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2019–2020
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Thirty years ago, a group of students at Harvard and Berkeley came together to create the *Asian American Policy Review*. At the time, the editors wrote that “by improving understanding and fostering debate, we hope that the *Review* will help Asian Americans to continue to ‘break silences’ and find a voice in American society and politics.”

Three decades on, it is possible to see real gains for Asian Americans but also many of the same fundamental challenges identified by the original editors. Asian American individuals are increasingly visible in American politics and popular culture, but our communities continue to endure the impacts of housing instability, climate disasters, and deportations.

Despite those challenges, I am heartened by the authors featured in the 30th edition of this journal. This year’s edition showcases the remarkable range of people and organizations working among Asian American and Pacific Islander (AAPI) communities. The authors showcase the growing role of nonprofit organizations led by and serving AAPI community members and the continuing struggles of AAPI activists fighting to protect workers’ rights from corporate power and to safeguard the planet from an approaching climate crisis. Our authors address the wide range of experiences, identities, and intersections we can inhabit as members of the AAPI community.

The term “Asian American” originated with college students in 1960s California, working to unite students of different Asian heritages and organize in solidarity with Black, Latinx, and Native students fighting for more faculty and students of color and ethnic studies programs. As Asian Americans continue to fight for belonging and shared prosperity, I hope that we will carry the lessons of the first people to identify as Asian Americans. Our work to uplift our own communities cannot be separated from the struggle for racial equity, a fair economy, and other forms of justice in this country.

The 30th edition reflects the efforts of our many supporters. Our staff is grateful for the guidance, patience, and support of our publisher, Martha Foley, and our faculty advisor, Richard Parker. We thank our advisory board for supporting the mission and vision of the *Review*. We offer our thanks to our authors for their thoughtful contributions. Finally, I am thankful for the incredible staff of the *Asian American Policy Review*. This edition reflects their hard work and commitment to uplifting the voices of AAPI communities.

With gratitude,

ANDREW FAN

Editor-in-Chief

Harvard's Personal Rating: The Impact of Private High School Attendance

Julie J. Park and Sooji Kim

In *Students for Fair Admissions, Inc. v. Harvard*, Harvard was sued for allegedly discriminating against Asian American applicants. The personal rating was one of the most controversial aspects of the case and included components like the essay and recommendations from teachers and counselors. Whites outscored Asian Americans on the rating, although Asian Americans had the top academic and extracurricular ratings.

For Harvard's application and rating process to withstand legal scrutiny, Harvard needed to provide a plausible explanation for the slightly lower personal ratings. In her ruling clearing Harvard of intentional discrimination, Judge Allison Burroughs noted that teachers and guidance counselors rated Asian Americans lower than Whites, making the lower personal ratings a byproduct of possible bias from high school evaluators.

This theory is worthy of future investigation, but another explanation exists. Among Ivy League applicants, Asian Americans are more likely to attend public schools, where the counselor-to-student ratios are usually quite large, possibly resulting in less personalized or enthusiastic recommendations from counselors.

My colleague Sooji Kim of the University of Michigan calculated the breakdown between private versus public school attendance among likely Harvard

applicants. Using data from the High School Longitudinal Study of 2009 (HSL:09) and NCES-Barron's Admissions Competitiveness Index, cross-tabulation analyses and chi-squared tests were conducted to examine the association between student background and the selectivity of their first-choice college. The sample consisted of those who applied to at least one four-year institution and enrolled in college right after graduating from high school.

The calculations show that approximately 56 percent of White students whose first-choice college was Harvard or a similarly hyper-selective institution (i.e., "most competitive" institution defined by Barron's) attended public high schools. In contrast, a much higher proportion of Asian students with similar aspirations (nearly 75 percent) went to public high schools.

These discrepancies are critical because counselor recommendations are part of

This theory is worthy of future investigation, but another explanation exists. Among Ivy League applicants, Asian Americans are more likely to attend public schools, where the counselor to student ratios are usually quite large, possibly resulting in less personalized or enthusiastic recommendations from counselors.

Harvard's personal rating, which plays a key role in its admissions process. Affluent families specifically seek out private high schools due to the individualized, personal attention that counselors give to students in the admissions process. Student-to-counselor

ratios are dismal in most public schools. According to the American School Counseling Association, the average ratio in 2017

was 663 to 1 in California, 499 to 1 in Washington State, and an astounding 741 to 1 in Michigan. Better states include Virginia (361 to 1) and New York (363 to 1), but no state can compete with the lower ratios present at private schools.¹

Logically, a counselor with a caseload of only 30 or 50 students will be able to devote more attention to detail when highlighting student achievements than a counselor with a caseload of 500+ students. Not only that, but private school counselors meet often with students to help hone their admissions strategy, versus public school counselors who simply do not have the capacity. This is on top of the personal relationships that college counselors at elite private high schools often cultivate with admissions offices, opening doors for top students. These advantages are documented in scholarly works such as McDonough² and Weis, Cipollone, and Jenkins.³

These dynamics have real ramifications for the Harvard lawsuit and the personal rating, which include teacher recommen-

“The Court firmly believes that Asian Americans are not inherently less personable than any other demographic group.”⁴ She is right, but what is also right is that White Harvard applicants are considerably more likely to experience the advantages associated with private school college counseling, and that’s a real benefit in the hypercompetitive world of elite college admissions. Asian Americans are not less personable, but even well-meaning public school counselors generally cannot dedicate the individualized time to their students like private school counselors. Amazingly, even with the advantages offered by private school counselors, many private school families will still supplement their efforts with outside private college consultants.

Inequality aside, many Asian Americans will still receive plenty of advantages relative to other students of color—African American, Latinx, and Indigenous populations—such as greater access to higher-quality public schooling and relatively easy access to SAT prep, among other opportunities.

White Harvard applicants are considerably more likely to experience the advantages associated with private school college counseling, and that’s a real benefit in the hypercompetitive world of elite college admissions. Asian Americans are not less personable, but even well-meaning public school counselors generally cannot dedicate the individualized time to their students like private school counselors.

dations, counselor letters, and student essays. Whites outsourced Asian Americans on the personal rating, although Asian Americans had the top academic and extracurricular ratings.

Missing in conversations about the personal rating is the fact that almost half of White students aiming for the Ivy League come from private high schools, where counselors and teachers will write incredibly detailed and personalized letters, compared to only about 25 percent of Asian Americans.

Judge Burroughs wrote in her ruling that “[W]hite applicants are not inherently more personable [than Asian Americans].” In another powerful statement, she declared:

Plenty of Asian Americans will still receive strong personal rating scores and enroll at Harvard—over 20 percent of Harvard students are Asian American. But the higher rate of private school attendance among White elite college applicants signals a key advantage, which is critical to understand the average lower personal rating of Asian Americans. When looking for explanations for the lower personal rating, the answer is not systemic bias from Harvard admissions counselors, as charged in the lawsuit. The answer lies in the broader context of the Asian American applicant pool and the inequities that permeate the college admissions process.^{5,6,7}

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TIGER: A Sustainable Model for Building LGBTQ AAPI Community

Glenn D. Magpantay, Esq.¹

Abstract

Over the past 30 years, since the first Harvard *Asian American Policy Review*, the lesbian, gay, bisexual, transgender, and queer (LGBTQ) Asian American, South Asian, Southeast Asian, and Pacific Islander (AAPI) community has considerably matured and developed. Today there are 50 organizations. This article studies local LGBTQ AAPI organizations over the past 20 years. It reveals the constituent elements that have allowed them to survive and thrive and offers a sustainable model of infrastructure that builds local LGBTQ AAPI community.

Introduction

Since the *Asian American Policy Review* at the John F. Kennedy School of Government at Harvard University was first published, the lesbian, gay, bisexual, transgender, and queer (LGBTQ) Asian American, South Asian, Southeast Asian, and Pacific Islander (AAPI) community has considerably matured and developed. Today, according to the census, AAPIs are the nation's fastest growing racial minority group. Immigrants from Asia are the largest segment of immigrants, both legal and undocumented, coming to the United States. The AAPI population will grow rapidly over the next 25 years. By 2040, nearly one-in-ten Americans will be AAPI.²

More and more are coming out as LGBTQ. But the lives of LGBTQ AAPIs involve complex intersections of being sexual, racial/ethnic, linguistic, gender, immigrant, and economic minorities. Two-thirds of all Asian Americans are foreign born, and 80 percent speak a language other than English in their homes. A third (34 percent) are not citizens. More than one million Asian Americans are undocumented.

AAPIs comprise a larger and disproportionate share of LGBTQ immigrant populations, with 15 percent of undocumented LGBTQ adults and 35 percent of documented LGBTQ adults identifying as AAPI.³ After September 11, South Asian and Muslim immigrants have been targets of racial profiling, detentions, and deportations.⁴ After the election of Donald Trump as president in 2016, the rights of LGBTQ people and all immigrants have been curtailed or significantly threatened.

The LGBTQ AAPI community is often overlooked, their needs marginalized. LGBTQ AAPIs still suffer from invisibility, isolation, and stereotyping. To address the unmet needs of the LGBTQ AAPI community, several local LGBTQ AAPI organizations have formed over the years. Some have been short lived, while other groups have endured for decades.

This article studies local LGBTQ AAPI organizations over the past 20 years.⁵ It reveals the constituent elements that have allowed them to survive and thrive. While they continue to face internal challenges in building their organizations, the National

Queer Asian Pacific Islander Alliance (NQAPIA), a federation of LGBTQ AAPI organizations, has helped them expand their capacity and longevity. A sustainable model of infrastructure that builds local LGBTQ AAPI community is needed. That sustainable model is where organizations balance the social and political as well as provide peer support and educational programming.

I dub this practical theory as a “TIGER analysis” or “typography of intersectional gender and sexual empowerment and resistance.” Here, a tiger is illustrative of the constituent parts that build an enduring organization.

* The hind legs are the powerful social activities that bring people into the body of the organization. Social activities are the connection to the base or grass(roots). Social activities, like legs, give the organizational body the initial propulsion to advance.

* The fore legs are akin to the fighting arms that advance political causes and advocacy.

* The tail (or heart) is representative of the peer support that balances the best of the body. Or perhaps it is the heart that loves and holds vulnerable segments of the community together.

* The tiger’s head is the brain and education activities that serve internal and

external purposes. Internal education is community awareness and is regulatory for a well-functioning organizational body—we must know our culture and communities. The external education is the development of broader political consciousness and the organizational body’s interaction with the outside world.

* The stripes are the external messaging of all parts of the organization body, otherwise called outreach. It broadcasts the work of each element and each body part as part of the whole but also independently.

This TIGER analysis presents a novel theoretical model to examine sustainable organizations’ service and advance the interests of those at the intersection of Asian American identity and queerness.

Initial Development of LGBTQ AAPI Organizations

In the 1980s, progressive movements connected and sparked organizing efforts among LGBTQ AAPIs. Lesbians and bisexual women were at the forefront, forming the national APLBTN and regional Asian Lesbians of the East Coast (ALOE). In the 1990s, predominantly male groups like the Gay Asian Pacific Alliance (GAPA) in San Francisco, GAPIMNY in New York, and the South Asian group Trikone in San Francisco formed.⁶

Since then, many other LGBTQ AAPI organizations across the nation have formed. While they were initially created as safe spaces, the work matured to include political activism and advocacy along with peer support and educational programming. Most LGBTQ AAPI organizations are located in areas with large populations of AAPIs, namely the Bay Area in Northern California, Greater Los Angeles, New York City, and metropolitan Washington, DC.

