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A Double Bind–“Model Minority” and “Illegal Alien”

Esther Yoona Cho[†]

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I wish people knew that we exist. That we’re out there. And that we’re like any other person We want to better our lives and better our communities. We are American.

– *Twenty-eight-year-old undocumented Korean*

Because we are seen as model minorities, there’s a lack of service provided to our communities. People think, “They’re doing fine on their own. We don’t need to give them affirmative action. Who cares? They get it on their own.” Some of us do, some of us don’t, you know? There’s a lack of help, lack of support, lack of funding for sure I think the model minority myth is an excuse to not help as much.

– *Twenty-four-year-old undocumented Korean*

INTRODUCTION

Asian undocumented immigrants, as both racially and legally constructed individuals, inhabit a unique space in the broader social fabric

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of the United States. In a social context where Asian immigrants are viewed as successful in part due to perceived legal entry and selectivity,¹ it is critical to consider the consequences for those who fall outside of this norm—those simultaneously holding a visible identity marker that is positively valenced (Asian race) while also grappling with an invisible identity marker that is negatively valenced (undocumented legal status).

It is heartening that the *Asian American Law Journal* has organized a symposium on this timely and critical matter, and I am honored to participate in this dialogue. In this piece, I primarily raise questions for consideration for scholars, policymakers, and community organizers alike, speculating on the distinct, myriad manifestations of the race/illegality intersection by drawing on preliminary findings from my interviews with Korean origin undocumented young adults.²

I. THE SOCIAL LOCATION OF ASIAN IMMIGRANTS IN THE UNITED STATES

In the United States, legal exclusion of immigrants has historically come hand-in-hand with race-based exclusion. In the early 20th century, Asian immigrants were targeted alongside Mexican immigrants as undesirable foreigners, becoming among the most legally racialized groups in the country. Mexicans were produced and stigmatized as illegal immigrants,³ and this trope reinforcing images of Mexican immigrants as undocumented, unskilled, and undesirable persists into the contemporary era.⁴ Asian immigrants, on the other hand, were the country's first "illegal aliens,"⁵ excluded through both immigration and citizenship law for

1. See Jane Junn, *From Coolie to Model Minority: U.S. Immigration Policy and the Construction of Racial Identity*, 4 DU BOIS REV. 355 (2007) (examining the role of U.S. government law and immigration policy in creating selection bias favoring Asian Americans); see also JENNIFER LEE & MIN ZHOU, *THE ASIAN AMERICAN ACHIEVEMENT PARADOX* (2015) (attributing immigration policies after 1965 that favored individuals with higher levels of education and professional skills as one reason why many Asian immigrants are highly educated). See generally Victor Nee & Hilary Holbrow, *Why Asian Americans Are Becoming Mainstream*, 142 DAEDALUS 65 (2013) (assessing the success of Asian American immigrants as indication that Asian Americans have enjoyed more open access to mainstream institutions).

2. Employing the category of "Asian" elides internal heterogeneity, as Asian Americans exhibit a bimodal pattern on structural indicators such as income, poverty, and education (notably East Asians on one end and Southeast Asians on the other). However, I strategically deploy the broader racial term "Asian" to highlight the very real role of race and racial discourses in conditioning one's experience with illegality.

3. Mae M. Ngai, *The Architecture of Race in American Immigration Law: A Reexamination of the Immigrant Act of 1924*, 86 J. AM. HIST. 67, 70 (1999). See generally Nicholas De Genova, *The Legal Production of Mexican/Migrant "Illegality"*, 2 LATINO STUD. 160 (2004) (tracing the history and impact of U.S. immigration laws that have had a disproportionate impact on Mexicans).

4. See generally LEO R. CHAVEZ, *THE LATINO THREAT: CONSTRUCTING IMMIGRANTS, CITIZENS, AND THE NATION* (2d ed. 2013) (investigating stories about recent immigrants to show how prejudices are used to denigrate an entire population).

5. See Ngai, *supra* note 3, at 70; see also Erika Lee, *The Chinese Exclusion Example: Race,*

decades. However, unlike the trajectory of Mexican immigrants, the trajectory of the Asian immigrant has evolved. Constructed as the “model minority,” they are now perceived as documented, educated, and desirable (albeit perpetually foreign).⁶

