

The Fate of “Shared Interests among People of Color”: Asian American Intellectuals and Access to Education in the Post-*Bakke* Era

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“The time has come to consider groups that are neither white nor black in the jurisprudence on race,” the legal scholar Frank H. Wu wrote in 1995. Wu was concerned by arguments that affirmative action programs necessarily led to discrimination against Asian Americans. Beginning in the late 1980s, conservatives had made such arguments with increasing frequency to undermine race-conscious admissions in higher education. Wu, however, remained optimistic about separating Asian Americans’ struggles against racial discrimination from the agenda of rolling back affirmative action. “The Asian-American experience,” Wu wrote, “should demonstrate the continuing importance of race and the necessity of remedial programs based on race.”¹

Wu’s confidence that “the Asian-American experience” would justify ongoing anti-racist policies—not just for Asian Americans but for other racial minorities—reflected the influence that ethnic studies had on the study of Asian American communities. Asian American studies was born from the activism of college students who rallied in the late 1960s under the banner of Third Worldism. These students believed that Asian American, Black, Latinx, and Native American communities confronted analogous, though not identical, conditions of racial oppression and needed to take up the struggle for self-determination. Just as national liberation struggles across the globe might together eradicate the legacy of colonialism, the struggles of racially oppressed groups in the United States were imagined as jointly capable of transforming a society built upon institutional racism.²

Activists ranging from social workers in California to construction workers in Boston formed Third World coalitions, but Third Worldism was most influential among

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For feedback on previous drafts, the author thanks Gordon H. Chang, Estelle Freedman, Jonathan Gienapp, William Gow, Beth Lew-Williams, Rachel Lim, Colleen Lye, David Palumbo-Liu, Chris Suh, Vivian Yan-Gonzalez, the participants of the Stanford U.S. History Workshop, and the editors and anonymous reviewers of the *Journal of American History*. The author thanks Henry Der, Henry Louie, Dana Takagi, and Ling-chi Wang for sharing their reflections on this history.

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¹ Frank H. Wu, “Neither Black nor White: Asian Americans and Affirmative Action,” *Boston College Third World Law Journal*, 15 (Summer 1995), 225–84, esp. 225.

² On the formation and development of Asian American studies, see Russell Jeung et al., eds., *Mountain Movers: Student Activism and the Emergence of Asian American Studies* (Los Angeles, 2019). On Third Worldism, see Gary Y. Okihiro, *Third World Studies: Theorizing Liberation* (Durham, N.C., 2016); and Daryl J. Maeda, *Chains of Babylon: The Rise of Asian America* (Minneapolis, 2009).

students. The vision of Third World unity inspired multiracial student coalitions at colleges and universities across California, the Midwest, and the Northeast. Such coalitions were particularly important for Asian American activists. At the University of California, Los Angeles (UCLA), Harvard University, the University of Michigan, Brandeis University, and other institutions during the 1970s, Third World alliances pressed reluctant administrators to recognize Asian Americans as racial minorities, provide them support services, and include them in affirmative action programs.³

Wu's article appeared in a student law review that itself was an outgrowth of the Third Worldist ethos, Boston College's *Third World Law Journal*. Wu sought to embody that ethos as well. In 1994 he volunteered his efforts to oppose Proposition 187, a draconian California ballot measure that stoked anti-Mexican sentiment. He would later become the first Asian American on the faculty of Howard University's law school, an experience he wrote about in a book chapter titled "The Power of Coalitions." Wu's article also, however, appeared at a moment when the ideal of multiracial solidarity seemed to be growing more elusive. The 1992 Los Angeles uprising—which exploded after the acquittal of police officers charged with beating Rodney King—destroyed much of Koreatown in what Peter Kwong called "the first multicultural riot." Elaine Kim, one of the first tenured professors of Asian American studies in the country, described how the targeting of Korean businesses during the upheaval forced her to rethink the easy assumptions of Third Worldism. "As someone whose social consciousness was shaped by the African American-led civil rights movement of the 1960s," Kim wrote, "I felt that I was watching our collective dreams for a just society disintegrating."⁴

Of the many controversies that raised questions about the place of Asian Americans in multiracial politics, perhaps none were as central as the clashes over access to educational institutions. In the 1978 *Regents of University of California v. Bakke* case, the U.S. Supreme Court found the University of California, Davis, medical school's set-asides for racial minority applicants to be unconstitutional, but the Court upheld race-conscious admissions for the purpose of creating a diverse student body. In the decades following *Bakke*, legal and political challenges to race-conscious admissions were at the forefront of opposition to policies intended to eliminate racial inequities. As these battles unfolded, opponents of affirmative action continued to represent Asian Americans as victimized by race-conscious admissions. A more surprising change occurred among liberal and left-leaning Asian American intellectuals: despite Wu's hope that a focus on Asian American experiences would strengthen the argument for affirmative action, a more ambivalent sense of Asian Americans' place in the U.S. racial landscape began to take shape. Just a year after the publication of Wu's article, two leading Asian American studies scholars,

³ Ken Tichenor, "Third World Demands Share of UBAC Funds," *San Francisco Sun Reporter*, May 15, 1971, p. 2; Mel King, *Chain of Change: Struggles for Black Community Development* (Boston, 1981), 185–91; Albert Y. Muratsuchi, "Race, Class, and UCLA School of Law Admissions, 1967–1994," *Chicano/Latino Law Review*, 16 (Winter 1995), 90–140; Tony Butler and Renee Tajima, "The Third World Center: In Perspective," *Harvard Crimson*, April 18, 1980, <https://www.thecrimson.com/article/1980/4/18/the-third-world-center-in-perspective/>; "75 BAM Demands," *Michigan Daily*, Feb. 19, 1975, p. 8; Neil Pickett and Craig Charney, "Students Occupy Pearlman," *Justice* (Brandeis University), April 30, 1975 (extra edition), p. 1.

⁴ LIRA@BC Law, *Boston College Third World Law Journal*, <https://lira.bc.edu/collection/34e2b21b-b919-404c-b22e-e1524dd9e768>; Daniel Martinez HoSang, *Racial Propositions: Ballot Initiatives and the Making of Postwar California* (Berkeley, 2010), 188; Frank H. Wu, *Yellow: Race in America beyond Black and White* (New York, 2002), 301–42; Peter Kwong, "The First Multicultural Riots," *Village Voice*, June 9, 1992, pp. 29–32, esp. 29; Elaine H. Kim, "Home Is Where the Han Is: A Korean-American Perspective on the Los Angeles Upheavals," in *Reading Rodney King/Reading Urban Uprising*, ed. Robert Gooding-Williams (New York, 1993), 215–35, esp. 217.

the sociologists Michael Omi and Dana Takagi, argued that the debates over educational access had demonstrated the weakness of conceptualizing “Asian Americans as relatively unproblematic partners in a wider coalition politics.” Takagi had written an authoritative analysis of Asian American college admissions, while Omi had coauthored the influential work that inaugurated racial formation theory. Both authors identified with the activist traditions that envisioned a “united front” of people of color. Despite such sympathies, however, the two sociologists were “concerned that such a politics presumes that Asian American interests are similar enough to other interests to make the coalition claims viable and rhetorically persuasive.” It was time, Takagi and Omi argued, to let go of the presumption of “shared interests” among people of color.⁵

As these assertions from Takagi and Omi suggest, the controversies regarding Asian Americans and educational access were pivotal in a larger transformation in Americans’ thoughts about race. Through the early 1980s, even when activists found it challenging to achieve Third World unity, they often attributed disunity to differences in cultural backgrounds or a lack of communication—surmountable obstacles for groups that properly belonged in coalition. As several scholars have noted, however, the Third Worldist understanding of nonwhite communities as natural political allies that confronted analogous conditions of oppression grew less convincing in the 1990s. Increasingly, scholars of race began to think in terms of what Mark Brilliant has described as multiple, often-conflicting color lines. Policies that seemed to promise greater equality for one racial group might adversely affect another group; conflicts among communities of color seemed as likely as collaboration. Debates regarding education were a key catalyst for this shift in thought because, as David Hollinger noted, “It became hard to overlook that Asian Americans, even if subject to discrimination as ‘foreign’ and thus ‘not really American,’ were overrepresented rather than underrepresented in many universities.”⁶

This article explores how Asian Americans came to be understood as possessing a group interest that diverged from those of other communities of color, not just by conservatives but also by Asian American intellectuals who were committed to multiracial solidarity and who rejected the model minority stereotype. I examine two key moments that transformed the debate about Asian Americans’ relationship to systems of education in the United States: a campaign in the 1980s at University of California, Berkeley, against changes in admissions criteria, and a 1994 legal challenge to the desegregation policies of the San Francisco Unified School District. Though both of these episodes occurred in the

⁵ *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978); Michael Omi and Dana Y. Takagi, “Situating Asian Americans in the Political Discourse on Affirmative Action,” *Representations*, 55 (Summer 1996), 155–62, esp. 159; Dana Y. Takagi, *The Retreat from Race: Asian-American Admissions and Racial Politics* (New Brunswick, 1992); Michael Omi and Howard Winant, *Racial Formation in the United States: From the 1960s to the 1980s* (New York, 1986). See also Claire Jean Kim, “Playing the Racial Trump Card: Asian Americans in Contemporary U.S. Politics,” *Amerasia Journal*, 26 (no. 3, 2000–2001), 35–65.

⁶ David A. Hollinger, “The One Drop Rule and the One Hate Rule,” *Daedalus*, 134 (Winter 2005), 18–28, esp. 23. Attempts to explain disunity include Gene Kim and Abel Orendain, “A ‘Unity Day’ for Minority Students,” *Daily Pennsylvanian*, March 18, 1980, p. 4; and Mark Brilliant, *The Color of America Has Changed: How Racial Diversity Shaped Civil Rights Reform in California, 1941–1975* (New York, 2010), 262. For examples of the shift from color line to color lines, see Eric K. Yamamoto, *Interracial Justice: Conflict and Reconciliation in Post-Civil Rights America* (New York, 1999); Toni Robinson and Greg Robinson, “The Limits of Interracial Coalition: *Méndez v. Westminster* Reexamined,” in *Racial Transformations: Latinos and Asians Remaking the United States*, ed. Nicholas De Genova (Durham, N.C., 2006), 93–119; and Claire Jean Kim, *Bitter Fruit: The Politics of Black-Korean Conflict in New York City* (New Haven, 2000). For an example of the persistence of Third Worldist-inspired scholarship, see Okihiro, *Third World Studies*.