Some are organized by ethnicity or gender, but today most are multi-gender and pan-Asian. Their memberships are a mix of foreign-born and US-born AAPIs. Those who were foreign born are split between being naturalized citizens and legal permanent residents. Some are immigrants, often on work visas or student visas.

LGBTQ AAPI organizations vary greatly with regard to infrastructure, budget, and leadership structure. Today only three autonomous organizations, namely API Equality Northern California, API Equality Los Angeles, and UTOPIA Seattle, have staff. Most are all-volunteer run. Only a quarter

The LGBTQ AAPI community is often overlooked, their needs marginalized. LGBTQ AAPIs still suffer from invisibility, isolation, and stereotyping.

of LGBTQ AAPI organizations are formally incorporated as tax-exempt 501(c)3 entities. About a third are fiscally sponsored by another 501(c)3.

Core Programs of Modern LGBTQ AAPI Organizations

Today there are nearly 60 local LGBTQ AAPI organizations,⁷ when there were only 37 ten years ago.⁸ When these organizations successfully blend activities that are social, political, peer supportive, and educational, they tend to endure over longer periods of time.⁹

Social

LGBTQ AAPI organizations provide essential social networking spaces where they can connect with people of common heritage and experiences. The experiential reality of many LGBTQ AAPIs is “All the gays are White, all the Asians are straight; where do I belong?” Even in larger people-

Pride is the biggest annual LGBTQ event,¹⁰ and almost all LGBTQ AAPI organizations have marched in the parades or participated in the festivals.¹¹ LBT women’s groups and women members of multi-gender groups regularly participated in annual dyke marches in Chicago and New York to promote visibility. LGBTQ AAPI organizations provide an important way for LGBTQ AAPI individuals to form social networks. Because the groups start as identity-based gatherings, they have wide appeal. Yet other individuals also strive for a more political values-based gathering.

Political

LGBTQ AAPI groups have often blended social spaces with social justice work. They all engaged in some form of political advocacy or activism, but the frequency and manner vary tremendously. They have written letters to the editor to mainstream press, LGBTQ community press, and Asian

As such, LGBTQ AAPI groups have often blended social spaces with social justice work. They all engaged in some form of political advocacy or activism, but the frequency and manner vary tremendously.

of-color gatherings, AAPIs feel submerged where African American or Latinx peers are more numerous. Sustainable LGBTQ AAPI groups host a wide range of social activities catering to varied interests, such as potlucks dinners, dim sum brunches, sports teams, Bollywood nights, and cultural performances. These provide an alternative space to the gay bars and clubs, which is especially important for young people.

Several groups have annual events. Some events have attracted hundreds of people and were important fundraisers. MASALA in Boston hosts an annual mela. In the Bay Area, Trikone has an annual cultural show, and GAPA hosts “Runway,” a gay male beauty pageant and talent show. In New York, Salga NYC runs the “Color Me Queer,” a party for people of color during June as part of Pride Month, which jointly benefits Salga NYC and the Audre Lorde Project.

ethnic/language press. Some groups participated in rallies, protests, and lobby days and published political news, stories, and articles in their newsletters, on websites, and on listservs.

LGBTQ AAPIs have frequently spoken out against defamatory images and articles in the media. For example, groups in New York and Los Angeles protest Details magazine’s “Gay or Asian?” feature that mocked gay Asian men,¹² and Salga NYC in New York organized protests against the detention, deportation, and special registration of South Asians after September 11. Sometimes they expressed international solidarity and protested human rights violations against LGBTQs abroad, such as in the campaign against India 377, which recriminalized homosexual sodomy.

The campaign for marriage equality galvanized LGBTQ AAPI groups, specifically

California's anti-gay marriage Proposition 8 in 2008.¹³ API Equality in San Francisco and in Los Angeles were founded to specifically work on marriage equality in the AAPI community. Both hired staff to work on the 2008 campaign and continued to maintain staff with more diverse programs. They developed translated educational materials, organized volunteers, and targeted AAPI voters to vote against Proposition 8. They generated stories and features about same-sex couples in the AAPI media, thereby creating a more tolerant and understanding atmosphere. Both groups developed significant organizational infrastructure that has continued to this day.

On the East Coast, groups pushed to be included in cultural parades specifically in New York. In the late 1990s, Salga NYC was explicitly barred from marching in the India Independence Day Parade.¹⁴ The organizers campaigned for seven years to finally be included, which occurred in 2000.¹⁵ Following suit ten years later, Q-Wave spearheaded the Lunar New Year Day for All coalition to have LGBT AAPIs march in the Lunar New Year Day in Chinatown.¹⁶

Some groups engaged in politically partisan work. Federal tax-exempt (501(c)3) groups are forbidden from campaigning for specific candidates for office or political parties, but some LGBTQ AAPI groups that are unincorporated or have 501(c)4 status face no such restrictions. The first organization that endorsed candidates was GAPA in San Francisco. A few GAPA members actually sought and won political office.¹⁷ In 2008, the LGBTQ AAPI groups in Washington, DC, collaborated with the Human Rights Campaign to host an Asian American queer Asian forum, to discuss the elections and to publicly endorse Barack Obama for president.

LGBT AAPIs have limited rights in our society, and LGBT AAPI organizations have a responsibility to speak out on behalf of their communities. Politically oriented organizations have fought hard but still need social activities and networks to refresh and rejuvenate their members. Some members

within the community continue to need more and have special needs.

Peer Support

LGBTQ AAPI organizations provide peer support for those coming out of the closet, looking to connect with their cultural identity, or needing more identity-based support. A few have monthly peer-support group meetings. Some of these are open to all of their members, while others are specifically for women, people of transgender experience, or youth. Salga NYC's monthly "coming out" sessions have facilitators who are fluent in English and another South Asian language and trained in power dynamics, racism, and other biases.

The existence of the groups offer a hub for individuals to readily find other social services and referral. The most often-requested services are health, AIDS, and HIV-related services; immigration assistance; and general legal advice. Some groups, like GAPI and APIQWTC, support young people by providing college scholarships.

Many groups provide specific support on immigration matters. Some groups like MASALA have done educational forums with LGBTQ civil rights attorneys and South Asian immigration lawyers. Salga NYC has actively campaigned for immigrants' rights and protested against the detention, deportation, and special registration of immigrants. Al-Fatiha and Salga NYC have written letters in support of asylum petitions, confirming that the applicants are LGBTQ and members of their groups.

The peer support that LGBTQ AAPI organizations maintains is a critical element to cultivating and taking care of their base of members.

Education

Educational activities are integral to the missions of almost all LGBTQ AAPI groups. Most groups hosted educational workshops, guest speakers, or discussion groups on a variety of topics. Some also have blogs and e-discussion groups.

Most groups regularly co-sponsor educational events organized by others in which they encourage their members to attend. But some have observed an imbalance in solicitations for LGBTQ AAPI co-sponsorship. LGBTQ AAPI groups seem to be more often solicited by LGBTQ groups than by mainstream AAPI

groups to co-sponsor their events. One person commented that this is usually an effort to demonstrate some level of inclusion in name, or color in attendees, but not necessarily in the program. Nevertheless, token support has at least some value. At the same time, LGBTQ AAPI groups are less often solicited by non-LGBTQ Asian groups. The result is that LGBTQ AAPIs are sometimes more visible in the LGBTQ community than they are in the mainstream AAPI community.

Some groups launched multilingual educational campaigns about being LGBTQ. Much of the AAPI community does not speak or read English. Nearly half (43 percent) of the nation's Asian Americans over 18 are limited-English proficient, and 81 percent speak a language other than English in their homes. Yet information about LGBTQ and resources is almost exclusively in English, and nearly all LGBT AAPI operate in English. Moreover, LGBTQ AAPIs are often frustrated at how most of gay culture is dominated by White gay images and that women, transgender persons, South Asians, and Pacific Islanders are exceptionally absent. To address these frustrations, groups embark on a variety of outreach activities.

Their approach in developing educational messages had to be culturally competent. They found that the traditional in-your-face approach of many gay activists, and Americans in general, tended to turn off many foreign-born Asians. The messages needed to be more subtle, yet still affirming,

to promote acceptance of LGBTQ AAPIs. Among the most successful were the Asian Pride Project's Family Acceptance PSAs featuring AAPI parents who love their LGBTQ kids. Satrang translated its brochure into five South Asian languages and took out advertisements and articles in South Asian

Groups that have successfully blended social and political activities tend to endure over decades. The social aspect of the groups give them a feeder for new members, who become involved and can become politically aware. There are many talented leaders in the community who want to advance LGBTQ rights and racial justice, and the groups provide them a membership from which they can organize a base.

newspapers and magazines. GAPIMNY distributed bilingual postcards on street corners and at ethnic grocery stores in Chinatown and Flushing.

Sometimes they educate the larger community. A few groups hold workshops or open community forums; some have speakers bureaus. QAPI in Boston occasionally speaks at student conferences, MASALA has educational outreach tables at India Day Celebrations, and GAPIMNY tables at the Asian American Heritage Month Festival to build awareness and education about the existence of LGBT AAPI people.

Educational activities of LGBTQ AAPI organizations have been both internal and external. Internal education helps their members grow and become more aware; external education targets both the mainstream, predominately White, LGBT community about race and diversity and the mainstream, predominately straight, AAPI community about queerness.

Sustainable Infrastructure

Groups that have successfully blended social and political activities tend to endure over decades. The social aspect of the groups give them a feeder for new members, who become involved and can become politically aware. There are many talented leaders in the community who want to advance LGBTQ rights and racial justice, and the

groups provide them a membership from which they can organize a base.

Organizations that tend to be exclusively social or highly political have not been sustainable. Exclusively social or political groups have typically formed around an individual or small grouping of people with shared values and shared desire for political organizing. When those core members move on with their lives—because of careers, relocation, families, or even death—the groups often dissipate.

Social and political activities are also not enough to sustain an organization or community. Organizations must also provide peer support for specific segments of the LGBT AAPI community who need support, largely because members need it. They must engage in educational programs so members can learn more about their community, issues, rights, and struggles. This feeds the politicization of the group's members.

Groups that are seen as doing something, that are vibrant and successful, draw resources. More people get involved and volunteer their time and talents. Other people donate. They become recognized among other organizations and the media. With more recognition, the process of becoming institutionalized is catalyzed.

It is this model, where groups have successfully blended activities that are social, peer supportive, educational, and political, that tends to endure over longer periods of time.

Challenges in LGBTQ AAPI Community Building

Sustainability does not come without challenges. A balanced mix of social, peer supportive, educational, and political activities tend to keep organizations healthy over the long term, although they still deal with internal issues in the short term. To help groups more effectively address these challenges, NQAPIA was founded to help build their capacity.

Social and Political Tension

There was some internal pushback to the political activism of LGBT AAPI groups. Group leaders sometimes had to negotiate between internal competing factions. Oftentimes one segment of their membership tended to be more focused on social activities and had a distaste for political activism; another segment believed that their group had a duty to be politically engaged and to speak up for LGBTQ AAPIs. Invariably, when the political and advocacy work was perceived to predominate (notwithstanding whether they actually predominated in true hours or in the number of events), there were complaints that the group had become “too political.”