In the midst of such racial discourse, how do Asian immigrants who do not meet these ascriptions, who are in fact “illegal aliens,” navigate their everyday lives? The “model minority myth” gained popularity in the 1960s when *New York Times Magazine* and *U.S. News and World Report* published articles that highlighted the successful ethnic assimilation of Asians in America.⁷ However, this narrative had less to do with the actual triumph of Asian Americans and much more with the perceived silence and self-reliance relative to blacks; as expressed by writer Frank Chin, “Whites love us because we’re not black.”⁸ Some scholars⁹ have gone so far as to argue that Asian Americans are becoming “honorary whites,” using various indicators like income, educational achievement, and intermarriage. Others have challenged this view by demonstrating racial hostility and discrimination that Asians face in various social and institutional settings.¹⁰ The position of Asians can, therefore, be seen as a result of racial triangulation, where whites view Asians as a more satisfactory minority relative to blacks, but certainly not having achieved parity with whites.¹¹ Hence, the construction of Asians as a model minority has been rooted largely in the black/white binary, treating whites as “gatekeepers to belonging”¹² and blacks as the “problem minority”¹³ and thereby demarcating firm boundaries between these racial groups. When considering the undocumented community, wherein the clear comparison group is Latinos, does the model minority myth operate similarly among

Immigration, and American Gatekeeping, 1882–1924, 21 J. AM. ETHNIC HIST. 36, 41 (2002).

6. See Claire Jean Kim, *The Racial Triangulation of Asian Americans*, 27 POL. & SOC’Y, 105, 107 (1999).

7. See Robert G. Lee, *The Cold War Construction of the Model Minority Myth*, in CONTEMPORARY ASIAN AMERICA: A MULTIDISCIPLINARY READER 469, 469 (2007).

8. *Id.* at 469.

9. See, e.g., Eduardo Bonilla-Silva, *From Bi-Racial to Tri-Racial: Towards a New System of Racial Stratification in the USA*, 27 ETHNIC & RACIAL STUD. 931, 932 (2004); see also Ian F. Haney López, *Colorblind to the Reality of Race in America*, 53 CHRON. HIGHER EDUC. 62 (2006); Jennifer Lee & Frank D. Bean, *America’s Changing Color Lines: Immigration, Race/Ethnicity, and Multiracial Identification*, 30 ANN. REV. SOC. 221 (2004); Herbert J. Gans, *The Possibility of a New Racial Hierarchy in the Twenty-First-Century United States*, in THE CULTURAL TERRITORIES OF RACE: BLACK AND WHITE BOUNDARIES 371–90 (Michèle Lamont ed. 1999).

10. See, e.g., ROSALIND S. CHOU & JOE R. FEAGIN, THE MYTH OF THE MODEL MINORITY: ASIAN AMERICANS FACING RACISM 139 (Routledge 2d ed. 2016).

11. See Kim, *supra* note 6, at 107.

12. Tomás R. Jiménez & Adam L. Horowitz, *When White Is Just Alright: How Immigrants Redefine Achievement and Reconfigure the Ethnoracial Hierarchy*, 78 AM. SOC. REV. 849, 851 (2013).

13. See CHOU & FEAGIN, *supra* note 10, at 20.

Asians vis-à-vis their Latino counterparts? Does this success narrative mitigate difficulties associated with legal status for Asian undocumented immigrants insofar as to brighten the boundary between these two immigrant groups, or does the shared plight of undocumented legal status foster group consciousness?

Frames of achievement and success not only emerge from outgroups but within Asian immigrant communities as well, which may have detrimental consequences for undocumented youth and young adults who must navigate the weighty impediment of their undocumented status. Scholars have found that Asian immigrant communities themselves operate within the narrow bounds of their own “success frame,” a discursive framework that functions as a form of symbolic capital that facilitates social mobility.¹⁴ Achievement is therefore intricately linked to race and ethnicity within Asian immigrant communities as well, where the reference group for success is not middle-class whites but high-achieving co-ethnics.¹⁵ Due to this limited frame of achievement that stems from the high educational selectivity (or “hyper-selectivity”)¹⁶ of many contemporary Asian immigrants, some Asian American students of low-income backgrounds are found to be able to override material disadvantages when scaffolded by ethnic resources. Those who not only face the structural barrier of socioeconomic status but also undocumented status are socialized in these frames as well, carrying the burden of both in-group and out-group ascriptions of success. However, immigration status leaves these Asian American students doubly encumbered, for which no abundance of ethnic resources can offer relief. Does the “success frame” function similarly as symbolic capital for Asians who are undocumented, or does it instead operate as a form of symbolic and structural violence? How do those standing at the nexus of the heralded model minority and the marginalized illegal alien negotiate their identity and understand their sense of belonging? What are the symbolic and material implications of holding master statuses of dissonant valence and visibility?

14. See LEE & ZHOU, *supra* note 1, at 58; see also Junn, *supra* note 1, at 356 (“*Model minority* may be an accurate description of a selected set of Asians who successfully immigrated to the United States, but this description cannot be extended to characterize either Asian culture or Asian Americans in general; nor can it be applied in comparison to other minority groups with different trajectories of fortune.”).