San Francisco Bay Area, they became paradigmatic examples for Asian American intellectuals theorizing about the place of Asian Americans in the U.S. racial landscape.

As these disputes over education unfolded, Asian American studies scholars—whom I refer to as Asian Americanists—began to argue that debates over educational access needed to address the specific situation of Asian Americans. Asian Americans were not entirely neglected by other scholars, but as the law professor Daniel Farber noted in a 1994 article about affirmative action, “Many discussions of racial issues in the legal literature focus on African Americans, implicitly assuming either that there are no other minority groups or that other groups pose identical problems.” Awareness of this weakness, however, did not always produce new analyses to remedy it; Farber confessed that, except for a short discussion of Mexican Americans, “this Article will be guilty of the same failing.”⁷

Asian Americanists, by contrast, were quick to understand how the experiences of Asian Americans might pose fundamental challenges to prevailing notions of equitable educational access. This article focuses on a group of Asian Americanists that sought to legitimize claims of anti-Asian discrimination in educational access while also arguing that Asian Americans ought to support race-conscious affirmative action. Such a position may seem unusual from a contemporary perspective, as more recent defenders of affirmative action have vigorously disputed claims of anti-Asian discrimination in college admissions. The intellectuals studied here, however, believed their interventions would strengthen, not weaken, the legal and moral case for affirmative action. Examining their thought allows us to understand how that belief came under stress and ultimately gave way to a broader sense that Third World–inspired multiracial alliances rested on fragile foundations.⁸

As I demonstrate in this article, the shift from Third Worldism to multiple, conflicting color lines in U.S. thought depended crucially upon the analytical frameworks Asian American intellectuals mobilized in response to controversies over education. In general, Asian Americanists were committed to the idea that Asian Americans as a whole suffered from a form of racism distinct from the kinds of racism that afflicted other communities, a racism that needed to be made legible within a society that too often downplayed or ignored Asian American experiences with racism. Asian Americanists were also committed to the idea that Asian Americans possessed a collective interest in opposing that anti-Asian racism. As they worked out their arguments about educational access in the pages of academic journals, Asian Americanists drew on these commitments to produce new insights. They called attention to the ways conventional ideas of proportionate representation, when applied to Asian Americans, produced hostility toward Asian American “overrepresentation” in higher education and reinforced white racial animus.

⁷ Daniel A. Farber, “The Outmoded Debate over Affirmative Action,” *California Law Review*, 82 (July 1994), 893–934, esp. 893n2.

⁸ For defenses of affirmative action that rebut claims of anti-Asian discrimination in college admissions, see Julie J. Park, *Race on Campus: Debunking Myths with Data* (Cambridge, Mass., 2018), 71–98; Janelle Wong, “Actually, Race-Conscious Admissions Are Good for Asian-Americans,” *Chronicle of Higher Education*, Oct. 4, 2018, <https://www.chronicle.com/article/actually-race-conscious-admissions-are-good-for-asian-americans/>; and “Brief of 1,241 Social Scientists and Scholars on College Access, Asian American Studies, and Race as *Amici Curiae* in Support of Respondent,” *Students for Fair Admission, Inc. v. President and Fellows of Harvard College* (S. Ct. Docket No. 20-1199), <https://www.harvard.edu/admissionscase/wp-content/uploads/sites/6/2022/08/Brief-of-1241-Social-Scientists.pdf>. For further background, see Benjamin Chang, “Asian Americans and Education,” in *Oxford Research Encyclopedia of Education*, ed. George W. Noblit (New York, 2017), https://web.archive.org/web/20200710194302id_/https://files.eric.ed.gov/fulltext/ED577104.pdf.

By associating anti-Asian discrimination in educational access with white racial animus rather than with affirmative action, these thinkers believed they offered a solid foundation for multiracial solidarity. Asian Americanists' intellectual commitments, however, proved to be double-edged. In emphasizing the racial predicament and group interests of Asian Americans as a whole, these assumptions led many Asian Americanists to downplay the distinct kinds of disadvantage confronted by low-income and limited-English-proficiency (LEP) Asian Americans and to foreclose other possibilities of conceptualizing multiracial alliances grounded in shared interests. The presumption that different kinds of disadvantage could be subsumed within a common anti-Asian racism ultimately naturalized the notion that Asian Americans no longer fit comfortably within the kinds of multiracial alliances envisioned by Third Worldism. In making this argument, my goal is not to offer a new prescription for how Asian Americans, as a whole, ought to be positioned within ongoing debates about educational access and multiracial politics more generally. I intend, rather, to demonstrate how Asian Americanists' investment in a coherent Asian American group interest, and their relative neglect of diverging class interests, has shaped the terms of these debates.

“Otherwise Excellent Students”

In 1970 the Carnegie Commission on Higher Education published the slim booklet *A Chance to Learn: An Action Agenda for Equal Opportunity in Higher Education*. Chaired by Clark Kerr, the former president of the University of California (UC) system, the commission brought together nineteen educational and corporate executives to advance an agenda to address higher education's most pressing problems. The 1970 report struck a balance of optimism and urgency: “Never in history has any other nation moved so far and so fast in providing expanded opportunities for higher education. But there is still a long way to go.” Universalizing the promise of the nation's colleges and universities meant expanding access by income level, location, age, and ethnic group. “The proportion of black persons enrolled from the 18- to 24-year age group was only half that of white persons,” the authors noted, and statistics for other racial minorities were even worse. Then, in a parenthetical aside, the authors added: “(The Japanese-Americans and Chinese-Americans are well represented in higher education and are not now educationally disadvantaged.)”⁹

In describing Japanese Americans and Chinese Americans as no longer disadvantaged, *A Chance to Learn* echoed the common sense of administrators charged with implementing antidiscrimination programs. As John Skrentny has shown, those administrators created a specific way of evaluating the grievances of racial minorities, women, LGBT (lesbian, gay, bisexual, transgender) individuals, and other historically disadvantaged groups. The success of group claims for special attention, whether in matters of employment, education, or political representation, depended on whether bureaucrats perceived a given group's condition was similar to that of African Americans. They believed that discrimination against African Americans manifested itself in low numbers of Black people in a workplace or job classification relative to the proportion of Black people in the surrounding population. For other racial minorities—though not initially for women—this meant

⁹ Carnegie Commission on Higher Education, *A Chance to Learn: An Action Agenda for Equal Opportunity in Higher Education* (New York, 1970), 2.

that underrepresentation, disadvantage, and discrimination became linked concepts. The first condition, underrepresentation—which could be made visible through statistics—became a sign of the second and third conditions.¹⁰

As sanguine as the authors of *A Chance to Learn* were about the future of Asian Americans in higher education—though they neglected to mention Filipino Americans—even they would have been surprised at the data on college enrollments over the following decade. Between 1976 and 1982, the number of Asian Americans enrolled in undergraduate education increased from 198,000 to 351,000. That was double the rate of increase of Latinx enrollment, which had risen from 384,000 to 519,000, and ten times the rate of increase of Black enrollment, which grew from 1,033,000 to 1,101,000 over the same period. Whether these statistics meant that Asian Americans were no longer “educationally disadvantaged,” however, would be the subject of a national debate by the late 1980s. As the debate unfolded, Asian Americanists marshaled their own statistics about higher education admissions to highlight the ostensible uniqueness of anti-Asian racism.¹¹

Though the overall numbers of Asian American undergraduates had grown quickly through the 1970s, one survey of twenty-five selective universities in the mid-1980s found that the rate of admission for Asian Americans had actually declined since 1977 and was lower than all other racial groups. At Stanford University, Brown University, Yale University, and other campuses, Asian American students questioned whether admissions officers discriminated against Asian American applicants. The site of the most sustained controversy, though, was the University of California, Berkeley. Between 1966 and 1980, Asian American enrollment had quadrupled as a percentage of the total undergraduate student body. By that time, one in five Berkeley undergraduates was a student of Asian ancestry. In a 1981 report on Asian American students at Berkeley, Asian American studies professor Sucheng Chan evoked what she believed to be a common reaction to the growing presence of Asian Americans: “As one looks around the campus, one sees large numbers of students with jet black hair and yellowish skin. . . . Who are these students? Where have they come from? What are they like? Why are there so many of them?”¹²

The debate at Berkeley revolved around a set of new admissions criteria implemented between 1983 and 1985 to deal with a dramatic increase in applications. The 1960 Master Plan for Higher Education in California designated the top one-eighth of high school graduates as the pool of students eligible to attend the University of California system. As late as 1973, Berkeley’s College of Letters and Science had sufficient capacity to accept all eligible applicants. From 1974 through 1984, however, the number of applicants to Berkeley grew from 4,706 to 12,381. A growing proportion of applicants were Asian American: by 1984, the number of applicants of Asian descent exceeded 3,000, nearly a quarter of total applications. As applications surged, the admissions office implemented two unpublicized changes in late 1983 and early 1984. Through 1983, applicants were able to gain admission on the basis of a high grade point average, regardless of the applicant’s standardized test scores. In December 1983, Berkeley’s admissions director, Robert Bailey, instituted a minimum score requirement of 400 for the verbal portion of the

¹⁰ John D. Skrentny, *The Minority Rights Revolution* (Cambridge, Mass., 2002).

¹¹ W. Vance Grant and Thomas D. Snyder, *Digest of Education Statistics: 1985–86* (Washington, 1986), 108–9.