It is notable that the more socially oriented leaders and members tended to be immigrants or those who were foreign born. Those who were more political tended to be US born. Indeed, some AAPIs come from countries that have a history of government repression, where speaking out had direct consequences for them and their families. Some AAPIs are taught to be silent. But history has shown that silence leads to our demise. We must speak out.

Groups use social events to build a political base. Social events are safe and easy entry points for new members, which then provide them with some awareness of community concerns and problems and ultimately catapult them into political consciousness. For others, the educational and outreach work is not seen as political but rather as service, and it serves as a bridge to political awareness. Both are essential to bring people in into the organization and to build their core group of volunteers.

One organizational leader said, “Simply existing as a gay Asian safe space was a political act in itself.” Simply hosting AAPI-only meetings is a recognition of racism and homophobia and, for women's groups, sexism in society today. He observed that people came to political consciousness often by simply going to organizational events, and occasionally discussions about racism and LGBTQ concerns would organically emerge.

These processes were highly effective in helping people be more politically aware.¹⁸

Historically, the blending of political and social activities has been essential. The history of the LGBTQ AAPI community in the 1990s had been strong social groupings at the local level, political organizing at the regional level. To some extent, most of the social groups were predominantly men's groups—namely GAPIMNY, GAPA, and GAPS— and regional political groups were predominantly East Asian women's groups, such as APLBTN and ALOEC.

But today, the LGBTQ AAPI groups that have endured are those that have balanced activities catering to larger numbers of people. Since then, men's groups have grown more political, and some have affirmatively worked to examine their role in the struggle against sexism. Many lesbian women activists joined broader women's issues or intersectional work to combat domestic violence and human trafficking. This occurred to the demise of LBT women's groups. More recently founded LBTQ women's organizations have become more social. Today, most LGBTQ AAPI groups are multi-gender and mix both social and social justice activities.

Infrastructure Limitations

LGBTQ AAPI organizations struggle with a series of challenges in programming, priorities, and membership involvement, as was uncovered in NQAPIA's 2009 Queer Asian Compass survey.

Sometimes group leaders felt like they were constantly reinventing the wheel and building everything from the ground up. Larger groups at times felt overwhelmed by all of the activities that they were doing (e.g., Satrang, which coordinated a dozen major events every year, and GAPIMNY, which runs monthly workshops for their membership, a youth group, and social outings). Others were struggling to figure out the needs within their own communities and the organization's appropriate role.

Leaders questioned whether their group needed to be everything to everyone. Limited capacity, experience, and leadership prevented them from doing as much as they could. Some organizational leaders were able to manage this balance, while others had more difficulty.

LGBTQ AAPI organizational leaders felt challenged in motivating their memberships. For example, Salga NYC commented that they have a large membership of over 1,000 individuals, but their activities do not necessarily turn out large numbers of people. Likewise, AQUA noted that there were "many gay Asians in the DC area but they don't participate." Groups in cities with many colleges and universities, such as Boston and Washington, DC, commented how many LGBTQ AAPIs were around in the community but not involved in their organizations.

Burnout was a constant concern. People commented about the need to involve new people and the fatigue of leadership. Occasionally, members and leaders of LGBTQ AAPI groups were already committed to other groups or worked long hours at their full-time jobs. They were sometimes overextended.

The opposite dynamic was that some individuals were resistant to taking on leadership roles because said they "couldn't give 100 percent." There was a notion that to be involved, they had to do everything, know everything, and be aware of every contingency. And so, capable, talented members would look on while a few individuals struggled to do all the work. Groups needed to structure ways to encourage people to contribute whatever amount of time they can give.

Greater information sharing among groups and great leadership development was needed.

Limited Funding

Notwithstanding LGBT AAPI organizations' diverse programs and reach, groups had

Today, most LGBTQ AAPI groups are multi-gender and mix both social and social justice activities

limited financial resources. Nearly half the groups had annual budgets under \$1,000. About a quarter had budgets between \$1,000 and \$10,000. 74 percent (43 groups) operated on budgets less than \$10,000. Ten percent (6 groups) operated on budgets over \$100,000.

Securing sufficient financial resources is

raise foundation funding—when such funding was available.

A study by the Asian Americans and Pacific Islanders in Philanthropy uncovered the dearth of foundation funding to LGBT AAPI organizations.¹⁹ In 2009, grants to all LGBTQ organizations and projects represented slightly more than 0.2 percent of

Annual Budget (US\$)	# Groups	% Groups
Under 500	22	38%
50--999	6	10%
1,000--4,999	8	14%
5,000--9,999	7	12%
10,000--19,999	4	7%
20,000--29,999	4	7%
30,000--49,999	0	0%
50,000--99,999	1	2%
>100,000	6	10%

an ongoing challenge. Most funding came from fundraising events (on average, 45 percent), followed by individual donations (25 percent) and membership fees (20 percent).

Most are not incorporated as tax-exempt nonprofit organizations; some are incorporated as a 501(c)3, but others have found a work-around through fiscal sponsorship. Indeed, seeking the 501(c)3 tax-exempt status was seen as more of a hindrance than a benefit. Of course, raising foundation money is alluring, but some groups cherished the freedom of not being incorporated. Two specifically rejected incorporating and applying for tax-exempt status. They found that the process could take a year and would detract time, energy, and money away from more important activities, such as events and advocacy. They also did not want to be permanently trapped in the 501(c)3 limitations as well as the financial-reporting obligations to the IRS. Instead, they opted for fiscal sponsorship, wherein they worked with a bona fide tax-exempt organization to

all foundation giving in the United States, and of that amount, a measly 0.7 percent went to LGBT AAPI organizations. Though foundation funding to LGBT AAPI has increased since then, it has not been commensurate with the level of work being done to meet the vast needs of the LGBT AAPI community.

Building Local Capacity

To address these challenges, NQAPIA was founded in 2005 to network LGBT AAPI organizations, build their organizational capacity, train their leaders, invigorate grassroots organizing, and challenge homophobia and racism. NQAPIA harnesses the collective power of local LGBTQ AAPI groups. The organizations are building a base, and NQAPIA helps them to deploy and direct that base to ameliorate injustice and advance rights.

Indeed, the groups have significant memberships and leaderships. There are a combined 393 leaders of groups, and three

groups have full-time staff. The groups have an average of 147 formal members, but the range varies widely from about 10 to 1,000. Most groups have memberships under 100, but a few had over 500. In total, all LGBTQ AAPI groups have 7,575 members.

Most impressive is the organizations' collective reach to grassroots LGBTQ AAPIs. The average size of organization's listservs is 685, though it ranges from 27 to 6,800. In the aggregate, the groups together command a wide reach. Through 60,780 Facebook friends, 28,770 email subscribers, 17,836 Twitter followers, and 18,611 Instagram followers, they can reach 124,588 LGBTQ AAPIs across the country.

To address funding challenges, NQAPIA provides fiscal sponsorships so that organizations can focus on the substantive work that they are doing. Over the years, funding to LGBTQ AAPI organization has increased.

Conclusion

LGBTQ AAPI organizations across the United States are working hard to provide a safe and supportive space for LGBTQ AAPIs. They provide an array of social, peer supportive, political, and educational activities. They reach out to educate their members and the broader community. They speak in support of the community. They challenge racism in the gay community and homophobia in Asian American communities.

Some have been around for 30 years, are incorporated, and have hired professional staff. Others are just starting out. They have launched visibility campaigns and multilingual efforts and provided safe spaces for the more vulnerable and forgotten, such as young people, people of transgender experience, and women. Some are heavily involved in efforts for the right to marriage; others seek rights for immigrants.

When organizations are too focused on social activities or political activism, they

tend to fall apart after a few years. When they blend these two, they build a base that can be organized. But this base also needs to be tended through peer-support activities and educational programming. The groups often face internal organizational limitations and external challenges, often due to having no staff and leaders serving in volunteer capacities. Yet those who blend social, peer supportive, political, and education activities tend to endure over long periods of time. This sustainable model builds the local infrastructure for a healthy and vibrant LGBTQ AAPI community.

Appendix

LGBTQ Asian American, South Asian, Southeast Asian, and Pacific Islander Organizations (65)

Southwest (4)

Collective of Houston Asian Americans
(CHAA)

KhushATX, *Austin, TX*

Texas Queer Muslims: Houston

U.T.O.P.I.A. Las Vegas

South (5)

ATL Queer & Trans Asians (ATL Q+A),
Atlanta, GA

Trikone Atlanta

VAYLA New Orleans

Miami Queer & Asian

Orlando Queer & Trans Asian Association
(OQTAA)

Midwest (3)

Invisible to Invincible: Asian Pacific
Islander Pride of Chicago (i2i)

Samcha Chicago

Trikone Chicago

Mid-Atlantic (8)

Asian & Pacific Islander Queers United for
Action (AQUA), *Washington, DC*

Asian Pacific Islander Queer Society
(APIQS), *Washington, DC*

hotpot! Philly
KhushDC, *Washington, DC*
Korean American Rainbow Parents (KARP),
Washington, DC
KQT DC, *Washington, DC*
Philadelphia Asian and Queer (PAQ)
Rangoli, *Pittsburgh, PA*

Greater New York City Area (8)

API Rainbow Parents of PFLAG NYC
Caribbean Equality Project (CEP),
New York, NY
Dari Project, *New York, NY*
GAPIMNY, *New York, NY*
Q-Wave, *New York, NY*
Salga NYC
Tarab NYC
Korean American Rainbow Parents (KARP),
New York, NY

Pacific Northwest (8)

Asian Pacific Islander (API) Pride,
Portland, OR
TrikoneNW, *Seattle, WA*
U.T.O.P.I.A. Alaska, *Anchorage*
UTOPIA Eastern Washington
UTOPIA Seattle
Utopia PDX, *Portland, OR*
Project Q of API Chhaya, *Seattle, WA*
Pride ASIA, *Seattle, WA*

New England (4)

Massachusetts Area South Asian Lambda
Association (MASALA), *Boston, MA*
Queer South Asian Collective (QSAC),
Boston, MA
Queer Asian Pacific-Islander Alliance
(QAPA), *Boston, MA*
Providence Youth Student Movement (PrYSM)

Northern California (13)

API Queer Sacramento Coalition (APIQSC)
API Equality-Northern California (APIENC),
San Francisco, CA
Asian Pacific Islander Queer Women and
Transgender Community (APIQWTC),
San Francisco, CA
Gay Asian Pacific Alliance (GAPA),
San Francisco, CA

GAPA Foundation, *San Francisco, CA*
Hmong Queer Suab, *Sacramento, CA*
Omusubi, *San Francisco, CA*
Parivar, *San Francisco, CA*
Sacramento Filipinx LGBTQ,
Sacramento, CA
Sam•Cha, *San Francisco, CA*
Trikone, *San Francisco, CA*
U.T.O.P.I.A., *San Francisco, CA*
Network on Religion and Justice (NRJ),
Alameda, CA

Southern California (5)

API Equality-LA
Satrang, *Los Angeles, CA*
Korean American Rainbow Parents (KARP)
Viet Rainbow of Orange County (VROC),
Garden Grove, CA
PFLAG San Gabriel Valley, *Alhambra, CA*

Pacific Islands (2)

Pride Marianas, *Saipan, Northern Mariana
Islands*
Guam Alternative Lifestyle Association
(GALA), *Tamuning, Guam*

National (5)

Asian Athletes Alliance
Muslim Alliance for Sexual and Gender
Diversity (MASGD)
Desi lgbtQ Helpline (DeQH)
Desi Rainbow Parents & Allies
KQTcon

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author has been involved with LGBTQ AAPI organizing and organization since 1998.

