclude that Van Tran suffered from deficits in adaptive behavior as a direct result of being an “orphan street child” and not as a result of unique neurological impairments.

In addressing Van Tran’s argument that he was deprived of effective assistance of counsel when his lawyer failed to present the mitigating evidence of his Amerasian status and the “plight of the Amerasian population,” the Sixth Circuit connected Van Tran’s Amerasian status to the Amerasian “orphan street child” false narrative even more explicitly.¹⁵⁸ The Sixth Circuit found that Van Tran did not suffer from ineffective assistance of counsel partly because the evidence of Van Tran’s Amerasian status was “substantially the same” as the evidence that was presented regarding Van Tran’s difficult childhood “on the streets.”¹⁵⁹ The Sixth Circuit conflates being an Amerasian with having a difficult childhood and, as a result, furthers the false narrative that all, if not most, Amerasians are “orphan street children.” Furthermore, the Sixth Circuit did not refute the state appellate court’s understanding of Van Tran’s difficult childhood, but only contested the presentation of this difficult childhood as a cause rather than an aggravating factor for Van Tran’s developmental deficits.

C. *Brue v. Gonzales*

As the court did in *Chau II*, the court in *Brue v. Gonzalez* included a fact on the petitioner’s Amerasian status that it then neglected to use in its analysis.¹⁶⁰ Jeffrey Brue pled guilty to sexual assault in the second degree and to offering drugs to a minor male in exchange for sex.¹⁶¹ The Department of Homeland Security initiated deportation proceedings against Brue.¹⁶² The immigration judge found that Brue was removable and the Board of Immigration Appeals affirmed.¹⁶³ In its denial of Brue’s petition for review, the Tenth Circuit recited the following facts: Brue was born in Vietnam in 1968, he emigrated to the United States in 1973, and he had been told “that his mother abandoned him at an early age because of his American characteristics.”¹⁶⁴

Although the Tenth Circuit did not go on to use Brue’s abandonment by his mother in its analysis, its recitation of this fact demonstrates how the false narrative of the “American face” appears not only in media portrayals and congressional records, but also in court opinions. Presumably, Brue included this fact as evidence either of his mental competency or of the danger that removal to Vietnam would pose to his life or freedom. As the

158. *See id.* at 625.

159. *See id.* at 624–25.

160. *See Brue v. Gonzales*, 464 F.3d 1227 (10th Cir. 2006).

161. *Id.* at 1230.

162. *Id.*

163. *Id.* at 1231.

164. *Id.* at 1229.

court found that removal against mentally incompetent aliens could proceed and that restrictions on removal based on the danger posed to life or freedom did not apply to aliens who had committed “particularly serious crimes,”¹⁶⁵ the court did not address Brue’s mother’s abandonment in its analysis. The significance of the abandonment lies with the court’s acceptance that “Amerasian characteristics” exist. The court’s unquestioning recitation that Brue had “Amerasian characteristics,” which prompted his abandonment, not only perpetuates the false narrative of the “American face,” it legitimates this narrative in the legal setting.

D. *Nguyen v. I.N.S.*

Although the Court in *Nguyen v. I.N.S.* did not directly rely on the false narratives of the “orphan street child,” the “Miss Saigon,” or the “American face,” its Equal Protection analysis revealed a fourth false narrative underlying the previous three false narratives and present in the legislative record regarding Amerasians.¹⁶⁶ The Supreme Court’s decision in *Nguyen v. I.N.S.* revealed that the narrative claiming that Amerasians, as a result of their parentage, were essentially Americans—the core narrative motivating both the Amerasian Immigration Act of 1982 and Amerasian Homecoming Act of 1987—was a false narrative.

The Court’s recitation of facts in *Nguyen* refused to reflect the false narratives of the “orphan street child,” the “Miss Saigon,” or the “American face.” Tuan Anh Nguyen was not an orphan street child. Born in Vietnam to an American citizen and a Vietnamese woman, Nguyen lived with both his father and mother for a time as a child and then was subsequently raised by his father in the U.S.¹⁶⁷ Furthermore, the Court did not portray Nguyen’s mother as a “Miss Saigon.” The Court defined the contact between Nguyen’s parents as, though unmarried, nonetheless a “relationship.”¹⁶⁸ Finally, nowhere in the opinion does the Court mention Nguyen’s “American face” or “Amerasian characteristics.” Still, Nguyen was not a citizen in the Court’s eyes.