¹² David Ho and Margaret Chin, “Admissions: Impossible,” *Bridge Magazine*, 8 (Summer 1983), 7–8, 51; Takagi, *Retreat from Race*, 21; Sucheng Chan, “Contemporary Asian Immigration and Its Impact on Undergraduate Education at the University of California, Berkeley,” 1981, folder 24, box 210, Records of the Office of the Chancellor, 1952–2000 (Bancroft Library, University of California, Berkeley).

Scholastic Aptitude Test (SAT). That policy was quickly withdrawn after Asian American admissions staff protested, but another change became permanent. On January 4, 1984, Bailey removed the protected status of low-income applicants who qualified for the university's Educational Opportunity Program (EOP) but who did not qualify for affirmative action. About 90 percent of the affected students were of Asian ancestry; the remainder were white. Without protected status, these EOP applicants could only gain admission by meeting the same selective criteria as non-EOP applicants.¹³

For students applying for entrance to the university in 1985, the university developed an entirely new, two-tier admissions process. This new process would choose 50 percent of admitted students—tier one—on the basis of grades and test scores, provided those students had completed the requisite courses in high school history, English, math, science, foreign languages, and other electives. The other half of admitted students—tier two—included one subpool for affirmative action, athletes, and “special talent” students, and another subpool in which students would be first ranked according to grades and test scores, then awarded extra points for taking foreign language courses, receiving an exemption from Berkeley's remedial writing class, and demonstrating leadership and character in a written essay.¹⁴

One of the leading critics of the university's new admissions policies was Asian American studies professor Ling-chi Wang. Born in China, Wang immigrated from Hong Kong in the mid-1950s to attend Hope College in Michigan. He developed a commitment to social justice while reading the Old Testament at Princeton Theological Seminary, and he later attended the University of Chicago to study ancient Semitic literature. During a visit to San Francisco, Wang was struck by the similarity between the conditions in Chicago's South Side and San Francisco's Chinatown, and he secured a transfer to Berkeley's Ph.D. program to work in the Chinese American community. Wang was an energetic supporter of the 1969 Third World Liberation Front strike that established Asian American studies at Berkeley, and he became one of the program's first tenure-track faculty in 1974. Wang had also long been preoccupied with the experiences of limited-English-proficiency Asian Americans, and he was a major force behind the 1974 *Lau v. Nichols* case that established access to bilingual education as a civil right. At Berkeley, Wang was the first to notice that the number of Asian Americans enrolled for the 1984 freshman class was surprisingly low, and he organized a group of prominent Asian American civic leaders into the

¹³ Committee on Admissions and Enrollment, Berkeley Division, Academic Senate, University of California, *Freshman Admissions at Berkeley: A Policy for the 1990s and Beyond* (1989), 2; Arthur G. Coons et al., *A Master Plan for Higher Education in California, 1960–1975* (Sacramento, 1960), <https://www.ucop.edu/acadinit/mastplan/MasterPlan1960.pdf>; Asian American Task Force on University Admissions, “Task Force Report,” June 17, 1985, tables 20, 22, folder 40, Records of the Advisory Committee on Asian American Affairs (Bancroft Library); W. A. Shack et al., “Report of the Special Committee on Asian American Admissions of the Berkeley Division of the Academic Senate,” Feb. 1989, pp. 35–38, folder 45, *ibid.* There was also another change that did not become public until the Shack report was issued in 1989. Between 1981 and 1984, the College of Letters and Science had increased the grade point average (GPA) score necessary to gain admission. Since more Asian Americans gained admission via the GPA score than by standardized test scores, this disproportionately affected Asian American applicants. See *ibid.*, 23–24. Filipino applicants remained protected by affirmative action at University of California, Berkeley, until 1989. See Grace Carroll, Carolyn Tyson, and Bernadette Lumas, “Those Who Got in the Door: The University of California-Berkeley's Affirmative Action Success Story,” *Journal of Negro Education*, 69 (Winter–Spring 2000), 128–44.

¹⁴ University of California at Berkeley, Admissions Study Group, “Summary of Recommendations for Freshmen Redirection,” n.d., included in Asian American Task Force on University Admissions, “Task Force Report.” See also Takagi, *Retreat from Race*, 35–38.

Asian American Task Force on University Admissions (AATF) to determine what had happened.¹⁵

Wang and the AATF concluded that the university's criteria discriminated against Asian-ancestry applicants, especially recent immigrants, who were less likely to complete all the high school courses to qualify for consideration in the first pool of students, to take foreign language courses, and to obtain an exemption from the writing class requirement. Although the Berkeley freshman class entering in 1984 was smaller than the one that entered in 1983, the number of Asian American freshman declined nearly 16 percent—from 1,196 to 1,008—while the number of white freshmen dropped only 4 percent—from 2,425 to 2,327. After the two-tier system was introduced, the proportion of Asian American students at Berkeley stopped growing. The critics suspected Berkeley had an informal cap on Asian American admissions.¹⁶

Each time the university disclosed more information regarding its admission policy changes, the AATF felt vindicated in its criticisms. The administration insisted its short-lived policy of instituting a minimum verbal SAT score of 400, for instance, did not result in rejecting any applicants. This was true. However, when the university finally provided the relevant admissions office memos in 1988, the AATF learned that the policy specifically targeted noncitizens. In the first memo, dated December 28, 1983, Bailey wrote, "No permanent resident alien whose application falls within the top 50 percent of the application pool will be retained at Berkeley if the applicant scored less than 400 on the SAT verbal test." In a follow up memo sent one week later, Bailey indicated that this policy would apply specifically to "immigrants and refugees."¹⁷

The English language skills of Asian immigrant students had been discussed within the university bureaucracy for several years. The number of immigrant students enrolled at Berkeley in 1971 was 1,023; by 1979 that number had grown nearly 75 percent, to 1,771. Of these, more than 1,060 were Asian immigrants. In 1981, Vice Chancellor of Undergraduate Affairs Watson Laetsch formed a task force to investigate the language skills of Berkeley's foreign-born students, with a primary focus on Asian students. The resulting "Report and Recommendation of the Language Acquisition Skills Task Force" noted that foreign-born Asian students entered Berkeley with significantly lower levels of English language proficiency than other students: "48 percent of foreign born Chinese, 65 percent of foreign born Koreans, and 69 percent of foreign-born Vietnamese entered Berkeley in Fall 1980 with SAT verbal scores below 400." As the numbers of these students

¹⁵ Ling-chi Wang interview by Calvin Cheung-Miaw, Dec. 13, 2017, audio recording (in Calvin Cheung-Miaw's possession); Ling-chi Wang, "Lau v. Nichols: The Right of Limited-English-Speaking Students," *Amerasia Journal*, 2 (Fall 1974), 16–45; Brilliant, *Color of America Has Changed*, 245–46; Takagi, *Retreat from Race*, 25. Lau v. Nichols, 414 U.S. 563 (1974).

¹⁶ Asian American Task Force on University Admissions, "Task Force Report," table 13. For an overview of the debate at Berkeley and other universities, see Takagi, *Retreat from Race*; Ling-chi Wang, "Meritocracy and Diversity in Higher Education: Discrimination against Asian-Americans in the Post-Bakke Era," *Urban Review*, 20 (Sept. 1988), 189–209; Sucheng Chan and Ling-chi Wang, "Racism and the Model Minority: Asian-Americans in Higher Education," in *The Racial Crisis in American Higher Education*, ed. Philip G. Altbach and Kofi Lomotey (Albany, N.Y., 1991), 43–67; Don T. Nakanishi, "Asian Pacific Americans and Selective Undergraduate Admissions," *Journal of College Admissions*, 118 (Winter 1988), 17–26; Don T. Nakanishi, "A Quota on Excellence? The Asian American Admissions Debate," *Change*, 21 (no. 6, 1989), 38–47; Dana Takagi, "The Three Percent Solution: Asian Americans and Affirmative Action," *Asian American Policy Review*, 6 (1996), 1–14; and Ling-chi Wang, "Being Used and Being Marginalized in the Affirmative Action Debate: Re-envisioning Multiracial America from an Asian American Perspective," *Asian American Policy Review*, 6 (1996), 49–58.

¹⁷ Robert L. Bailey to Watson M. Laetsch, Dec. 28, 1983, folder 32, Records of the Advisory Committee on Asian American Affairs; Bailey to B. Thomas Travers, Jan. 4, 1984, *ibid.*

at Berkeley increased, the failure rates in English as a second language (ESL) classes also increased, from 15 percent in 1975 to 28 percent in 1980.¹⁸

Vice Chancellor Laetsch continued to pay close attention to the English language skills of Asian-ancestry students. Of all the data that Sucheng Chan compiled in her 1981 report, this issue caught Laetsch's attention. Chan had found that of the 3,481 students of Chinese, Japanese, Filipino, Korean, Vietnamese, and Asian Indian descent she tabulated, over a quarter had verbal SAT scores less than 400. In his comments to Chan, Laetsch remarked that new data showed that verbal SAT scores of Chinese ancestry undergraduates "have essentially plateaued, and this is undoubtedly related to the increasing number of students who have some problems with English." Laetsch also told Chan, "We need more data on the academic performance of students who enter with very low verbal SAT scores. We also need more data on the various 'costs' associated with these students. These costs relate both to the institution and the individual."¹⁹

Among key administrators, there was increasing concern about the "costs" associated with Asian-ancestry students and borne by the university. When a university committee investigated the AATF's complaints, Vice Chancellor Laetsch, Director Bailey, and Provost of the College of Letters and Science Leonard Kuhi all described to the committee their sense that Asian immigrant students required ESL classes and other specialized language-acquisition services. The state, however, provided no additional funding to the Berkeley campus for these services, resulting in financial pressure on the university.²⁰

The perception that Asian immigrant students financially burdened the university motivated the decision to remove the protected status of EOP applicants who did not qualify for affirmative action. The 1981 task force on language acquisition had found that nearly half of Asian immigrant students at Berkeley qualified for EOP. Asians, further, made up roughly 90 percent of EOP applicants not protected by affirmative action. By ending preference in admissions for these students, the admissions office removed from the 1984 freshman class a large swath of low-income Asian immigrant students with limited English proficiency.²¹

The AATF sought to represent these potential students as meriting a position at an elite public university. Such a framing was crucial because, in fact, the affected low-income and limited-English-proficiency Asian immigrant applicants met the minimum requirements for UC eligibility but not the increasingly high standards for admission to Berkeley. In their first major report, the task force wrote, "In spite of their obvious deficiency in the English language [. . .] Asian American students are usually highly motivated and better-than-average students on the Berkeley campus. Therefore, any attempt to take advantage of their sole deficiency by using arbitrary, ill-considered criteria to single out these

¹⁸ Shack et al., "Report of the Special Committee on Asian American Admissions of the Berkeley Division of the Academic Senate," 28; "Report and Recommendation of the Language Acquisition Skills Task Force," Oct. 1982, p. 4, folder 55, box 2, Records of the Commission on Responses to a Changing Student Body, 1987–1990 (Bancroft Library).