6. At the same time, AIDS/HIV service agencies formed that specifically targeted AAPIs, such as APICHA in New York, MAP for Health in Boston, API Wellness Center in San Francisco, and API Intervention Team in Los Angeles. However, these agencies provide direct social services, have secured millions of dollars in government grants, and hired sizable staffs. No local LGBTQ AAPI organization has this level of resources. AAPI AIDS/HIV service agencies exist in a different realm and are beyond the scope of this article. Frank Y. Wong et al., “Development and implementation of a collaborative, multistakeholder research and practice model on HIV prevention targeting Asian/Pacific Islander men in the United States who have sex with men,” *American Journal of Public Health* 101, no. 4 (2011): 623–31.

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9. Admittedly, there are limitations in categorizing these activities as such. Sometimes they blend. For example, a screening of a film about the lives of South Asians after September 11 may be both a social and political event.

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Legacy of Harm: The Path from Patriarchy to Intimate Partner Violence

Pallavi Dhawan

The author takes sole and full responsibility for the views expressed in this article.

Introduction

The path from patriarchy to violence is short and well traveled, not just in South Asian culture but in the world. The uniqueness of its place in South Asian culture is a function of the elevation of patriarchy to the higher realms of tradition and custom. Traditional Indian society views the woman as an extension of her relationships to others and imposes upon her duties concomitant to each relationship: the obedient daughter, the dutiful wife and daughter-in-law, the nurturing mother. In contrast, the Indian son receives preferential treatment before birth and throughout life in the expectation that he will care for his parents in their old age. Traditionally, the boy is an asset, the girl a liability; she moves from her birth family to the family of her husband and in-laws in a ceremonial “transfer” called *Kanyadaan* in Sanskrit, “the giving away” of the father’s property to the groom (not unlike the custom of walking the bride down the aisle to “give her away”). Dowry, the gifting of goods, property, and/or cash by the bride’s family to the groom and his family as a condition of marriage, has led to the devaluation of girls as debts to be discharged.¹ Although the government outlawed dowry in 1961, the sinister side of the patriarchal culture that enabled dowry practice in the first instance continues in the acceptance of rigid and hierarchical gender roles that relegate women to the status of second-class citizens, particularly in rural parts of India.²

This paper will first examine the evolution of law in India to address the harms of domestic violence and will follow with an analysis of the treatment of domestic violence in California’s Penal Code. California’s narrow approach to defining domestic violence ignores the nonphysical patterns of power and control used to dominate victims of domestic violence and strip them of their personhood through a course of conduct. In contrast, Indian law has evolved beyond violence-focused definitions, but cultural norms in Indian society still hamper women’s potential to achieve full personhood. In each jurisdiction, the effect of the failure to align *all* definitions and structures under one framework is to thwart progress toward a society where women can live full and autonomous lives free of violence in all its manifestations.

This paper concludes by proposing an alternative framework to California’s existing criminal law, one envisioned by Professor Evan Stark and subsequently adopted in England, Wales, Scotland, and Ireland under the label of coercive control. The coercive control framework recasts the language of domestic abuse through the lens of equal protection and personal liberties.

Evolution of the Law in India

The evolution of the law against domestic violence in India can be traced to the Indian Constitution, adopted by a newly

independent India in 1949.³ The Constitution's basic guarantees for all people include social, economic, and political justice; liberty of thought, expression, belief, faith, and worship; and equality of status and opportunity.⁴ Despite the Constitution's progressive language such as prohibiting discrimination on the grounds of sex as outlined in Article 15 or placing on every citizen the "duty to renounce practices derogatory to the dignity of women" in Article 51A, it was not until 1961 that the government officially outlawed the practice of dowry in The Dowry Prohibition Act.⁵

The Dowry Prohibition Act defines dowry as "any property or valuable security given or agreed to be given either directly or indirectly" by one party to the marriage to the other party or by the parents of either party or another person to either party to the marriage or to another person.⁶ The act sets the penalty for giving or taking dowry as up to five years in prison; for demanding dowry, up to two years in prison.⁷ However, the act does not apply to the reasonable exchange of gifts without demand.⁸

Due to the persistence of dowry murders, the government amended the Penal Code in 1983 with the Anti-Cruelty Statute, codified as Section 498A, which criminalizes the infliction of cruelty on a woman by the woman's husband or a relative of the husband and carries a sentence of up to three years in prison.⁹ Cruelty includes any willful conduct that is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb, or health (mental or physical) of the woman; or harassment of the woman where such harassment is either for the purpose of coercing her or her relatives to meet any unlawful demand for property or is due to her failure to meet such demand.¹⁰

In 1986, the government further established the offense of dowry deaths through a presumption that the death of a woman by burns or bodily injury or under "other than under normal circumstances within seven years of her marriage" is a criminal act ("dowry death") if it can be shown that soon before her death, the victim suffered cruelty or harassment by her husband or a relative of her husband for, or in connection with, any demand for dowry.¹¹ Punishment for dowry death ranges from the minimum of seven years to life imprisonment.¹²

Both the 1983 and 1986 statutes apply only to married women, excluding intimate partners or former intimate partners who have not entered into a marital relationship. And, despite its broad definition of cruelty, Section 498A has been applied largely

Language operates in inclusionary and exclusionary ways. Definitions that hinge liability on physical violence alone operate to exclude the lived experience of domestic violence victims who have suffered no or minimal physical abuse, but have lived in a virtual state of siege because of the power wielded by their abuser.

to abuse in the dowry context.¹³ In the 1989 case of *Smt. Sarla Prabhakar Waghmare v. State of Maharashtra and Others*, for instance, the Bombay High Court dismissed an appeal brought by the victim after the trial court acquit-

ted her attackers of charges brought under Section 498A.¹⁴ The victim's husband and in-laws poured kerosene oil on the victim's body and set her on fire; nevertheless, the high court found an absence of proof that the abusers attacked the victim in order to drive her to commit suicide or otherwise coerce her into meeting unlawful demands.

Criticism that interpretation of the 1983 and 1986 laws excluded the experience of domestic violence victims suffering abuse not specifically tied to dowry demands led to the adoption of The Protection of Women from Domestic Violence Act in 2005.¹⁵

The scope of the 2005 law is primarily civil; the law empowers magistrates to grant injunctive relief such as protection orders, restitution orders, custody orders, and residence orders.¹⁶ However, breach of

a protective order can result in criminal penalties, and the magistrate has the authority to amend and add charges under Section 498A.¹⁷

What is perhaps most noteworthy about the 2005 law is not the penalty prescribed but the broad definition of violence: conduct (whether by omission or commission) that harms or endangers the health, safety, life, limb, or well-being, *mental or physical*, of the aggrieved person or tends to do so, including physical, sexual, verbal, emotional, and economic abuse¹⁸ (emphasis added). Sexual abuse comprises conduct of a sexual nature that “abuses, humiliates, degrades, or otherwise violates the dignity of woman.”¹⁹ Verbal and emotional abuse include “insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child.”²⁰

Though the law elevates nonphysical abuse into cognizable harms, the impact of the law has been limited by prevailing norms, as reflected in court decisions. Consider the case of *Dilip Premnarayan Tiwari & Anr. v. State of Maharashtra*, in which a woman married a man outside her caste and refused to end the marriage on her brother’s urging.²¹ The brother eventually gathered his friends and ambushed his sister’s husband at his home, killing the husband, the husband’s family, and a family friend.²² The Supreme Court reduced the brother’s death sentence, finding mitigating circumstances in the brother’s attempt to remedy an act that had wounded his family’s honor.²³

California Law

In California, domestic violence per se is criminalized through two separate, though related, statutes. The first, Penal Code Section 273.5, criminalizes the infliction of a traumatic injury upon a victim.²⁴ Traumatic injury can be minor or major.²⁵ The crime carries a potential sentence of two, three, or four years in prison or confinement in

the county jail; this variation qualifies it as a “wobbler,” a crime that can be filed as either a misdemeanor or felony.²⁶ The lesser counterpart to P.C. 273.5 is the misdemeanor version of domestic violence, which requires only an unlawful touching by the defendant upon a qualifying victim; the touching need not result in an injury or wound.²⁷ Other crimes can also qualify as domestic violence—vandalism, criminal threats, stalking, animal abuse, burglary, to name a few—but these crimes apply equally to strangers. Nothing in the language of the latter category of statutes renders their scope specific to domestic violence.

The Family Code contains a more comprehensive definition of domestic violence. Family Code Section 6203 lists bodily injury, sexual assault, and threats of serious bodily injury as examples of abuse but specifies that “abuse is not limited to the actual infliction of physical injury or assault.”²⁸

In California, the problem is not one of application or implementation but of definition. Language operates in inclusionary and exclusionary ways. Definitions that hinge liability or guilt on physical violence alone operate to exclude the lived experience of

The effect of definitional exclusion is to normalize and even condone nonphysical forms of abuse.

domestic violence victims who have suffered no or minimal physical abuse but have lived in a virtual state of siege because of the power wielded by their abuser. The effect of exclusion is felt across time and space, starting with the immediate victim testifying in front of judge and jury. Using the benchmark of relevance, the judge sets the parameters of the victim’s testimony for the jury to consider in determining the truth of the charges. Truth hinges on the victim’s credibility. A judge who does not understand the dynamics of power and control will not necessarily see the point of victim testimony on life before the physical blow, though the blow is only one piece of a larger narrative. The constraints of violence-focused

domestic violence statutes operate to break the flow of the victim's story, limiting her to discussion of discrete instances of violence versus broader patterns of coercion and control. The victim testifying in such a piecemeal fashion does not seem credible because she does not sound credible, and she does not sound credible because her in-court narrative is not her lived reality.²⁹

The exclusionary effect transmits beyond any particular victim's experience, sending the message to society that the criminal law does not take seriously nonphysical forms of abuse because it has no language for that experience. The effect of definitional exclusion is to normalize and even condone non-physical forms of abuse.³⁰

Coercive Control: A New Framework

Evan Stark, author of the book *Coercive Control: How Men Entrap Women in Personal Life*, coined the phrase "coercive control" to explain the course of conduct used by (mostly) men to dominate women through selective tactics of intimidation, isolation, and control.³¹ While assault can be among the tactics used to control, the harm inflicted is more political than physical, manifesting in "the deprivation of rights and resources that are critical to personhood and citizenship."³² Examples of coercive behavior include controlling the victim's finances; isolating her from her family, friends, and other potential sources of support; and monitoring her day-to-day activities. Seen through this lens, coercive control is a crime against another person's liberty.