The legislative record preceding the Amerasian Immigration Act of 1982 and the Amerasian Homecoming Act of 1987, as well as the media portrayals of Amerasians, contended that the United States had an obligation to Amerasians because paternal ties rendered them Americans. The Supreme Court disagreed. In upholding that the distinction drawn by 8 U.S.C. § 1409 between mothers and fathers for the purposes of derivative citizenship did not violate the Equal Protection clause, the Court found that such a distinction was justified by two government objectives: (1) assuring

165. *Id.* at 1233–34.

166. *See Nguyen v. I.N.S.*, 533 U.S. 53 (2001).

167. *Id.* at 57.

168. *Id.*

that biological ties existed between the citizen parent and noncitizen child and (2) ensuring that a “real,” not merely biological, relationship existed between the parent and child.¹⁶⁹ The Court’s reasoning that, absent a “real” parent-child relationship, the child of an American father was not an American renders the tens of thousands of Amerasians who immigrated to the United States through the AIA and AHA, who never had an opportunity to develop a “real” relationship with their American fathers, into aliens with no ties to the United States. “Amerasians” themselves are the fourth false narrative. If the children of American servicemen and foreign women are presumed to be the children of the mother and not the father, without further proof, then the majority of Amerasians—an amalgamation of American and Asian—are not Amerasians at all. They are only Asian. Congress’s portrayal of Amerasians as abandoned Americans under the thumb of the enemy is revealed by the Court to be a false narrative, one that underlies other Amerasian false narratives and helps explain their perpetuation.

The Court addresses the false narratives of the “orphan street child,” the “Miss Saigon,” and the “American face”/“American blood” through its exposure of the false narrative of “Amerasians.” The perpetuation of the “orphan street child” not only renders Amerasians motherless, it renders them fatherless. By all accounts, Nguyen was not an orphan. Nguyen’s father not only acknowledged and claimed him, he raised Nguyen from childhood to adulthood.¹⁷⁰ Still, in the eyes of the Court, that was insufficient to establish paternity. Despite being raised by his American father in the United States, Nguyen was not an American citizen.¹⁷¹

The “Miss Saigon” false narrative is also more comprehensible under the Court’s reasoning. The Court in *Nguyen* found that it is not “always clear that even the mother will be sure of the father’s identity.”¹⁷² This concern underlies the perpetuation of the “Miss Saigon” false narrative. The portrayal of the mothers of Amerasians as sex workers leads to their portrayal as promiscuous. This alleged promiscuity calls into question the identity of every Amerasian. As the Court reasons, it is not always clear even to these foreign women who the fathers of their children are. If the mothers of Amerasians are promiscuous, how can we ever be sure that Amerasians indeed have American fathers?

The Court’s rejection of DNA evidence as proof of paternity confirms the “American face”/“American blood” narrative as false. The Court found that “scientific proof of biological paternity does nothing, by itself, to ensure contact between father and child,” which implies that biological

169. *See id.* at 61–62, 64–65.

170. *Id.* at 57.

171. *Id.* at 59–60.

172. *Id.* at 65.

proof of paternity is, in itself, insufficient to prove paternity.¹⁷³ If DNA evidence and biological ties are insufficient to establish paternity, of what use is an “American face” or “American blood”? Even assuming that there exists “American blood” and “American characteristics,” possession of these biological elements is insufficient, in the eyes of the Court, to establish an American identity.

If “Amerasians” is a false narrative, how then do we explain the tens of thousands, potentially hundreds of thousands, of Amerasians living not only in the United States, but throughout the world, at every point of contact between the United States and an Asian nation? The argument can be made that, as the courts in *Chau*, *Van Tran*, and *Brue* all relied upon and perpetuated Amerasian false narratives, so does the Court in *Nguyen* rely upon and perpetuate its own narrative—that, absent substantial evidence to the contrary, Amerasians are not Americans. That, indeed, Congress and the media’s portrayal of Amerasians as inherently American is the only false narrative.

Both are false; both are true.