¹⁹ Laetsch to Sucheng Chan, Jan. 5, 1982, folder 24, box 210, Records of the Office of the Chancellor.

²⁰ Shack et al., "Report of the Special Committee on Asian American Admissions of the Berkeley Division of the Academic Senate," 30.

²¹ *Ibid.*, 28–29. The Shack committee estimated that Asian American admissions in 1984 were diminished by roughly 131 spots due to the policy change regarding Equal Opportunity Program (EOP) applicants. Later admissions criteria awarded a set number of points to applicants who qualified for EOP. See *ibid.* For data on the change in EOP applicants accepted by ethnicity in 1983 and 1984, see Asian American Task Force on University Admissions, "Task Force Report," table 30.

otherwise excellent students for exclusion is unjust to them and a disservice to the University committed to academic excellence and to the principle of equal opportunity.”²²

Berkeley officials portrayed the decline in Asian American admissions as the inevitable result of the successful recruitment of underrepresented racial groups. “We are being successful in increasing the number of students from underrepresented groups,” Vice Chancellor Laetsch wrote in 1985 to one concerned community member, “This means a decrease in the number of heretofore overrepresented group—Whites and Asians.” This response matched a national pattern of university administrators invoking diversity in response to admissions controversies on their campuses. The 1978 *Bakke* decision had eliminated the use of fixed racial quotas in college admissions, but it also elevated diversity as a rationale for establishing admission standards. As Dana Takagi has shown, though a small number of universities such as Brown found evidence of bias in their admissions process, administrators at several other universities rebutted charges of bias by claiming that Asian Americans were not diverse in their academic interests, geographic locations, or other characteristics. UC administrators’ invocation of diversity was linked to a defense of the subjective admissions criteria implemented in 1985 as necessary to building a student body drawn, as University of California president David Gardner put it, “from rural California and urban California . . . from suburbs and the inner cities . . . with different socio-economic groups, drawn from different races, and different ethnicity [sic] within our population.”²³

Opponents of affirmative action shared many of the same assumptions about Asian Americans as the UC administrators. They described Asian Americans as bearing the cost of university efforts to create a diverse student body by departing from the use of objective, academic criteria. “Where admissions policies are primarily merit-based, Asian-Americans will in all likelihood be accepted in numbers that far outstrip their percentage share of the general population,” Assistant Attorney General William Bradford Reynolds remarked to a symposium convened in Washington, D.C., to discuss the admissions controversy. Bradford concluded, “The phenomenon of a ‘ceiling’ on Asian-American admissions is the inevitable result of the ‘floor’ that has been built for a variety of other, favored racial groups.”²⁴

The AATF thus confronted a difficult problem: the group wanted to legitimize their allegations of anti-Asian discrimination in educational access without aiding those who sought to undermine affirmative action. Ling-chi Wang, who had participated in the university’s Third World Liberation Front strike and went on to cofound the group Chinese for Affirmative Action in 1970, must have found the rhetoric pitting Asian Americans against other communities of color particularly galling. He would supply much of the intellectual armature for the project of disentangling anti-Asian discrimination from affirmative action. In his first major analysis of the admissions controversy, a 1988 article titled “Meritocracy and Diversity in Higher Education,” Wang aimed to expose administrators’ invocation of diversity as a guilt facade for anti-Asian discrimination. Using the

²² Asian American Task Force on University Admissions, “Task Force Report.”

²³ Laetsch to Mark Klein, July 15, 1985, folder 6, box 231 Records of the Office of the Chancellor. Takagi, *Treat from Race*, 57–83; summary statement to the regents pertaining to the report by the state auditor general, David P. Gardner, Nov. 20, 1987, folder 28, box 231, Records of the Office of the Chancellor.

²⁴ William Bradford Reynolds, “Discrimination against Asian-Americans in Higher Education: Evidence, Causes, and Cures,” Nov. 30, 1988, *Educational Resources Information Center*, <https://files.eric.ed.gov/fulltext/ED308730.pdf>, pp. 7, 8.

work of the Berkeley sociologists Troy Duster and Jerome Karabel, Wang drew a parallel between, on the one hand, the supplemental criteria that he felt discriminated against Asians and, on the other, the development of Jewish quotas at elite colleges during the interwar period that had been effected through consideration of “personal character, geographic diversity, religious affiliation, leadership potential, and alumni parentage.”²⁵

The analogy between anti-Semitic and anti-Asian discrimination was important because, for Wang, no clear analogy currently existed with the disadvantage suffered by other racial minorities. In his view, Asian Americans were “the first and only nonwhite minority group to succeed, unassisted, in penetrating the traditional aristocratic strongholds maintained historically and socially with class-biased and allegedly universalistic meritocratic criteria.” Wang was no adherent of Asian American cultural superiority, and he understood how immigration law shaped the educational profile of Asian American communities. He also acknowledged that Asian Americans’ large presence in universities depended upon the historic achievements of the civil rights movement. He did, however, see Asian Americans’ relationship to higher education institutions as qualitatively distinct from those of Black, Latinx, and Native American communities. Students from those communities might be admitted based on nonacademic criteria used to genuinely include previously excluded groups, whereas Asian Americans, Wang believed, were excluded on the basis of nonacademic criteria ultimately intended to preserve admission slots for whites.²⁶

In framing the problem this way, and in choosing to uncover the hidden bias of “non-academic and subjective criteria” that purported to increase student diversity, Wang produced a tactically brilliant rejoinder to the rhetoric of university administrators who insisted on positioning Asian Americans as an obstacle to diverse student bodies. However, by viewing the controversy over Asian American admissions through the prism of the ethnic quota, he conflated a number of distinct kinds of disadvantage. At Brown University, an investigation found evidence of anti-Asian bias within the admissions office. A Stanford University report, though inconclusive, suggested a problem of unconscious bias might influence admissions, with admissions officers describing focused interests among whites as an aptitude for “delving deeply,” for instance, while the same interests among Asian Americans might be described as “narrow.”²⁷

Wang’s analysis made the most sense in explaining how bias stained the admissions processes at these elite private universities. It seemed less appropriate, however, for grasping the controversy at Berkeley, which revolved around the eligible but uncompetitive low-income students who were no longer admitted through the EOP program, and around supplemental admissions criteria best characterized as *objective and academic*: test scores and course enrollments. While it may have been true that the supplemental criteria were racist in intent, or created racial disparities in impact, conflating the disadvantages created by subjective and objective criteria closed off a more thoroughgoing critique of meritocratic criteria for admissions. As a result, Wang occluded the possibility that certain

²⁵ Henry Der, “Testimony,” in *Asian-American Admissions at the University of California: Excerpts from a Legislative Hearing on Jan. 26, 1988*, by California State Assembly Education Committee, Subcommittee on Higher Education (Sacramento, 1988), 15; Ling-chi Wang, “A Tentative History of Chinese for Affirmative Action,” March 4, 1978 (Ethnic Studies Library, University of California, Berkeley); Wang, “Meritocracy and Diversity in Higher Education,” 191–92.

²⁶ Wang, “Meritocracy and Diversity in Higher Education,” 192, 201.

²⁷ Takagi, *Retreat from Race*, 27–42.

groups of disadvantaged Asian Americans might benefit from subjective admissions criteria used for the purposes of inclusion, and he was left in the position of criticizing objective, academic criteria as “aristocratic” and “class-biased” while also arguing that Asian Americans on the whole suffered from the shift away from those criteria.²⁸

A more fundamental critique of meritocracy likely would have struck the progressive stalwarts in the AATF as impractical, and it would have alienated the moderate Asian American faculty in the sciences and engineering departments that had come to support the AATF’s campaign. By contrast, the argument for objective, academic criteria resonated with media coverage of college admissions controversy. The *Los Angeles Times* profile of a rejected Asian American applicant to Berkeley, for instance, was titled “When Being Best Isn’t Good Enough.” In this regard, Wang’s position on meritocratic criteria and its broader reception reflected the ebbing of radical criticism of the university during the 1980s. In the late 1960s, open admissions for people of color had been a central demand of the Third World Liberation Front at San Francisco State College, and the Third World Liberation Front at Berkeley had demanded a Third World college partly to have control over admissions. The clamor for open admissions, however, had largely subsided by the beginning of the decade. University administrators, for the most part, instead understood admissions policy as a tool to promote the social and economic mobility of minorities in more limited ways.²⁹

Wang’s insistence on the historical uniqueness of Asian Americans’ racial position in higher education raised an obvious question: Was anti-Asian discrimination relevant to other people of color? Sucheng Chan and Ling-chi Wang sought to answer this question in their 1991 article, “Racism and the Model Minority.” By this time, the situation at Berkeley had been resolved to the satisfaction of the AATF. The California state legislature had drawn attention to the issue with a 1988 hearing on Asian American admissions at the University of California, Chancellor Ira Michael Heyman had eventually apologized for the university’s initial defensive response to the AATF’s concerns, and the administration brought Wang on board as a faculty assistant with responsibility for helping shape Berkeley’s admission policies. Even so, Chan and Wang believed the admissions controversy had revealed a deep-seated racism in the university. The two professors attributed university officials’ attempts to limit Asian American enrollment to a fear that “as the number of middle-class Asian-Americans increases, some of them will be in a position to exercise a modicum of power. By so doing, they will enable the entire group to finally break out of the legal barriers that have hitherto kept its members silent, suppressed and powerless.”³⁰

Given Wang’s background advocating for bilingual education in public schools, it was no surprise that the authors described how admissions policies at Berkeley disproportionately affected low-income and LEP Asian American applicants. However, they attributed these policies to a white racial group consciousness and an intention to keep Asian Americans as a whole in a lower position than whites. Chan and Wang’s analysis thus tended to

²⁸ The University of California, Los Angeles, professor of education Mitchell Chang would make this point years later. See Mitchell J. Chang, “Not Strange Bedfellows,” *AsianWeek*, Dec. 10, 1997, p. 9. Wang, “Meritocracy and Diversity in Higher Education,” 201.