Violence can and does happen in relationships between members of the same sex. However, coercive control succeeds precisely because of other ways in which women's bodies and lives are microregulated.³³ Because of the gendered division of resources and labor in society, women as

a class are more vulnerable to the tactics of coercive control.³⁴

Is legal change sufficient? Stark answers no.³⁵ The example of India supports Stark's position. After all, the broad statutory language in India's definition of domestic violence has done little to elevate the position and safety of women on a day-to-day basis. The flaw in both India and California law is the idea that domestic violence (including coercive control) can be separated from human rights, that it is purely a criminal matter and not one impacting other rights such as the basic right to equality and autonomy over one's body. The regulation of abortion is one example of the micro-regulation of women's bodily autonomy. Another is India's recent ban on the practice of commercial surrogacy.³⁶ In commercial surrogacy, surrogates receive monetary compensation in exchange for the service of carrying the embryo of another couple. In India, the practice was fraught with ambiguities and avenues for exploitation of the mostly low-income surrogates by wealthy clients seeking cheap labor (hence, the unfortunate designation of India as the ultimate "rent-a-womb" destination.) But rather than regulate the practice and permit women an important source of income,

the government effectively banned the transference of money between surrogate and client, allowing only the

It is hard to not equate this indifference to domestic violence with historical indifference to women's rights.

practice of altruistic surrogacy and only under very limited conditions.³⁷ In this climate of regulation and control over women's bodies, women will not likely receive relief from patriarchal systems of domination and control that enact themselves on comparatively minor levels—a husband telling his wife what to cook, what to wear, how to behave, and with whom to associate.

Domestic violence has historically been relegated to the shadows as a private matter, a mere disturbance not worthy of government intervention or legal redress. It is hard to not equate this indifference to

domestic violence with historical indifference to women's rights. Indeed, it has been observed that "[t]he failure of criminal law to remedy domestic violence . . . is neither atypical nor coincidental, but rather one of many tangible proofs of the oft-quoted proposition that 'criminal law is, from top to bottom, preoccupied with male concerns and male perspectives.'"³⁸ This is not only an Indian problem but a global one.

How, then, to change the criminal law to elevate nonphysical abuse rooted in patriarchal patterns of power and control so that it may receive the same consideration and condemnation as physical acts of violence?

In the end, language relies on interpretation, and because interpretation relies upon the existing climate around women's rights, a society that does not value the right of a woman to live freely and independently will not rush to enforce her right to be free from violence in all of its forms.

The law is nothing more than formalized, codified language. The first step in transforming the lens through which we view domestic violence in the law is expansion of language, an approach referred to as "definitional stretching."³⁹

Another Look

What would definitional stretching look like? And why does it matter?

Consider the available permutations. One could assault his/her partner due to a specific life event or stressor or as a way to resolve a dispute.⁴⁰ Sociologist Michael Johnson calls this situational violence.⁴¹ On the other end of the spectrum is the pattern of conduct that characterizes the entirety of the relationship and manifests in tactics of control, intimidation, force, and fear.⁴² Johnson calls this intimate terrorism; Stark calls it coercive control.⁴³ Since each category of behavior stems from a different source and follows distinct patterns—indeed, the former may be too infrequent to even qualify as a pattern—differentiation is useful in addressing the harms achieved and the harms intended; the defendant who

hits once is definitionally distinct from the one who imposes a scheme of domination. The victim who is hit once has a different story than the victim who has suffered under a persistent scheme of domination and control; even the language used to tell each story will differ. However, under existing California criminal law, the narrative of the latter victim will be cut short in court, if heard at all, because of the law's definitional limitations.

One possible new framework is already in effect in California. Penal Code Section 236 criminalizes false imprisonment but has been narrowly interpreted to apply only

to physical restraint and must therefore "stretch" to encompass the personal liberties at stake in the context of coercive control.⁴⁴ Human-trafficking laws do just this by criminalizing the deprivation or violation of the personal liberty of another, *with the intent to obtain forced goods or labor* (emphasis added).⁴⁵ With the exception of the second clause, the harms of human trafficking as presently criminalized mirror exactly the harms of coercive control: the deprivation or violation of the personal liberty of another.

And yet, this is precisely what India's Constitution condemns, at least in theory. Article 21 prohibits the deprivation of the life or *personal liberty* of another person. We have, it seems, come full circle: the law, without corresponding expansion in social structures, has failed to live up to its guarantee of equality. In the end, language relies on interpretation, and because interpretation relies upon the existing climate around women's rights, a society that does not value the right of a woman to live freely and independently will not rush to enforce her right to be free from violence in all of its forms.

Conclusion

As a starting point, the law must be inclusive in order to address the liberty deprivations that form the basis of control in intimate partner relationships, up to and including violence. This requires a revised understanding of domestic violence and the corresponding stretching of the language of domestic violence as an act of power and control that exploits traditional gender roles by reenacting unequal societal norms on the level of family and home. Language serves the necessary function of granting recognition to as-yet-unrecognized groups of people and experiences, giving the victim visibility and uncovering the root of violence for victim, abuser, and society to see plainly. Language can lead the way for societal change. If we don't have the words to describe an experience, how can we begin to address it? Like the tree that falls, the victim depends on the law and society to hear the sound, the reverberation of the trauma, in its many and variegated forms, not simply the form we expect to hear or see. The invisible bruise still exists, even if it is not seen—but we, as a society, need to start listening.

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8. Dowry Prohibition Act.

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10. India Penal Code § 498A.

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12. India Penal Code § 304B.

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14. *Smt. Sarla Prabhakar Waghmare v. State of Maharashtra and Others*, 1990 CriLJ 407 (1991) DMC 310.

15. The Protection of Women from Domestic Violence Act, No. 43 India Code (2005).

16. Protection of Women from Domestic Violence Act.

17. Protection of Women from Domestic Violence Act.

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19. Protection of Women from Domestic Violence Act.

20. Protection of Women from Domestic Violence Act.

21. *Dilip Premnarayan Tiwari & Anr. v. State of Maharashtra*, 16 S.C.R. 322 (2009). See also *supra*, note 2, at 463.

22. Dilip Premnarayan Tiwari, 16 S.C.R.

23. Dilip Premnarayan Tiwari, 16 S.C.R..

24. California Penal Code § 273.5(a) (1872).

25. California Penal Code § 273.5(a).

26. California Penal Code § 273.5(a).

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29. Deborah Tuerkheimer, "Recognizing and Remediating the Harm of Battering: A Call to Criminalize Domestic Violence," *Journal of Criminal Law and Criminology* 94, no. 4 (2004): 959, 983-4.

30. Tuerkheimer, "Recognizing and Remediating the Harm of Battering," *supra*, note 32, 973 ("Systemic blindness to conduct perpetrated on an ongoing basis disappears the injury that results from unseen patterns. In this manner, law's transactionalization of crime effectively functions to legalize non-physical battering behavior").

31. Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* (Oxford: Oxford University Press, 2009).

32. Stark, *Coercive Control*, 5.

33. Stark, *Coercive Control*, 231.

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The Future of Work Must Include Asian American and Pacific Islanders: Harnessing the Power of the Fastest-Growing Working-Age Population in the Labor Movement

Michelle Loo and Vivian Chang, APALA

Founded in 1992, the Asian Pacific American Labor Alliance (APALA), AFL-CIO, is the first and only national organization of Asian American and Pacific Islander (AAPI) workers, most of who are union members, and our allies advancing worker, immigrant, and civil rights. Since its founding, APALA has played a unique role in addressing the workplace issues of the 660,000 AAPI union members and in serving as the bridge between the broader labor movement and the AAPI community. Backed with strong support of the AFL-CIO, APALA has more than 20 chapters and pre-chapters and a national office in Washington, DC. APALA is dedicated to promoting political education and voter registration programs among AAPIs, and to the training, empowerment, and leadership of AAPIs within the labor movement and APA community. Furthermore, APALA works to defend and advocate for the civil and human rights of AAPIs, immigrants, and all people of color.

Introduction

Asian American, Native Hawaiian, and Pacific Islander (AANHPI) workers have been embedded in the US labor movement since the 19th century, when plantation workers in the Hawaiian Islands began forming unions to protest working conditions. By the turn of the 20th century, Asian Americans in the continental United States joined the fight for better working conditions on farms, in canneries, on the railroads, and in the garment industry. This paper will explore the state of AANHPI

workers today and the policy landscape that circumscribes their working conditions and will make recommendations for the way forward. Section I will provide a background on the labor movement and collective struggle for workers' rights. Sections II and III will describe the fundamental policies that delimit the power and freedom of AANHPI working people. Section IV will provide policy and organizing recommendations for policy makers, organizers, and advocates to build the power of AANHPI workers. Weak and exclusionary federal labor laws leave workers vulnerable, especially workers who hold multiple marginalized identities. The path forward must start with strengthening protections for worker organizing in order to effectively push a visionary policy agenda for all working people.

I. Background on Workers' Rights

Wage theft. Workplace discrimination. Retaliation for speaking out. Unsafe working conditions. These are only a sample of the oppressive job conditions that AANHPI and all workers are facing in today's economy. They are working under weak labor protections and even weaker enforcement practices. But when workers are able to band together and form unions, they have the power to negotiate for more secure and better jobs. Organizing and collective bargaining are cornerstones to the creation of the American middle class. The improvement of wages and working conditions and the standardization of benefits, such as weekends and paid leave, have become part

of the fabric of the workplace due to union organizing.

AANHPI workers have always needed to organize and take action for humane working conditions. At the end of the 19th century, AANHPI workers began organizing after facing discriminatory employment practices, dangerous working conditions, unequal pay, and ultimately, the inability to provide for themselves and their families.

The rich history of AANHPI workers in the labor movement should be recognized for its contributions to a fairer and more advanced labor movement.

In 1867, more than 5,000 Chinese workers went on strike against Central Pacific Railroad to demand treatment equal to their White counterparts during the construction of the Transcontinental Railroad.¹ In 1946, more than 26,000 sugar plantation workers in Hawaii went on strike for nearly three months. Japanese and Filipino workers demonstrated that plantation workers could successfully reach across ethnic backgrounds to oppose plantation owners.² In 1982, Chinese women waged strikes against their employers. More than 20,000 members of the International Ladies' Garment Workers' Union (ILGWU) marched through Chinatown in New York City to demand the renewal of their contracts that included higher wages and better working conditions.³ The rich history of AANHPI workers in the labor movement should be recognized for its contributions to a fairer and more advanced labor movement.

II. The State of AANHPI Workers Today

Today, as the fastest-growing working-age population representing more than 21 million people across the country, AANHPI workers are becoming an even bigger force

in advancing the labor movement and political power.⁴ Just as AANHPIs are not a monolithic ethnic community, the AANHPI workforce is just as diverse: members occupy positions across myriad job sectors including some of the most vulnerable occupations like domestic work and restaurant jobs—they also have a variety of immigration backgrounds, skills, education levels, and English language proficiency.

The AANHPI working population has grown nearly ten times faster than Whites' over the last decade. In 2017, the labor force participation rate of Asian Americans was 63.6 percent. The NHPI labor force participation rate of 67 percent was the highest among all racial groups, including people of two or more races (66.9 percent) and Hispanics (66.1 percent).⁵ Broadly, the AANHPI population has a higher rate of foreign-born people: 66 percent of the Asian American population is foreign born, more than four times the national average of 14 percent. Of the Native Hawaiian and Pacific Islander (NHPI) population, 21 percent is foreign born, which is 1.5 times the national average.⁶ Of particular note is that four out of five Asian American low-wage workers are immigrants, and foreign-born AANHPIs have a higher poverty rate than their native-born counterparts.⁷

Just as AANHPIs are not a monolithic ethnic community, the AANHPI workforce is just as diverse: members occupy positions across myriad job sectors including some of the most vulnerable occupations like domestic work and restaurant jobs—they also have a variety of immigration backgrounds, skills, education levels, and English language proficiency.