IV. “WE GO TOGETHER OR NOT AT ALL”¹⁷⁴: THE STORY OF ONE AMERASIAN

My mother is Amerasian. She was born in the late 1960s. Her biological parents, a Vietnamese woman and an American serviceman, lived for several years together during the Vietnam War. Her American father supported her Vietnamese mother financially during the entirety of their relationship, and everyone in her mother’s neighborhood referred to him as her “American husband.” The relationship between my mother’s biological parents was both commercial and not commercial, marital and yet not marital. When my mother’s American father knew that he would be returning to the United States permanently, he offered to take my mother with him. Thinking that she would lose financial support and all contact if she gave up the child, my maternal grandmother refused. She never heard from the soldier again. My maternal grandfather had made one attempt to establish a “real” paternal relationship and when that attempt failed, he did not try again.

My mother’s biological mother gave her up for adoption. My mother was raised by a loving, elderly couple who lived down the street from her biological mother. She was abandoned and yet not abandoned, an orphan and yet never once an orphan. She had parents who loved and cared for her throughout her life. She was *con lai*, a “mixed child,” but never *bụi đời*. Living in Saigon, my mother began hearing about the Amerasian Homecoming Act since the moment of its implementation, but, despite

173. *See id.* at 67.

174. *Star Trek: All Our Yesterdays* (CBS television broadcast Mar. 14, 1969).

living in desperate poverty, she had no thoughts of immigrating. She could not leave her parents who loved her. It was only after my grandfather's death soon after I was born in 1988 that she began the interview process.

This is how my mother remembers the interview process. During the interview, she sat at a desk across from an American official who looked to be in his mid-to-late twenties. At twenty-one years old, she thought he looked so much older, but looking back on it now, she remembers him as barely more than a child. My father sat in a chair at the back of the room with me in his lap. Although an interpreter sat between my mother and the American official, she later discovered that the interpreter was superfluous because the official was fluent in Vietnamese. They asked my mother a number of questions regarding her parentage and, at the end of the interview, crushed her by saying, "If we did approve you, your husband cannot come. Only your child may accompany you."

This is what my father remembers—that, without hesitation, my mother said, "Then I won't go." When they left the interview room, my mother burst into tears. Several weeks later, by chance, a neighbor saw my mother's name on the list of approved applicants posted and all three of us—my mother, my father, and I—began the immigration process. I asked my father once how the officials could have known that my mother was telling the truth about being Amerasian without any supporting paperwork, without anything but a first name,¹⁷⁵ and my father said, "Just look at her. You just need to take one look at your mom to know she was telling the truth."

Depending on the year or the hour, her surroundings or her mood, my mother has always identified as both American and not fully American, Vietnamese and not fully Vietnamese. My mother doesn't speak English that well, but, as a child, strangers would always go up to her and begin speaking to her as though she did. They would be surprised when she waited for her more obviously Asian child to interpret for her. In Vietnam, my mother prided herself on being different and "more beautiful" because she was American, not just physically but somehow emotionally and culturally as well. In the United States, she sometimes says, "Ah, so this is how Americans do things," as though she is not one of them, as though they have nothing to do with her as a Vietnamese woman.

My mother has two fathers—an American one and a Vietnamese one—and feels fully a child of both.

CONCLUSION

Ambiguity does not sit well with the law. As particle physics demonstrates that there exists elements in the world whose status is

175. Robert. Her American father's name was Robert. He was a man in his fifties with a wife and three daughters waiting for him in the United States and his name was Robert.

undetermined until observed, there exists lived experiences that are ambiguous and undetermined until the eye of the law, through statutes and judicial decisions, lands on those ambiguities and forces them to take a fixed form. The false narratives surrounding Amerasians reflect the contradictions that may arise when the eye of the law forces ambiguity into fixed form. It is as though the law is a camera taking photographs of the sky throughout the day. Sometimes the sky is blue. Sometimes it is red. Both are true. Both are false. The sky is blue in some places and red in others. The danger is allowing one photograph to describe the entirety of the sky at every hour of the day on every day.

This Note analyzed four potential false narratives regarding Amerasians not to claim that these false narratives are never true for any Amerasians, but to illustrate the harm that may arise when these false narratives are understood to define most, if not all, Amerasians. This harm may be not only social, but also legal when courts rely on or perpetuate these false narratives to deny rights. The hope and the aim of this Note is for law makers, both legislatures and courts, to find ways to be more comfortable with ambiguity within the rigidity of the law, to pause when they look only at snapshots of a life, to see for themselves the entirety of the sky.