²⁹ Linda Mathews, “When Being Best Isn’t Good Enough: Why Yat-Pang Au Won’t Be Going to Berkeley,” *Los Angeles Times*, July 19, 1987; Julie A. Reuben, “Merit, Mission, and Minority Students: The History of Debate over Special Admission Programs,” in *A Faithful Mirror: Reflections on the College Board and Education in America*, ed. Michael C. Johaneck (New York, 2001), 195–243, esp. 221.

³⁰ Chan and Wang, “Racism and the Model Minority,” 57.

foreground issues of social psychology while shifting attention away from a critique of the selection criteria at the heart of the admissions controversy. By locating the source of anti-Asian discrimination in a desperate attempt to maintain the privileged position of whites, however, the authors linked their concerns with those of other communities of color. Chan and Wang claimed anti-Asian racism was a harbinger of the kinds of discrimination that other people of color would face in the future, as they began to take advantage of the opportunities created in the post-civil rights era. The “white power structure,” they wrote, would support affirmative action only until “some minority-group members—in this case, Asian-Americans—show that they can not only perform academically and economically, but that they intend to stay (i.e., become part of the American body politic, rather than remain as sojourners pining to return to their homelands once they’ve made some money).” The authors concluded, “one of the basic principles of the new racism is that when nonwhites or women manage to ‘win’ on the basis of existing rules, then the rules must be changed.”³¹

The “new racism” concept reduced the many dimensions of the admissions controversy at Berkeley to the issue of racial group status: Asian American upward mobility was threatening to whites. Such an approach explained why university spokespeople and media figures paid so much attention to Asian “overrepresentation.” Furthermore, framing the debate over Asian Americans and higher education as a matter of white backlash appeared to align the interests of Asian Americans and other people of color. What it left out, however, was the way the situation of low-income and LEP Asian American applicants to Berkeley might have been understood in terms of the same unequal distribution of educational resources—in spatial, class, and racial terms—that also produced many African American and Latinx college aspirants who were deemed, from the perspective of “objective” academic standards, to be unprepared and uncompetitive.³²

In 1987, as the dispute with University of California, Berkeley, administrators grew increasingly rancorous, a member of the AATF offered his perspective on the admissions controversy to the *Los Angeles Times*. “In the 1960s, admission to UC was based on high school grade point averages. In the 1970s, UC began to take into consideration SAT scores. We could live with that,” the AATF member, Henry Der, told the reporter Linda Mathews. “But, in the 1980s,” he continued, “we’ve seen UC start paying attention to so-called supplemental criteria, which means subjective criteria. That change works to the detriment of Asian-American applicants, so it’s very valid to raise the question of whether admissions criteria are being manipulated to keep our numbers down.” Der’s comments, which counterposed Asian Americans to subjective criteria, illustrated how the AATF proved unable to transcend the terms of debate set by UC president Gardner and other administrators, even as it battled them over the place of Asian Americans in the university.³³

The “Double Bind” of Asian American Legal Theory

On July 11, 1994, three Chinese American students sued the San Francisco Unified School District and the California Department of Education for violating the rights pro-

³¹ *Ibid.*, 63.

³² On the use of “overrepresentation” in administrator discourse, see Colleen Lye, “On the Asian Question,” *Berkeley Graduate*, 2 (Dec. 1987), 3–9.

³³ Mathews, “When Being Best Isn’t Good Enough.”

vided them by the Fourteenth Amendment. California had a history of discriminatory treatment of Chinese students that reached back to the late nineteenth century, when the state established segregated schools for Chinese students in 1885. The plaintiffs in the 1994 lawsuit, *Ho v. San Francisco Unified School District*, however, were not claiming that the school had established a racially segregated district. To the contrary, the plaintiffs charged that district's desegregation plan violated their rights to equal protection. The student plaintiffs had been refused enrollment at schools that had reached the maximum number of Chinese American students allowable under the district's desegregation plan.³⁴

Ho v. San Francisco Unified School District capped two and a half decades of contention over school desegregation in San Francisco. A 1970 lawsuit filed by the National Association for the Advancement of Colored People (NAACP), *Johnson v. San Francisco Unified School District*, had resulted in a mandate that student assignments produce racially balanced schools: the proportion of white and Black students at any given school could not deviate from that of the overall composition of San Francisco's school-age population by more than 15 percent. In 1977 Superintendent Robert Alioto proposed another reorganization of the school district. The Alioto plan, known as Educational Redesign, replaced the idea of racially balanced schools with the notion of racially unidentifiable schools. The plan proposed that each school enroll students from at least four out of nine racial and ethnic groups, with no group comprising more than 45 percent of a school's student body. The San Francisco NAACP worried that Educational Redesign meant a school might be considered racially unidentifiable even if it had no Black (or white) students, and the organization predicted a return to segregation. In 1978 it filed another lawsuit, *San Francisco NAACP v. San Francisco Unified School District*, to fight Alioto's plan. The case proceeded through the courts for several years until the school district and the NAACP negotiated the terms of a consent decree in 1983 that established a desegregation plan for the school district. The consent decree included plans to improve the academic quality of schools in San Francisco's Bayview–Hunters Point neighborhood, a historic Black community, and it also provided for an infusion of state funding to allow the district to meet the goals of desegregation. The consent decree largely conformed, however, to Alioto's conceptualization of desegregation: schools needed to limit ethnic groups to less than 45 percent of the student body, and alternative schools would have an even smaller cap of 40 percent.³⁵

In the nearly twenty-five years between *Johnson* and *Ho*, the city's relentless demographic shift placed the terms of the district's desegregation plan under strain. In 1971 Black students made up 32.2 percent of San Francisco elementary school students while Spanish-speaking students and Chinese students accounted for 14.6 and 10.5 percent, respectively. In 1978 African American students were still nearly one quarter of the San Francisco public school population. By 1993, however, Chinese were 30.5 percent of San Francisco's roughly 19,000 high school students, while Black students were only 15.4 percent and Latinx students were 16.3 percent. Although the consent decree disaggregated

³⁴ Rand Quinn, *Class Action: Desegregation and Diversity in San Francisco Schools* (Minneapolis, 2020), 108. On *Ho v. San Francisco Unified School District*, see Rowena A. Robles, *Asian Americans and the Shifting Politics of Race: The Dismantling of Affirmative Action at an Elite Public High School* (New York, 2006); Hao Zou, "A Community Divided: The *Ho* Lawsuit and Chinese San Franciscans' Search for Education Equality and Racial Inclusion," *Journal of American Ethnic History*, 41 (Spring 2022), 84–114; and Nancy Chung Allred, "Asian Americans and Affirmative Action: From Yellow Peril to Model Minority and Back Again," *Asian American Law Journal*, 14 (no. 1, 2007), 57–84.

³⁵ Robles, *Asian Americans and the Shifting Politics of Race*, 33; Quinn, *Class Action*, 45–55.

Asian Americans into Chinese, Japanese, Korean, and Filipino ethnic groups, the massive growth of San Francisco's Chinese population alone made the terms of the consent decree appear outdated. As Chinese American students ran into the ethnic group cap with greater frequency, members of San Francisco's Chinese American Democratic Club began to feel that school assignment policy in the city was being decided without consideration of its impact on Chinese Americans. In early 1994, the organization set out to locate the students who would become the *Ho* plaintiffs.³⁶

The plaintiffs advanced a straightforward argument against the consent decree. Since the school's desegregation plan required racial classification, it needed to pass the test of "strict scrutiny" by demonstrating that it was necessary to satisfy a compelling government interest. The compelling interest satisfied in the 1983 consent decree was the remediation of the school district's racial segregation. The plaintiffs argued, however, that after eleven years of the consent decree, whatever patterns of racial inequality remained could not be understood as vestiges of the segregation in place prior to 1983. Absent these vestiges of segregation, there was no compelling government interest to justify the continuing racial classification of San Francisco students. The defendants in *Ho*, which included not only the school district but also the San Francisco NAACP and the California Department of Education, found it challenging to prove that vestiges of racial segregation remained in the school district, at least according to the standard of proof established by the court. At one point, the presiding judge described the defendants as "utterly unprepared." In 1999 the parties reached a settlement. San Francisco Unified would ultimately craft a plan to create diverse schools based on factors other than race and ethnicity. Race-based student assignments in the city's public schools would come to an end.³⁷

Though the lawsuit targeted the consent decree as a whole, most of the contention centered on admissions to the city's prestigious Lowell High School, which admitted students based on academic criteria. Though formally known as *Ho v. San Francisco Unified School District*, the lawsuit became widely known as the Lowell case. To comply with the consent decree, Lowell assigned student applicants a score based on grades and a standardized test. Different ethnic groups were assigned different minimum scores as a way to keep each group below 40 percent, with Chinese Americans typically assigned the highest minimum score. In 1993, for instance, Chinese students needed a score of 61 out of 66 to gain admission to Lowell, two points higher than white students. Still, Lowell admitted 394 Chinese students that year, more than 40 percent of the total admits, while 227 white students, 103 Latinx students, 65 Filipino students, and 56 Black students gained admission. To address concerns from Chinese American and other parents that their children would lack an academically stimulating environment if they were denied entry to

³⁶ Philip A. Lum, "The Creation and Demise of San Francisco Chinatown Freedom Schools: One Response to Desegregation," *Amerasia Journal*, 5 (no. 1, 1978), 57–74; Chinese for Affirmative Action, Chinese Progressive Association, Chinatown Youth Center, Mr. Gordon Chin, and Reverend Harry Chuck to William H. Orrick Jr., April 5, 1999, docket entry 395, *Ho v. San Francisco Unified School District*, (N.D. Cal. 1997), case no. C-94-2418-WHA (National Archives, San Bruno, Calif.); Henry Der, "Consent Decree: Observations about Student Enrollment Patterns San Francisco Public Schools," Sept. 20, 1994, unpublished report, in "Revised Expert Witness Statement of Mr. Henry Der," Feb. 16, 1999, docket entry 331, *ibid.*; Henry Louie interview by Cheung-Miaw, May 22, 2019, audio recording (in Cheung-Miaw's possession).