By population, AANHPIs are overrepresented in occupations making under \$20,000 per year full time as well as in occupations making \$100,000 per year full time.⁸ AANHPI workers are overrepresented in sales, office, and administrative support positions and in computers and

mathematics occupations, which typically offers higher wages and salaries. They are also overrepresented in positions related to health care support and food preparation and services, which typically trap workers in the lowest wages across all occupations.⁹ AANHPI workers, especially immigrants and women, are vulnerable to employer abuse due to systemic racism, xenophobia, sexism, and devaluation of their labor.

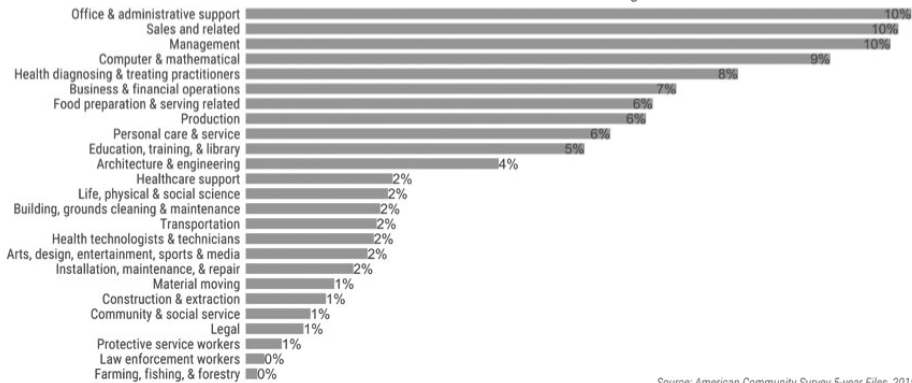
While the AANHPI working population keeps growing, the rate of union membership has been slowly declining—a trend in line with the declining union membership rate among all workers. Many factors contribute to the decline of membership rates, including the rise of jobs in sectors with lower unionizations rates like health care

and hospitality, legislation to hinder unionization, and an overall political climate that is hostile to working people.¹⁰

Despite these attacks, the union difference is clear. In 2018, Asian American union workers had median weekly earnings of \$1,119, which was 2.5 percent higher than their non-union counterparts who earned \$1,092. The union advantage is even greater for Asian American women, who had median weekly earnings of \$1,033, compared to their non-union counterparts who made \$929 a week — an 11 percent difference.¹¹ AANHPI union workers are also more likely to have health insurance and retirement plans than their non-union counterparts in the same occupations.¹² Through collective bargaining, union members are able

Share of Occupations among Asian Americans 2015

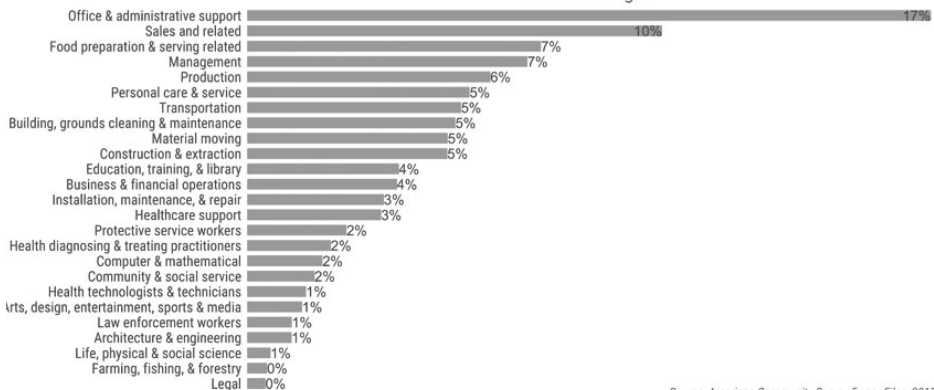
Asian AM Average



Source: American Community Survey 5-year Files, 2015

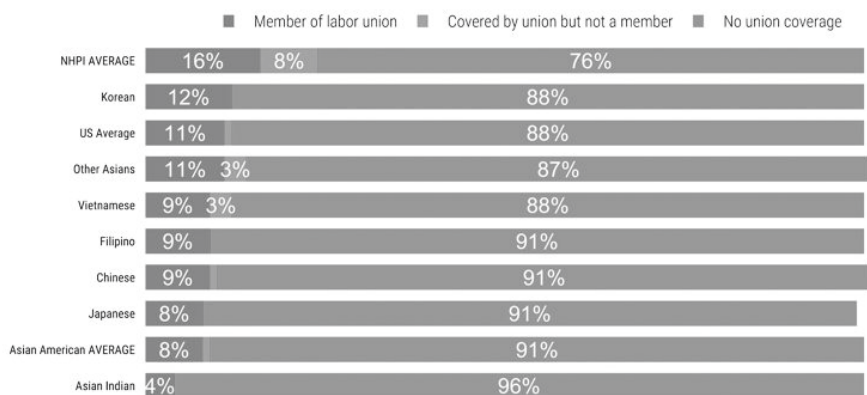
Share of Occupations among NHPs 2015

NHPI Average



Source: American Community Survey 5-year Files, 2015

Labor Union Membership among AAPI 2017



Source: AAPI Data's Analysis of CPS Ongoing Rotation Group, 2017

to negotiate for adequate benefits and fair wages. Studies have found that low-wage workers are the most likely to spend extra earnings immediately on previously unaffordable needs or services.¹³ Contrary to anti-union narratives, unionization boosts many workers and therefore their local economies.

However, while the labor movement's contributions are indelible, exclusionary standards were built into our federal labor laws that continue to leave workers of color vulnerable to exploitation. The policy landscape and the institutions that govern the working and living conditions of AANHPI workers are inextricable from their opportunities for economic mobility—and by extension, the stability of the American economy.

III. Policy Landscape

AANHPI workers are not operating in a policy vacuum: their ability to access quality jobs, provide financial security for their families, and collectively organize is heavily impacted by the policy landscape that underlines all workers' rights today. This paper explores three critical, interlocking aspects of labor policy that undergird American workplaces while leaving many AANHPI workers vulnerable. The National

Labor Standards Act and the Fair Labor Standards Act provide minimum guarantees for a majority of workers but create loopholes in the safety net for AANHPI workers. In addition to uneven policy coverage for certain workers, a lack of enforcement of existing labor law leaves millions of AANHPI workers susceptible to economic instability and weakened power to change their conditions. Finally, direct threats to the right of AANHPI workers to organize collectively is undermining the potential strength of the economy.

Fundamental Labor Laws Are Crucial to Workers' Rights, yet Often Exclude Vulnerable AANHPI Workers

Created during the New Deal, the 1935 National Labor Relations Act (NLRA) and the 1938 Fair Labor Standards Act (FLSA) are fundamental safeguards to workers' rights, including the right to form a union and bargain collectively to secure a minimum wage and to receive overtime pay. The NLRA created the National Labor Relations Board, which arbitrates labor disputes and serves as the oversight body for unionization campaigns. However, since their inception, these laws have excluded low-wage workers, who are predominantly workers of color, from baseline labor standards. Farmworkers, domestic homecare

workers, and tipped workers, like restaurant employees and nail salon workers, are excluded from NLRA and FLSA protections. The intentional exclusion of Black and Brown workers maintains a White economic and social hierarchy that undermines AANHPI workers' access to economic success as well.

The uneven coverage of workers' rights has left thousands of AANHPI workers defenseless to the whims of exploitative or negligent employers. Pema Lama, a domestic worker based in Queens, New York, illustrates the precarious working conditions for workers who are not protected by NLRA or FLSA. Lama had to escape her home country of Nepal due to intimate partner violence and found work in the United States as a home care provider:

I had to use harsh cleaning supplies like ammonia and Clorox, which harmed my skin and exposed my lungs to toxicity. . . . They asked me to do things beyond the scope of my job, such as doing laundry, dishes, and house cleaning for the whole family. It was as if I was their household maid on top of being the caregiver for their elder. I endured this mistreatment because they not only threatened to report back to the agency, they also threatened to call the police because my visa expired.

This fear that employers will use workers' immigration status against them becomes a way to further tilt the balance of power in the hands of employers. The problem is compounded by xenophobic rhetoric and anti-worker policies that have contributed to a climate of fear for immigrant workers in the United States.

Under current law, there are no penalties against employers nor compensatory damages for workers when employers retaliate against employees. As a consequence, AANHPI workers are institutionally set up to fail and be exploited by their employers.

Economic and Non-economic Conditions Undermine the Stability of

AANHPI Jobs

Even the limited protections AANHPI workers are entitled to are often weakened due to loopholes, lack of enforcement, and the overall economic instability of many AANHPI households. A 2019 survey found that nearly one in four California AAPIs are *working* and yet still struggling with poverty.¹⁴ Meanwhile, major corporations are eroding labor standards in industries with high numbers of AANHPI workers and other workers of color by changing the structure of employers' relationships with workers.

In the restaurant, service, gig, and tech industries, corporations have used multi-layered contracting, staffing or temp firms, franchising, and employee misclassification as independent contractors to shift risks and costs onto workers and reap billions in profits. In addition, enforcement of workplace safety laws has steadily declined as the Occupational Safety and Health Administration has cut back on complicated inspections and the number of inspectors and enforcement staff. Wayne Chow, an electrician and IBEW member based in Portland, Oregon, relates an incident in which a union had to step in to make up for weak government oversight:

A few electricians and I were working in a building when we realized asbestos particles were being released into our area because there were workers stripping the roof. Instead of prioritizing the safety of workers, our superintendents threatened to take us off the job, claiming that, "If you don't want to be here, we will find someone else who will." We then took matters into our own hands and worked with the union to help us. We weren't able to get OSHA to come out by ourselves, but with the pressure of the union, we were able to get OSHA to come out soon after.

The structures for dealing with workplace violations are deeply insufficient. Efforts to undermine worker safety, pay, and standards

are harmful for AANHPI working people across all industries. The restaurant industry is the largest employer for AANHPI men, but these jobs are plagued by low or stagnant wages, wage theft, lack of employee benefits, and discrimination. Government agencies and courts at the federal and state levels responsible for enforcing workplace laws ultimately rely on workers to come forward after a violation has occurred, which causes many workplace violations to be swept under the rug. Over time, spending on investigation and enforcement has declined precipitously. This systemic undermining of worker safety and security creates an environment in which even AANHPIs with high-income jobs still face the same exploitation and instability that undermine all AANHPI workers.