15. See Jimenez & Horowitz, *supra* note 12, at 850; see also LEE & ZHOU, *supra* note 1, at 71.

16. Professors Lee and Zhou proposed the concept of “hyper-selectivity” to encompass the dual educational selectivity of certain Asian groups (i.e., Chinese): having above-average educational attainment compared to nonimmigrants as well as counterparts in their host country. LEE & ZHOU, *supra* note 1, at 6.

II. COMPLEX AND NUANCED REALITIES OF THE ASIAN RACE/ILLEGALITY INTERSECTION

Drawing primarily on some emergent findings in my own interviews with Korean origin undocumented young adults,¹⁷ the latter half of this piece begins to skim the surface in addressing these myriad questions, underscoring the complex, nuanced realities of the Asian race/illegality intersection. There is no single “Asian undocumented” experience and not all Asian groups are perceived through the model minority stereotype. However, considering that three of the top four Asian undocumented immigrant groups in the U.S. (Chinese, Filipino, Indian, Korean)¹⁸ have been closely associated with the model minority myth,¹⁹ and given limited scholarship on undocumented immigrants of Asian origin, I rely on interviews from Korean undocumented immigrants as a single case of this large and diverse community to pose a theoretical framework of the distinctive model minority-illegal alien intersection. I by no means intend to flatten the experience but deploy this all-encompassing racial term as a rhetorical strategy with the goal of interrogating the racialization of illegality.

A. Invisibility of Undocumented Asian Immigrants: “That We Exist.”

Largely thanks to the efforts of Asian grassroots and community-based organizations, the unique plights of undocumented Asian young adults are starting to surface in popular discourse. At least thus far, however, the conversations around Asian undocumented immigrants have yet to be enlivened and humanized by narratives, generally centering around statistics instead of stories. Most prominently the disproportionately low rate of DACA requests by eligible Asian youth and young adults has been highlighted in the media, bewildering community leaders and policymakers and motivating them to investigate the causes and remedies for the 14.6 percent application rate.²⁰ They have been hidden in the

17. My broader project relies primarily on interviews with Korean and Mexican undocumented young adults. To date I have interviewed a total of sixty-seven respondents: thirty-one Korean, thirty-one Mexican (as well as two Filipino, one Chinese, one Indian, and one Honduran).

18. Jeremy Passel & D’Vera Cohn, *Overall Number of U.S. Unauthorized Immigrant Holds Steady Since 2009*, PEW RES. CTR. (2016), <http://www.pewhispanic.org/2016/09/20/1-birth-regions-and-nations/> [https://perma.cc/ZQR9-GC7Y].

19. See Junn, *supra* note 1, at 367–70.

20. *Encouraging Asians and Pacific Islanders to Apply for DACA*, VOICES OF NY (Sept. 2, 2016), <https://voicesofny.org/2016/09/encouraging-asians-and-pacific-islanders-to-apply-for-daca/> [https://perma.cc/8CHK-G23D].

shadows, and, despite a landmark opportunity for relief (albeit temporary), in the shadows they remain. Considering that such is the social milieu of Asian undocumented immigrants, it is not a surprise that feelings of loneliness and isolation were common themes in my interviews with undocumented young adults of Korean origin, often not even confiding in their parents or siblings about their frustrations with their legal situation. The lack of awareness of the 1.5 million other undocumented Asians²¹ that reside among them reinforces the stigma and silencing of their situation, which is further exacerbated by the prevalent culture of “saving face” and preserving one and one’s family from shame. One respondent shared that he had taken the courageous step of calling a Korean lawyer for assistance on his DACA application, only to discover that this lawyer was completely uninformed about the program. While there have been major strides in the realm of undocumented Asian advocacy, it is evident that efforts must be made to raise awareness of not only the mere existence of undocumented Asians but also the distinct experiences specific to this community that prevent them from seeking and receiving support.

B. Perceived Advantages of Undocumented Asian Immigrants: “They Do Have an Advantage.”

One Mexican origin respondent remarked that Asian undocumented immigrants “have an advantage,” alluding to what I would describe as their capacity to “pass” as legal. Research thus far has suggested that being able to pass as legal could function as a “double-ended sword” for this group, particularly in the higher education system.²² That is, theirs is a tension-ridden struggle of having to navigate the very palpable constraints of illegality, while being disassociated with illegality due to visible markers of being a model minority.²³ The same racial narratives that divest Asian undocumented immigrants of institutional and relational support do seem to protect them from existential risks such as the pervasive fear of being profiled as undocumented and deported. Furthermore, their social and spatial position within a larger immigrant community that is relatively more resourced and relatively more documented, particularly vis-à-vis their Latino counterparts, has an indirect yet significant spillover effect on their material well-being. While severely encumbered by their legal status, many

21. *U.S. Unauthorized Populations from Asia, Central America and Africa Have Grown the Fastest Since 2000, New MPI Report Finds*, MIGRATION POL’Y INST. (Aug. 19, 2015), <http://www.migrationpolicy.org/news/us-unauthorized-populations-asia-central-america-and-africa-have-grown-fastest-2000-new-mpi/> [https://perma.cc/9RRP-PTTR].