³⁷ Quinn, *Class Action*, 119, 121–26. On strict scrutiny, see Takagi, *Retreat from Race*, xiv–xv. For plaintiffs' arguments, see "Transcript of Proceedings," Nov. 14, 1996, docket entry 112, *Ho v. San Francisco Unified School District*, (N.D. Cal. 1997), case no. C-94-2418-WHA. For the plaintiffs' theory of the case, see David I. Levine, "The Chinese American Challenge to Court-Mandated Quotas in San Francisco's Public Schools: Notes from a (Partisan) Participant-Observer," *Harvard BlackLetter Law Journal*, 16 (2000), 39–145.

Lowell, Superintendent Waldemar Rojas opened another academic magnet school, Thurgood Marshall, near Bayview–Hunters Point. Rojas’s plan did little to mitigate the clamor for change to the consent decree status quo, however. One *Ho* plaintiff, Patrick Wong, was denied admittance to Lowell based on a score that would have earned admittance for non-Chinese applicants; he was also denied a seat at Thurgood Marshall through that school’s lottery-based admissions.³⁸

Because the Lowell case threatened to dismantle the gains of the Black-led desegregation campaign, it drew criticism from some Asian American progressives. Henry Der, the director of Chinese for Affirmative Action, had been a member of the AATF that charged Berkeley with maintaining a cap on Asian American admissions, but he opposed the Lowell plaintiffs. Der spent his teenage years on the east side of Stockton, a community of Black and Mexican working-class families. There, he had witnessed how school integration could arouse social conflict. In the aftermath of the *Brown v. Board of Education* decision, Der later recalled, “White students from the north side faced the possibility of being assigned to attend my high school. . . . [T]heir families, of course, protested. My high school classmates and I resented these north side families feeling we weren’t good enough for them.” Der was a critic of the differential test score requirements at Lowell, but he believed that the general terms of the consent decree, and the restrictions it placed on the ethnic composition of any school’s student body, benefited low-income and LEP Chinese Americans. In fact, Der had worked with a Latina organization, *Mujeres Unidas y Activas*, to ensure that implementation of the consent decree was more responsive to the concerns of immigrant students, low-income Asian American and Latinx students, and LEP students who were, the activists argued, “failing miserably.” Low-income and LEP Chinese American students, Der believed, were “segregated from other students in San Francisco public schools, including Whites, other Asian-Americans, and middle and upper-income Chinese students.” In a 1994 report on the consent decree, Der noted that more than 80 percent of Chinese American applicants to Lowell that year had attended private middle schools or schools on the relatively affluent west side of San Francisco, while very few applicants were Chinese Americans from the low-income and recent immigrant communities in the rest of the city. Chinese for Affirmative Action viewed the consent decree as “a means to remedy the isolation of economically disadvantaged and/or limited English proficient (LEP) Chinese students and to provide these students with the necessary supportive services and programmatic opportunities to succeed academically.” The school district’s demographic requirements for each school meant that residents of areas with high concentrations of low-income, predominantly immigrant Chinese families might be able to attend schools in other neighborhoods, while schools in those low-income neighborhoods would be integrated by receiving students from other areas. The same was true of schools in the predominantly Black neighborhoods of San Francisco such as Bayview–Hunters Point.³⁹

³⁸ “Revised Expert Witness Statement of Mr. Henry Der,” table 4, p. 46; Robles, *Asian Americans and the Shifting Politics of Race*, 31–55; U.S. Congress, Senate, Committee on the Judiciary, *State-Sanctioned Discrimination in America*, 105 Cong., 1 sess., June 16, 1997, p. 41.

³⁹ Henry Der, “Roots of a Civil Rights Activist,” in *Asian Americans: The Movement and the Moment*, ed. Steve Louie and Glenn Omatsu (Los Angeles, 2001), 157–69, esp. 161; Robles, *Asian Americans and the Shifting Politics of Race*, 38; Jim Doyle, “Groups Argue Involvement in School Integration,” *San Francisco Chronicle*, April 9, 1993, p. A22; Der, “Consent Decree”; “Declaration of Henry Der in Opposition to Plaintiff’s Motion for Summary Judgment,” Oct. 10, 1996, p. 6, in “Revised Expert Witness Statement of Mr. Henry Der.”

The pattern that Der described in San Francisco—in which low-income Asian American students were segregated from middle-class Asian American students—occurred increasingly across the nation in the early 1990s. In 1994 Harvard education professor Gary Orfield, who also chaired a court-established committee monitoring implementation of the San Francisco consent decree, found that 33 percent of Asian students in large cities, and 38.6 percent of Asian students across California, attended schools where a majority of students were poor. At the same time, however, Orfield found almost no correlation between the percentage of students at a school who were Asian and the percentage of students who were poor. This was a striking contrast to both the strong correlation between demographic concentration and poverty for Black and Latinx students and the strong negative correlation for white students. The reason, Orfield speculated, was that there may be “a negative relationship between poverty [and racial concentration] for more successful groups within the Asian community and a significant correlation between racial and economic segregation for the less successful groups.” A school that was predominantly Asian might be as likely to serve mostly poor students as it was to serve mostly middle-class students. In Minneapolis–St. Paul, for instance, he noted that the children of poorer Southeast Asian refugees filled the urban schools while wealthier Chinese, Korean, Indian, Filipino, and Japanese students attended schools in the suburbs.⁴⁰

The disparities that concerned Der and Orfield, however, disappeared in most media coverage of the lawsuit, which emphasized how Chinese Americans needed higher scores than whites to gain entrance to Lowell. The *San Francisco Chronicle*, for instance, launched a multipart series on the lawsuit with an article that followed two eighth-grade girls, one Chinese American and one white, who had formed a friendship at their middle school. When the white student was admitted to Lowell with a lower score than the Chinese American student, who was rejected, their friendship ended. “Traditional roles of minority and majority have been reversed at Lowell,” the reporter observed. At least initially, supporters of the lawsuit foregrounded the same disparities between Chinese Americans and whites. “We just want to set up a system that doesn’t discriminate against Chinese Americans,” said Roland Quan, who was president of the Chinese American Democratic Club. “I’m not saying we shouldn’t have affirmative action. But whites don’t need the help.”⁴¹

Because the difference in admission thresholds for Chinese American and white applicants in the Lowell case was so explicit, the lawsuit, along with the earlier college admissions controversy, inspired a burst of theorizing by Asian American legal scholars who intended to make the unique nature of anti-Asian racism conceptually legible. Asian Americanists writing about education in the mid-1990s, however, were doing so in a political environment vastly different from the one that confronted Berkeley’s critics in the mid-1980s. In one sense, the Clinton administration’s concern for diversity and inclusion, leading to the 1997–1998 “initiative on race,” marked a national turn away from the politics of a resurgent racial conservatism that many Asian Americanists believed Ronald Reagan represented. In California, however, the 1990s witnessed an accelerating attack on affirmative action and race-conscious policies. In 1995 the University of California Board

⁴⁰ Gary Orfield and Diane Glass, “Asian Students and Multiethnic Desegregation,” Oct. 1994, pp. 21–31, esp. 22, <https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/asian-students-and-multiethnic-desegregation>.

⁴¹ Nanette Asimov, “A Hard Lesson in Diversity,” *San Francisco Chronicle*, June 19, 1995, pp. A1, A8–A9.

of Regents voted to abolish affirmative action in its hiring and admissions practices. In 1996 California voters approved Proposition 209, which abolished the consideration of race, gender, and national origin in admissions at California's public colleges and universities. Capturing the statewide mood, UCLA professor Jerry Kang's 1996 article on anti-Asian discrimination began by intoning, "we may well be witnessing the death of affirmative action."⁴²

As with the earlier college admissions controversy, conservatives again sought to mobilize Asian American grievances represented by the *Ho v. San Francisco Unified School District* lawsuit toward the larger purpose of ending affirmative action programs. This time, however, the plaintiffs welcomed some of the attention. In 1997 the Senate Judiciary Committee convened a hearing on affirmative action, tellingly titled "State-Sanctioned Discrimination in America" and presided over by Republican senator Orrin Hatch of Utah. Though the hearing featured speakers with a variety of viewpoints on affirmative action, Hatch prepared the audience to hear from some who "will tell us how our public policy, despite the best of intentions, has from time to time forsaken our cherished commitment to equal opportunity and individual rights." Perhaps the most moving testimony of the day came from Charlene Loen, the mother of the rejected Lowell applicant and plaintiff, Patrick Wong. Loen explained how the cutoff score for admission to Lowell for Chinese Americans was 62 in 1994, while Patrick had received a 58. The cutoff score for whites and other Asians, however, was 58, and the score for Black and Hispanic students was, in Loen's words, "lower than that." Holding back tears, Loen continued, "Patrick and I were born in this country, in San Francisco. My father served in the United States military in World War II. I taught my son to believe in this country. Discipline, work ethic, and academic achievement will be rewarded. Patrick studied hard. He got good grades and he was rejected because he is of Chinese descent." Loen's testimony at the hearing helped catapult the Lowell case into the national spotlight.⁴³

Although Wang, Chan, and the AATF considered anti-Asian discrimination in education institutions to be largely separate from the issue of affirmative action, Asian Americanists writing in the mid-1990s about Lowell could no longer do so. Instead, they sought to reconcile their criticism of policies that disadvantaged Asian Americans relative to whites with their support for affirmative action policies favoring underrepresented minorities. As Stanford law student Selena Dong put it in a 1995 article, the Lowell case represented a broader dilemma faced by Asian Americans. "Asian-American leaders therefore are in a double bind," Dong wrote in the *Stanford Law Review*. The controversies over anti-Asian discrimination at Berkeley and Lowell, "on the one hand, . . . lead them to demand that Asian-American and white students receive the *same* treatment. On the other hand, many remain committed to the belief that the only way to achieve true equality is to treat minorities and whites *differently*." Frank Wu, who had spent several months in 1994 working to defeat a California ballot initiative intended to deny undocumented immigrants access to public services, wrote that the persistence of anti-Asian discrimination

⁴² Claire Jean Kim, "Clinton's Race Initiative: Recasting the American Dilemma," *Polity*, 33 (Winter 2000), 175–97; Omi and Winant, *Racial Formation in the United States*, 109–36; HoSang, *Racial Propositions*; Jerry Kang, "Negative Action against Asian Americans: The Internal Instability of Dworkin's Defense of Affirmative Action," *Harvard Civil Rights–Civil Liberties Law Review*, 31 (1996), 1–47, esp. 1.