Attacks on the Rights of AANHPI Workers to Organize Undermines Workers' Rights Broadly

Without meaningful protections from employer retaliation, workers will continue to be silenced and vulnerable to exploitation. One survey found that out of 4,000 workers, 43 percent experienced retaliation after making a complaint or attempting to unionize.¹⁵ Some retaliatory practices include firing, demotion, cutting hours, interfering with a worker's schedule, harassment, unfair discipline, or even threatening to report employees to immigration authorities.¹⁶ These actions have severe consequences for workers, especially those living paycheck to paycheck. According to the National Employment Law Project, lost wages can further lead to "missed payments, lower credit scores, eviction, repossession of a car or other property, suspension of a license, inability to pay child support or taxes, attorney's fees and costs, stress, trauma, and more."¹⁷

Fear of Deportation

Retaliation and exploitation are all too common in low-wage industries where immigrants, including undocumented

immigrants, continue to be a large part of the labor force. The occupations with the largest shares of undocumented immigrant workers include farming, construction, and production,¹⁸ which overlap with large numbers of AANHPI workers. More than 14,000 AANHPIs work in farming, nearly 100,000 in construction, and nearly 500,000 in production.¹⁹ Thus, for AANHPI workers, the fear or very real threat of deportation becomes another tool for employers to exploit and retaliate against their workers.

This fear that employers will use workers' immigration status against them becomes a way to further tilt the balance of power in the hands of employers. The problem is compounded by xenophobic rhetoric and anti-worker policies that have contributed to a climate of fear for immigrant workers in the United States.

Workplace Harassment

As the #MeToo Movement has underscored, sexual harassment is another contribution to a climate of fear among workers. AANHPIs work in industries where workers are vulnerable to sexual harassment and assault, including accommodation, food services, health care, and social assistance.²⁰ These industries are particularly dense with AANHPI workers—more than 500,000 AANHPIs work in food preparation and related occupations, and more than 940,000 work in health-related occupations.²¹

In 2016, the US Equal Employment Opportunity Commission (EEOC) found that 25–85 percent of women report having experienced sexual harassment in the workplace.²² The same study found that claims of sexual harassment often go underreported because workers fear not being believed and face inaction to rectify it and social or professional retaliation.²³ For women who do report sexual assault charges, it is estimated that one in three also alleged retaliation.²⁴

Research has found that Asian women filed 2.1 sexual assault charges per 100,000 women workers—the lowest number of charges across any racial group and the

lowest among women as a whole.²⁵ Asian women workers are underrepresented when comparing EEOC sexual harassment charges filed to their share of the workforce.²⁶ These data do not indicate that sexual harassment and assault is not happening to AANHPIs but rather suggest that AANHPIs are less likely to report sexual harassment and assault.

Under the current policy landscape, AANHPI, especially low-wage, immigrant, women, LGBTQ, and disabled, workers face rampant harassment, discrimination, and retaliation.

IV. Recommendations

The conditions above shed light onto how much more work needs to be done to protect AANHPI workers across all occupations. Mainly, it is imperative that Congress expands and strengthens worker protections with the labor movement and with AANHPI workers being an integral part of that process. Below are policy recommendations for policymakers to champion and organizing recommendations for the labor movement and AANHPI workers in order to build a sustainable and rooted movement.

A Policy Agenda that Works for All AANHPI Workers

Congress must expand coverage under the NLRA, the FLSA, and other federal labor laws to all workers regardless of industry, size of employer, and worker classification type. Congress should look to the BE HEARD Act and the Domestic Workers' Bills of Rights as leading examples of policies that cover all workers by limiting carve outs. There is also an opportunity to strengthen the NLRA by enabling states and cities to pass stronger laws empowering workers as well as embrace industry-wide bargaining.²⁷ One powerful example is the New York wage board, which formed in 2015 and increased the minimum hourly wage for fast-food workers.

Shift Burden of Enforcement from Workers to Bosses

In addition to expanding coverage, Congress must shift the burden and risk of enforcing labor standards from workers to employers. Federal, state, and local policies must protect workers from retaliation and forced arbitration²⁸ and ensure they have time to bring wage-theft claims and other complaints through lengthening or suspending the statute of limitations. Federal funding to the Department of Labor's wage and hour division, the Occupational Safety and Health Administration, and other investigative and enforcement agencies must be increased in order to conduct more robust checks on employers across the country. These agencies need to make themselves accessible in the languages that workers speak and should affirmatively target and investigate high-violation industries by conducting unannounced sweeps and investigations. The California Labor Commissioner's creation of a separate retaliation Complaint investigation unit in order to provide more timely and effective enforcement of labor laws is a leading example of government agencies taking steps to protect workers.

Fair Compensation for All Workers

At the very minimum, every worker should be compensated enough to meet their needs and live with dignity. The federal minimum wage has been stuck at \$7.25 for ten years, the equivalent of poverty-level wages for a full-time worker with a family. That is why Congress must pass the Raise the Wage Act. It would increase the federal minimum wage to \$15 an hour by 2025 and eliminate sub-minimum wages for tipped and youth workers and workers with disabilities. Congress must also pass legislation to ensure access to paid family and medical leave, fair and predictable scheduling, and affordable health coverage for all. There is still no federal law that ensures all workers are able to take paid sick days, leaving workers in many states unable to afford to go to the doctors or recover from being sick. We must hold Congress accountable for ensuring working

people are guaranteed a living wage and good benefits. Health care, housing, food, and other basic needs, including family and child care, are basic human rights.

Policies to Strengthen Worker Organizing

If Congress restores fairness to an economy rigged against workers by passing stronger employee organizing rights, workers can secure these protections and compensations themselves. Strong employee organizing rights foster a vibrant middle class because the standards, rights, and wages that unions secure bring benefits to union and non-union workers alike. However, current law gives employers too much power and puts too many roadblocks in the way of workers trying to organize for better wages, benefits, and working conditions. The Protecting the Right to Organize (PRO) Act

immigration issues. This looks like ensuring that union halls and union employer workplaces are safe spaces for immigrants. It also looks like investing in resources for language justice, such as providing real-time interpretation in union spaces, investing in organizers who speak the language or dialects for workers whose first language is not English, and creating translated materials as needed. Unions and community organizations can also provide free or low-cost English or in-language Know Your Rights and Citizenship workshops for their members and other workers in the community. These workshops can help workers recognize when their own rights are being violated and provide an opportunity for organizers to foster deeper relationships with members of the AANHPI community.

A base of organized workers is critical to advancing a pro-worker policy agenda; therefore, for workers to thrive in today's economy, it is key to organize AANHPI workers and for AANHPI workers to unite together and fight for their rights. The labor movement must be intentional and innovative in recruiting women workers, immigrant workers, young workers, and other workers who are growing in power but are often overlooked.

and Public Service Freedom to Negotiate Act are strong policies to strengthen workers' organizing and bargaining rights against employer interference.

Strengthening Worker Organizing

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As unions and the labor movement seek to expand, they must bring on immigrant workers through organizing around

When AANHPI women have a 66.7-percent labor-force-participation rate, second only to Hispanic women²⁹ and a higher unionization rate (11 percent) compared to AANHPI men (8 percent),³⁰ it is clear that AANHPI women are on the forefront of labor organizing in the AANHPI community. Unions and worker centers should make commitments to fight against and prevent gender-based violence in the workplace and provide affinity spaces, like the Coalition for Labor Union Women, and caucuses for women workers and leaders in their unions. Spaces such as these can foster open dialogue for sharing and combatting common challenges, such as sexual harassment and pregnancy discrimination, that women in the workplace face to bring a collective voice within the labor movement.

Affinity spaces are also effective to organize young people. Even more, workers' rights advocates and organizers must expand and invest in programs that promote intergenerational organizing and train young workers. Mentorship programs, such as Union Summer run by the Washington State Labor Council and UCLA's DREAM Summer, play an important role in recruiting and cultivating young AANHPI workers in the labor movement. AFSCME's Union Scholars Program provides a ten-week summer internship for students of color who are passionate about social justice, with an emphasis on workers' rights. Unions can invest in young workers early through mentorship, paid internships, and financial support of young workers to attend organizing conferences.

Conclusion

In this paper we have explored an ecosystem of policies and regulations that stack the deck against AANHPI workers. Historical exclusion of minority communities and regulatory capture by corporations have crafted an economy that harms AANHPI workers, especially those who are immigrants, low income, and/or lack English language proficiency. We provide recommendations on a better way forward through a visionary policy agenda, but one that must be coupled with rigorous protections for worker organizing. Economic justice for the most marginalized workers is fragile; it is only through organizing and policy working hand-in-hand that we can build a stronger economic vision for all workers.

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Collaborations to Prevent “Researching while Asian” from Going Viral

Roland Hwang and Rita Pin Ahrens

The Rising Tide of Accusations and Fear

There have already been several sensationalized FBI investigations and arrests of Asian American scientists and researchers, from Wen Ho Lee to Sherry Chen, with allegations of trade-secrets theft and/or spying for China, alongside cinema-style perp walks in front of work colleagues or family. A number of these cases have ultimately been dismissed, the charges mysteriously dropped almost as swiftly as they were brought, while others continue unresolved, dealing lasting damage to the careers of the accused. The effect, which may not be fully realized for some time, has already spread beyond those directly involved and their families, raising concerns about the racial profiling of Asian American researchers and, more specifically, of Chinese Americans. These cases have been the subject of 60 *Minutes* television exposés, business articles, and social media, all chronicling the phenomenon that has been recently coined “researching while Asian.”¹

Data surrounding the US Economic Espionage Act shows an escalating trend. From 1997 to 2009, 17 percent of defendants indicted under the act had Chinese names, with the rate tripling to 52 percent from 2009 to 2015, according to independent research published in the *Cardozo Law Review*.² Recent Bloomberg analysis of over 26,000 national-security-clearance applications for federal contractors found that those with family or financial connections to China were denied Pentagon clearances at the same rate (44 percent) as applicants with

links to all other countries but that, during the last decade, China-related denials rose 17 percent, while those linked to other countries dropped on average by 10 percent.³ Security-clearance denials linked to Russia (45 percent) and Iran (48 percent) are now well below the denials for links to China (61 percent).

Undeniably, there are cases and arrests tied to demonstrable behavior that suggests intentional wrongdoing⁴ and attempts at obfuscation by those indicted.⁵ In addition, there are longstanding concerns about foreign interests not limited to China trying to steal American intellectual property. In 2013, the bipartisan Commission on the Theft of American Intellectual Property released a report that estimated the United States loses hundreds of billions of dollars each year⁶ due to theft of intellectual property.

However, more and more botched individual cases have captured the public’s outcry and fueled growing concerns about whether Asian Americans are being unfairly targeted and accused of economic espionage, regardless of US citizenship status. In 1999, there was the Wen Ho Lee⁷ debacle, a chilling example of media sensationalism and a rushed FBI investigation in which the Taiwanese American scientist was accused by journalists of giving nuclear secrets to China, almost immediately fired from his job at the Los Alamos National Laboratory, and placed in solitary confinement. He later won a settlement from the US government and a number of media outlets involved with his ordeal. In 2015, Sherry Chen,⁸ after sending publicly available information along with the name of a professional colleague to

a classmate in China, was reported by that same colleague as a spy and then terminated from her job at the National Weather Service, which refused to reinstate her years after the initial charges were dropped. Also in 2015, FBI agents dramatically arrested Temple University physics professor Xiaoxing Xi⁹ in an early morning raid at his home in front of his family, but the US Department of Justice dropped the case only five months later. More recently, we have the case of Wei Su,¹⁰ a US Army intelligence scientist with

researchers like Chen, Su, and Xi has been accompanied by significant changes in American policy toward suspected research theft.