22. Beleza Chan, *Not Just a Latino Issue: Undocumented Students in Higher Education*, J.C. ADMISSION, Winter 2010, at 29, 30.

23. *Id.*

of them are able to mobilize the collective economic capital of their co-ethnoracial communities; ready access to employment at co-ethnic businesses provides opportunities for Korean undocumented immigrants in particular to circumvent barriers to the formal labor market.²⁴ The capacity to address immediate financial concerns by working at ethnic niches, therefore, may delay the exigency of requesting DACA for this group.²⁵ Coupled with the deep-seated stigmatization of undocumented status and tenuous institutionalized support systems for Asian undocumented immigrants, that more than 85 percent of those eligible have not applied for DACA²⁶ perhaps then is to be expected. Asian undocumented immigrants may not perceive the benefits as outweighing the costs of coming forward, placing their unprotected undocumented relatives at risk and bringing shame to themselves and their families.

C. The “Model Minority Myth” as Barrier to Relief: “The Model Minority Myth Is an Excuse to Not Help as Much.”

The misconception that illegality is solely a “Latino issue” has elided Asian undocumented youth and young adults from being beneficiaries of the ever-growing resources that now do exist for undocumented immigrants. Even for those who courageously come out of the shadows to seek assistance, support is not readily found. Respondents have had to confront that they are often ineligible for scholarships for undocumented students or feel displaced even in advocacy spaces that proactively strive to be inclusive because of their Asian identity. Contrary to grassroots efforts towards panethnic and panracial collective consciousness,²⁷ intended and unintended boundaries created by all agents seem to hinder Asian undocumented youth and young adults in particular from acquiring valuable information as well as a sense of belonging and community.

24. Esther Yoona Cho, *Revisiting Ethnic Niches: A Comparative Analysis of the Labor Market Experiences of Asian and Latino Undocumented Young Adults*, RUSSELL SAGE J. SOC. SCI. (forthcoming).

25. There is an even lower rate of application among Chinese DACA-eligible individuals than among Korean DACA-eligible individuals. See *DACA at Four: Participation in the Deferred Action Program and Impacts on Recipients*, MIGRATION POLICY INSTITUTE (2016), <http://www.migrationpolicy.org/research/daca-four-participation-deferred-action-program-and-impacts-recipients> [<https://perma.cc/3BSC-PRV4>]. While empirical data must be examined in order to ascertain precise mechanisms, it is quite possible that the conjectures presented would apply for both Asian subgroups.

26. *Encouraging Asians and Pacific Islanders to Apply for DACA*, *supra* note 20.

27. See, e.g., Momo Chang, *Dreams Deferred*, HYPHEN MAG. (May 15, 2012), <http://hyphenmagazine.com/magazine/issue-25-generation-spring-2012/dreams-deferred/> [<https://perma.cc/27BZ-GUAD>]; Amanda Holpuch, *Undocumented, Asian, and Taking up Arms in the Immigration Fight—Finally*, GUARDIAN (Aug. 23, 2015), <https://www.theguardian.com/us-news/2015/aug/23/undocumented-asian-immigrant-daca-relief-program/> [<https://perma.cc/YF7Y-Q5A5>].

Given the expansive economic, social, and educational capital that exists within the Asian community, the potential for these resources (beyond that of ethnic niches) to be translated into catalysts for change for the undocumented in their midst is considerable. It is vital to explore how these resources can be activated to address the unique needs of undocumented Asian American young adults who are socialized in the same frames for achievement and mobility as their documented peers but are constrained by the insurmountable barrier of legal status.

CONCLUSION

The issues presented here suggest the critical need to develop a nuanced understanding of legal status in its myriad forms as well as its profound material and symbolic implications for ethnoracially diverse immigrant communities. Given that understandings of societal membership in the United States have historically emerged from the intersection of race and legal status, we can only effectively advocate for undocumented immigrants by recognizing that they navigate their everyday lives as both racially and legally constructed individuals. More importantly, my hope is that this discussion points us to the urgency of comprehensive immigration reform, unraveling the centuries of broken immigration and naturalization policies and laws that have safeguarded those in power, perpetuated racial stratification, and stripped individuals of fundamental human rights.