⁴³ Committee on the Judiciary, *State-Sanctioned Discrimination in America*, 3, 38; "Affirmative Action Review," Senate Judiciary Committee hearing, June 16, 1997, *C-SPAN*, <https://www.c-span.org/video/?86872-1/affirmative-action-review>; Quinn, *Class Action*, 116.

was affirmative action's "most vexing constitutional consideration." He believed that most white claims of reverse discrimination had failed to gain legal traction either in the courts or in public opinion. However, opponents of affirmative action might argue, Wu speculated, "either there must be affirmative action for whites [against Asians] or there cannot be affirmative action for African Americans." Scholars outside Asian American legal studies took notice of the Lowell case as well. University of Pennsylvania law professors Susan Sturm and Lani Guinier dedicated a session of their Critical Perspectives on the Law seminar to the case and how it might transform the debate over affirmative action.⁴⁴

Wu believed legal theory could resolve Dong's "double bind" only if it grappled with race when it was "neither Black nor white." The crux of the matter was the erroneous belief that "there are racial classifications that are positive or at least benign, and they can be distinguished from those that are negative and malignant." The creation of a segregated school system based on a belief in Black inferiority was a straightforward case of negative racial classification. An affirmative action program's classification of people into racial categories, however, would not be a negative racial classification. Even the program's classification of some people as white was not malignant because being classed as white did not connote inferiority or lead more generally to the deprivation of rights. The problem, for Wu, was that Asian Americans were subject to the model minority stereotype, which confounded this polarity between positive and negative classification. It did not, *prima facie*, connote inferiority but it was, in Wu's words, "a positive stereotype that can be a negative." Wu speculated that "a 'ceiling' for Asian Americans that serves as a 'floor' for whites . . . if bolstered by the model minority myth, might pass the current constitutional test" that could only see either strictly harmful or strictly benign racial classifications.⁴⁵

In developing her own critique of admissions practices at Lowell, Dong stressed the ways policies that disadvantaged Asians constituted acts of symbolic racism. Dong urged the Lowell plaintiffs to argue that different levels of scrutiny should be used when dealing with programs that disadvantage whites relative to racial minorities than should be used when dealing with those that disadvantage minorities relative to whites. She believed that such a rule could be supported through an unconventional reading of the Fourteenth Amendment in terms of an "antisubordination principle." In this interpretation, the Fourteenth Amendment was intended to eliminate subordinate or second-class status. A racial classification was therefore suspect only when it stigmatized an individual as a member of a group because the classification drew "on the presumption that one race is inferior to another or because they put the weight of government behind racial hatred and separatism." Dong believed that the ethnic quota at Lowell was one such instance of a suspect racial classification. A quota on the number of Chinese Americans reinforced the sentiment that San Francisco had "too many Asians" and thus cast Asian Americans as foreigners who did not truly belong in the city. Such a sentiment, backed by the "weight of government," both drew on and renewed a long tradition of anti-Asian racism that hardened back to "yellow peril" rhetoric. As such, it stigmatized Asian Americans.⁴⁶

⁴⁴ Selena Dong, "'Too Many Asians': The Challenge of Fighting Discrimination against Asian-Americans and Preserving Affirmative Action," *Stanford Law Review*, 47 (May 1995), 1027–57, esp. 1029. Emphasis in original. Wu, "Neither Black nor White," 284, 262; Susan Sturm and Lani Guinier, "The Future of Affirmative Action: Reclaiming the Innovative Ideal," *California Law Review*, 84 (1996), 953–1036, esp. 959n20.

⁴⁵ Wu, "Neither Black nor White," 253–54, 256, 283.

⁴⁶ Dong, "'Too Many Asians,'" 1031, 1052–53.

Among Asian Americanists, the most influential concept to emerge in the wake of the education controversies was “negative action,” created by UCLA law professor Jerry Kang in a 1996 article. Kang defined negative action as “unfavorable treatment based on race, using the treatment of Whites [and not any other race] as a basis for comparison.” For Kang, the inspiration for “negative action” seemed to come directly from the Lowell case and the AATF’s work, which suggested that “regimes of negative action,” instituted to enforce formal or informal ethnic quotas, “may now be in place at various educational institutions, from competitive high schools to graduate school departments.”⁴⁷

In explaining his argument against “regimes of negative action,” Kang stressed the symbolic dimensions of racial and ethnic quotas, and he elaborated his theory through a sophisticated critique of legal scholar Ronald Dworkin’s defense of affirmative action. In his commentary on the *Bakke* case, Dworkin argued that the affirmative action program based on racial quotas devised by UC Davis medical school was defensible on the grounds that it pursued a legitimate social good (racial diversity) and that this social good was determined without reliance on prejudiced preferences. This last point was the most important, since Dworkin considered prejudiced preference to be a “banned source” in formulating collective goals. Kang believed that Dworkin’s criteria could also be used to defend a program such as the one at Lowell that capped the number of racial minorities at a university or other institution. As an alternative, Kang proposed that legal theorists replace Dworkin’s prohibition on “banned sources”—namely, prejudiced preferences as a source for policy—with a prohibition on “banned meanings” in the social significance of policies and legislation. The banned meanings approach posited that “an individual has the right not to suffer disadvantage from a governmental practice that conveys an objective social meaning of stigma.” Kang acknowledged the difficulty in determining an objective social meaning generated by a law or policy, but he insisted that consideration of historical and social contexts would allow jurists to make reasoned judgments as to the stigmatizing impact of, for instance, erecting a barrier between a white and Black neighborhood, or limiting Asian American enrollment at educational institutions.⁴⁸

The focus on the symbolic meaning of the ethnic quotas allowed Kang and Dong to propose that all Asian Americans were stigmatized and harmed by such policies, and that Asian Americans had a collective interest in opposing those policies. Such an approach also successfully argued for the distinction between white disadvantage caused by affirmative action and Asian American disadvantage vis-à-vis whites. In this way, legal scholars provided an analytical justification for delinking the concepts of underrepresentation, disadvantage, and racism—links that had been assumed by supporters of affirmative action such as the Carnegie Commission. At the same time, they believed that theoretical and practical attention to the distinctive forms of anti-Asian discrimination would bolster the popular and legal case for race-conscious affirmative action. By making stigmatization the paradigmatic example of anti-Asian racism, however, these theories overlooked the impact of the consent decree on many groups of Asian Americans. Those Asian Americans who were clustered in underresourced areas of San Francisco suffered, in Der’s terms, segregation in ways that seemed analogous to other racial minority students. The emphasis on symbolic racism and stigmatic harm occluded how these Asian Americans, primarily

⁴⁷ Kang, “Negative Action against Asian Americans,” 3–4.

⁴⁸ *Ibid.*, 21, 24. Ronald Dworkin, *Taking Rights Seriously* (Cambridge, Mass., 1977); Ronald Dworkin, *A Matter of Principle* (New York, 1985); Ronald Dworkin, *Law’s Empire* (Cambridge, Mass., 1986).

low-income and limited-English-proficiency students, benefited from the desegregation policies that were purported to enact that harm.

As these scholars brought the insights of Asian American studies to legal studies, then, they generally neglected to analyze the ways low-income and LEP Asian Americans might relate to issues of educational access in ways that diverged from other Asian Americans. When Asian Americanists did address class differences among Asian American communities, they tended to subordinate those differences to a notion of a larger Asian American group interest shaped by race. Harvey Gee, then a student at St. Mary's University School of Law, observed in a 1996 article that "economically disadvantaged" Asian Americans with "less than competitive grades and test scores" might benefit from affirmative action, but his overall point was that Asian Americans as a whole ought to be included within affirmative action programs. "In sum," Gee concluded, "any exclusion of Asian Americans from affirmative action programs precludes equal participation in American society. The practice of not considering Asian Americans as beneficiaries of affirmative action denies the fact that they have suffered discrimination, and preserves their status as an 'Other Minority' situated between black and white."⁴⁹

Opponents of race-based affirmative action, by contrast, often made class central to their arguments. In what would become a familiar formulation, Richard Kahlenberg wrote, "To argue that the most advantaged black applicant is more disadvantaged than the poorest white blinks at reality and is patronizing at best. The very term 'disadvantaged' connotes 'poor' before it connotes 'minority.'" The innocent victims of affirmative action, in this discourse, were not always white. Lance Izumi, for instance, praised low-income Vietnamese Americans who had managed to achieve high grade point averages, and he analyzed admissions data for UC medical schools to argue that "the son or daughter of a wealthy African-American businessman would have a much better chance of getting into a UC medical school than the son or daughter of an impoverished Vietnamese boat refugee." The choice to focus on grade point averages and medical school admissions, of course, removed from discussion the issue that had been central to the earlier controversy over Asian American admissions at UC Berkeley: SAT verbal scores. Even the pool of low-income applicants to medical school likely contained few, if any, limited-English-proficiency Asian Americans. Asian Americanists' relative inattention to the specific situation of low-income, LEP Asian Americans, however, left an opening for affirmative action critics such as Izumi to articulate their own ideas about the relationship between race, class, and educational access. The high grade point averages of Vietnamese American medical school applicants could then stand in for the ability of all poor Asian Americans—and Asian Americans more generally—to succeed according to supposedly objective, academic criteria.⁵⁰

The same year that Kang's "Negative Action against Asian Americans" was published, Kang and Wu coauthored an essay with law professors Gabriel Chin and Sumi Cho. In

⁴⁹ Harvey Gee, "Changing Landscapes: The Need for Asian Americans to Be Included in the Affirmative Action Debate," *Gonzaga Law Review*, 32 (no. 3, 1996), 621–58, esp. 650, 653. See also Wang, "Being Used and Being Marginalized in the Affirmative Action Debate"; and Helen Hyun, "Invisibility and Overrepresentation: Affirmative Action and the Asian American Paradox," *Asian American Policy Review*, 6 (1996), 69–77.

⁵⁰ Richard D. Kahlenberg, *The Remedy: Class, Race, and Affirmative Action* (New York, 1996), 44; Lance T. Izumi, "Confounding the Paradigm: Asian Americans and Race Preferences," *Notre Dame Journal of Law, Ethics, and Public Policy*, 11 (1997), 121–38, esp. 126. Lance Izumi's argument conflated "non-poor applicants from under-represented minority groups" with the children of "a wealthy African-American businessman." *Ibid.* See also Dinesh D'Souza, *Illiberal Education: The Politics of Race and Sex on Campus* (New York, 1991), 33–35.

a terse argument, the authors advocated for an Asian American commitment to affirmative action that went “beyond self-interest,” as the essay’s title put it. Though the essay emphasized how Asian Americans benefited from affirmative action in areas where they still suffered discrimination, “Beyond Self-Interest” also revealed how Asian Americanists began to concede that in areas such as college admissions, Asian Americans as a whole might incur some burden to expand access for other racial groups. Asian Americans, the authors believed, should still support affirmative action in all cases, however, because it was an important method of achieving a more egalitarian society. This did not mean accepting negative action against Asian Americans, the authors insisted, but it did necessitate a transcendence of racial group self-interest in the name of justice.⁵¹

As in other Asian American legal scholarship, the presumption of these authors was that Asian Americans possessed a coherent group interest despite any class differences within that group. This might have been true in the thought experiments that populated the articles of legal scholars, but it was less clear when it came to the specific ways that affirmative action was pursued in the post-*Bakke* era, whether through the inclusion of subjective criteria for university admissions or through desegregation measures in city school districts. Regardless, “Beyond Self-Interest” was part of a broader shift in sensibility about the place of Asian Americans within multiracial coalitions among people of color. Asian Americanists began to wonder whether the interests of communities of color might diverge, at least in limited ways. The Third Worldist assumption that Asian Americans and other communities of color shared a fundamental interest generated by the commonalities of racial oppression could no longer be taken for granted, and Asian Americanists would need to construct new foundations for multiracial solidarity.

“A Related Sadness”

When Dana Takagi, the sociologist of education, gave the keynote address to the 1996 Asian Pacific Americans in Higher Education conference, she described the ways Asian Americans had transformed traditional ideas about civil rights:

First, and most important, the position of Asian Americans, particularly in higher education, has demolished the very principle upon which the notion of civil rights was routinely practiced and implemented. I am referring here to the notion of parity—where an institution, the University—ought to be reflective of the population it serves or represents. . . . The disintegration of parity has brought us a related sadness: the deterioration of political alignments between Asian Americans and other racial minorities, as well as divisions within the category, “Asian American.”

A third way that Asian Americans have facilitated the transformation of civil rights has been through our relative silence on the question of standards of knowledge and notions of excellence in higher education. . . . At the University of California, the assault on racial preferences has been accompanied by a reinforcement of the notion of standards and academic excellence measured by grades and test scores. . . . The use of this so-called “objective” criteria is a preference—plain and simple—for class-based and race-based privileges in the type of knowledge that is

⁵¹ Gabriel J. Chin et al., “Beyond Self-Interest: Asian Pacific Americans toward a Community of Justice,” *Asian Pacific American Law Journal*, 4 (1996), 129–62.

learned. This is a difficult issue, perhaps, because Asian Americans, stand to gain greater representation at the University, in part through admission under strict academic criteria. But shouldn't we also challenge this form of "standard" as discriminatory even if we stand to benefit from it?⁵²

In her comments, Takagi indicated the strain that the idea of a distinctive form of anti-Asian discrimination placed on conventional frameworks for understanding racial equality. One could not think racial equality meant "parity" without thinking of Asian Americans as "overrepresented" in the ways that college admissions officers might have thought about Asian Americans in the early 1980s. Or, one might say that the goal was "parity" for Black people, Latinos, and Native Americans but not for Asian Americans, in which case—this was Takagi's second point—this goal troubled assumptions about the durability of multiracial coalitions among people of color. Takagi's third point went even further. She claimed that Asian Americans, who might be advantaged by so-called objective standards of academic achievement, stood to benefit from a system of race and class privilege. As I have argued, this positioning of Asian Americans depended upon the contingent analytical choices made by Asian Americanists intervening in the debates on education access. Those choices highlighted some forms of racial harm while obscuring other kinds of disadvantage. By the time Takagi gave her address, however, these choices had become naturalized as a new common sense about the position of Asian Americans in the debates over educational access, and in multiracial politics more generally.

In an article coauthored the same year with Berkeley Asian American studies professor Michael Omi, Takagi made these points more explicitly. She and Omi reflected on the recent protest of the decision by the UC Board of Regents to eliminate affirmative action and race-based preferences in college admissions. The protesters had painted their faces white and taped over their mouths to symbolize the impending racial homogeneity—figured here as whiteness—of the university without affirmative action. But what, the authors asked, if the university would become not increasingly white but increasingly Asian? The Left, they claimed, presumed that a multiracial "united front" could be grounded in "the concept of 'shared interests' among people of color." The two believed this political approach deserved interrogation, leading them to wonder whether the uniqueness of anti-Asian racism ultimately undermined the united front model. "Asian Americans . . . are subject to a different form of racism," a resentment fueled, they wrote, by the suspicion that Asian Americans "secure wealth and other material resources and social advantages unfairly."⁵³

Takagi and Omi thus drew upon the discourse of a distinctive anti-Asian racism but came to quite different conclusions than the Asian Americanists discussed above. Whereas all those scholars believed that one might still align the project of opposing anti-Asian racism with support for affirmative action, Takagi and Omi felt that the most obvious implication of acknowledging this distinct anti-Asian racism was that Asian Americans might have a different set of self-interests than other people of color, at least as far as higher education was concerned. That claim would remain contentious. Some Asian Americanists, such as Gary Okihiro and Ling-chi Wang, would advocate for a return to the political

⁵² Dana Takagi, "Into the Twenty-First Century: Asian Americans and Civil Rights," in *Affirmative Action and Discrimination: Asian and Pacific Americans in Higher Education, Proceedings of the 9th Annual Conference of APAHE* (Sacramento, 1996), 12–14.

⁵³ Omi and Takagi, "Situating Asian Americans in the Political Discourse on Affirmative Action," 159.

spirit of Third Worldism. Even their pronouncements, however, grew more pessimistic and jaded. In America's multiracial cities, Wang noted, communities of color "are hopelessly divided and against each other . . . This situation must be reversed. It must, however, also go beyond simply chipping away power and privilege from white males and striving for group gains, and in turn, using the same power and privilege to exclude and oppress others." Increasingly, Asian Americanists committed to multiracial solidarity began to question the idea of shared interests among people of color. By 2000, the prominent political scientist Claire Jean Kim worried that "Asian American empowerment rhetoric and practices" that presumed a similarity among the situations of communities of color might facilitate, unwittingly, the subordination of Black people.⁵⁴

Affirmative action cases continued to make their way to the Supreme Court. In *amicus curiae* briefs filed with the court, Asian American supporters of affirmative action began to highlight Asian American ethnic groups with larger numbers of low-income individuals. As two education scholars observed, however, those briefs typically "stressed the underrepresentation of Southeast Asian Americans and Pacific Islanders to argue the benefits [of] affirmative action, but they did not fully account for the over-representation of East and South Asian Americans." By sidestepping the question of whether different Asian American ethnic groups with different class profiles might have entirely distinct relationships to the issue of educational access, these scholars concluded, this approach "fell short in countering the hegemonic Asian American success narrative." More recently, Asian American defenders of affirmative action have sought to refute the kinds of disparities in university admissions that earlier Asian Americanists took as *prima facie* evidence of anti-Asian racism. Such a position is the unexpected outcome of the history recounted here, in which Wu's hope—that attention to anti-Asian discrimination would fortify the place of affirmative action programs—began to fade almost as soon as it was set down on paper. Asian Americanists succeeded in using the controversies over educational access to move discussions of race beyond Black and white. In the process, however, many had also moved beyond Third Worldism.⁵⁵

⁵⁴ Gary Y. Okihiro, "Is Yellow Black or White? Revisited," in *Blacks and Asians: Crossings, Conflict, and Commonality*, ed. Hazel M. McFerson (Durham, N.C., 2006), 55–58; Wang, "Being Used and Being Marginalized in the Affirmative Action Debate," 56; Kim, "Playing the Racial Trump Card," 36.

⁵⁵ OiYan A. Poon and Megan S. Segoshi, "The Racial Mascot Speaks: A Critical Race Discourse Analysis of Asian Americans and *Fisher vs. University of Texas*," *Review of Higher Education*, 42 (Fall 2018), 235–67, esp. 261; Park, *Race on Campus*, 71–98; "Brief of 1,241 Social Scientists and Scholars on College Access, Asian American Studies, and Race as *Amici Curiae* in Support of Respondent."