This past year, FBI Director Chris Wray made several public statements suggesting that China is a bigger espionage threat than Russia, laying out the reasons for close scrutiny of those with any affiliation to China. He announced to the Council on Foreign Relations that the contest is being waged on China's side, by the "whole of society," and in response the United States needs its own

However, more and more botched individual cases have captured the public's outcry and fueled growing concerns about whether Asian Americans are being unfairly targeted and accused of economic espionage, regardless of US citizenship status.

whole-of-society response. In July 2019, he noted that China's economic espionage efforts are so difficult because they go beyond the usual "spy versus

two decades of service, whose top-secret security clearance was inexplicably revoked in 2015—he retired angry and humiliated after being pressed multiple times on his loyalty to the United States and threats of being arrested in front of his family, but he was ultimately cleared of any wrongdoing by the Pentagon in December 2019.

spy, traditional intelligence operatives There are a slew of what we call nontraditional collectors. Businessmen, scientists, high-level academics, graduate students. People who are not intelligence officers by profession but who are, for a variety of reasons, working on behalf of the Chinese government."¹¹

A Focus on Research Collaborations with China and the Consequences

Overall, the globalization of scientific research has reaped enormous benefits for all countries by widening pools of patients with different backgrounds, diets, and exposure to various environments and environmental factors, but something has changed since 2015, and it is a visible sea change. Now there appears to be greater scrutiny of research collaborations between the United States and China, especially involving ethnic Chinese researchers. Government actions have often targeted researchers involved in US-China collaborations or with familial or financial connections to China. Headline-grabbing news about China's Iron Silk Road or China's Thousand Talents Program to attract talent back to China suggests the benefits to China achieved through such collaboration. Meanwhile, the treatment of

Perhaps as a result of Wray's statements, or the FBI's prompting, the National Institutes of Health (NIH) Director Francis Collins sent out a letter to 1,000 institutions¹² urging grantees to report any ties to foreign governments, with more detailed letters relating to grant procedural infractions sent to a few dozen institutions. The infractions included improper or insufficient disclosure of personal or professional affiliations to China. The NIH, the biggest public funder of health research and federal health-related grant programs, offers about \$5 million per year in US-China collaborations. The impact of these letters was immediate, causing anxiety with the potential for grant funds being rescinded as well as raising alarm bells about the consequences for being involved in current and future international scientific collaborations.

Universities and research institutions had to choose between two responses to the NIH letters. Does the institution consider

protecting its research grant portfolio and dismiss research staff to achieve that first and foremost, or does the institution abide by norms of investigation, deliberation, and correction and in general support its research staff? At least a dozen universities, including Yale, Stanford, and UC Berkeley, have been supportive of Chinese faculty members and research collaborations, releasing statements that either condemned racial profiling and/or supported an openly collaborative research environment.¹³ Baylor University, faced with its own inquiries from the NIH, became proactive in correcting past disclosure lapses. Other institutions, such as University of Texas MD Anderson, which had sister relationships to cancer research labs in China, took a line of action to “protect its intellectual property,” dismissing its entire faculty and staff¹⁴ related to the federally funded project under scrutiny.

Wrapped up in all of the intensified scrutiny on collaborative research is the case of Xifeng Wu, an epidemiologist, naturalized US citizen, and former director of the Center for Public Health and Translational Genomics at MD Anderson Cancer Center. She stepped down from her position in January 2019 after a three-month investigation into her ties in China. The allegation was that Wu did not disclose all of the names and affiliations of her Chinese collaborators, with whom she had published dozens of research papers. After her resignation, she became dean of Zhejiang University’s School of Public Health in Shanghai in March 2019. Dr. Wu may be the front and center poster child for a resulting research brain drain from the United States to China.

Challenges for Researchers and Law Enforcement

Considering the matter involving Xifeng Wu and MD Anderson, what would be good advice to a researcher looking to avoid a similar fate? The answer should be simple. At a C100 event to raise awareness on these issues, attorney Brian Sun told concerned community members: “Don’t be stupid.” But what does that mean? One would think:

Don’t cut corners regarding disclosure of academic connections and funding streams involving collaborations with China, its educational institutions, and its ministries.

However, with many more of these cases surfacing in local and national news, it is becoming clear that what we are doing, on the law enforcement and the research institution sides, isn’t working well. The status quo is simply not sufficient to meet the needs of balancing concerns around national security and protection of American intellectual property interests within the context of an openly collaborative research environment. It’s clearly not working if researchers are being arrested, only to have the initial charges brought against them dropped entirely not long after their arrests or dismissed without explanation, begging the question of why investigators couldn’t have waited the extra months to a year to make an arrest.

Some of the false positives are produced by an unfortunate mix of heightened scrutiny on US–China relations and affiliations and the recognized need by US law enforcement to better protect American national security and intellectual property interests. However, there are other factors complicating the situation, some of which may be potential areas for exploitation from foreign actors. These include inconsistent guidelines for compliance with federally funded projects, law enforcement officers’ misunderstanding of what may or may not be trade secrets, and researchers’ knowledge gaps of disclosure and compliance protocols.

There are multiple weaknesses across federal agencies that may feed this problem and threaten national security if not addressed, as revealed in a staff report to the US Senate Committee on Homeland Security and Governmental Affairs.¹⁵ Some of these weaknesses are more easily addressed than others, including the lack of dedicated staff at the National Science Foundation (NSF) to ensure compliance with NSF grant terms and the absence of a prohibition on NSF-funded researchers participating in foreign talent recruitment

programs like China's Thousand Talents Plan. Other weaknesses will take concerted effort and coordination across a body of institutions at the federal and public sector. These include what amounts to self-regulation and policing, with the burden of compliance and review placed on the research institutions often inconsistently reviewing themselves and their researchers' disclosures and financial commitments. A further complication and likely source of confusion for these internal self-review processes are the inconsistent guidelines and disclosure requirements across federal grant-making agencies—what may suffice for NSF, for example, would not meet the higher disclosure standards for NIH.

Given the confusing state of play with research collaborations and disclosure requirements, research institutions and law enforcement should avoid any rush to judgement about the nature of any collaboration that is underway between the United

with the concerns of the American public about racial profiling of researchers with Asian heritage, especially those who are of Chinese descent.

The federal government needs to work in partnership with the private sector to provide clear guidance and support for compliance with disclosure and data protection requirements across federal agencies for recipients of federal funds. A public-private partnership should be created, if one does not already exist, to formalize standard guidelines and protocols to meet national-security concerns across federal agencies for institutions and individuals associated with federally funded sensitive research or projects. Of course, these standards should be differentiated according to the different levels of national-security clearance required with those projects or grants. To ensure both compliance and understanding of disclosure requirements, it is also recommended that there be dedi-

Given the confusing state of play with research collaborations and disclosure requirements, research institutions and law enforcement should avoid any rush to judgement about the nature of any collaboration that is underway between the United States and the People's Republic of China, its agencies, universities, researchers, and students studying here.

States and the People's Republic of China, its agencies, universities, researchers, and students studying here. While there are legitimate concerns and cases that validated the efforts of law enforcement in this area, there is a palpable sense of fear within the Asian American community that law enforcement is overreaching in their investigations of Chinese American researchers. It is important to address this growing concern, as more and more stories have recently come to light of scientists and students erroneously caught in these investigations.

Recommendations

OCA - Asian Pacific American Advocates recommends the following holistic framework for balancing the concerns of the US government to protect American intellectual property and national-security interests

cated oversight offices and staff to answer compliance questions in each agency that provides federal grants to external research institutions or individuals.

Research institutions, universities, and corporations should collaborate to provide standardized resources and training for individuals associated with federally funded projects and research. Resources should include standardized training, materials, and personnel dedicated to conducting the training and answering questions about compliance. The training for individuals should be consistent at all stages of their careers, should begin early, and should be repeated periodically throughout the career, regardless of who is employing them. Required posting of compliance resources online and in the labs for individuals with questions about specific situations and

changing compliance rules would close current and future knowledge gaps.

Community-based organizations should work with law enforcement agencies at the local, state, and federal levels to share and address ongoing concerns by both community members and law enforcement agents. Having a good working relationship between law enforcement, such as local FBI offices, and trusted community organizations can help mitigate the fears that may result from preliminary inquiries or extensive, ongoing investigations. Essential to this process is a shared understanding of investigation protocols and individual rights as well as transparency in reporting the number of impacted individuals to the extent that is possible. Consistent communication about corrective actions that can prevent red flags and head off investigations will minimize false positives and create efficiencies, by reducing the amount of time law enforcement spends on cases due to unintended or sloppy nondisclosure, thus freeing up time for cases with intentional wrongdoing.

By taking these steps, the US government and research institutions across the country would reaffirm the critical importance of international research collaborations while providing resources and protections to ensure that good actors in these research collaboratives are not inadvertently ensnared in the ongoing efforts to protect American intellectual property and national-security secrets. It is in the economic and national-security interests of this country to ensure that citizens advancing the future of science and technology are uplifted, empowered, valued, incentivized, and rewarded for their patient and steadfast efforts in what are often lifelong research careers. Acknowledging the concerns of the Asian American community around recent investigations of researchers and making systemic changes that address the mistakes learned from the past will go a long way to reduce inappropriate arrests and prevent “researching while Asian” from going viral.

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Public Charge: An Injustice and Its Chilling Effects on AAPI and Low-Income Communities

Nghi Huynh

Asian American Pacific Islanders (AAPIs) have long been a part of the fabric of the United States. Since the early days of gold mining and building the Transcontinental Railroad, AAPIs have been an important but often forgotten part of the American story. Millions of AAPI have immigrated to the United States to seek opportunity for a better life, and many more will continue to do so. AAPIs are the fastest growing non-White demographic in America today. Though AAPIs currently make up 7 percent of the US population, they are expected to double to around 14 percent of the population by 2065.^{1,2}

In California alone, AAPIs already make up around 15.8 percent of the state's population of nearly 40 million, more than double the national average.³ Over half of these AAPIs are immigrants born in another country but who now call the United States home. In my hometown of San Jose, California, approximately 35.9 percent of the 1.03

nation face increasing pressure from the federal government. Numerous rules have been put into place restricting immigration into the United States. This multi-pronged attack on immigrants and immigrant families has come in many forms. From a travel ban implementing near-blanket restrictions on entrants from entire countries to separating families and detaining children in cages, the federal government has been pushing its anti-immigrant agenda with fervor. Another key and overlooked part of this anti-immigrant agenda is an attack on low-income immigrant families and public benefits.

Despite the "model minority" myth attached to AAPIs, an estimated 3.8 million AAPIs live in families that have at least one family member receiving public benefits.⁵ Nationally, there are around 10.5 million children in families receiving public benefits who have at least one non-citizen parent.⁶ These families struggle to do what

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so many others take for granted, like access health care, put food on the table, or have somewhere warm and

million residents here are AAPI.⁴ I am but one of nearly 370,000 AAPIs living in the tenth largest city in the United States. AAPIs are an integral part of our local community and are involved in all parts of civil society as public servants, legal advocates, and community leaders.

Although AAPIs are a large and growing population, AAPI families throughout the

safe to sleep for the night.

While millions of AAPIs struggle with the necessities of life, the federal government has attempted to make it more difficult for these low-income immigrant families to enter the country and to apply for green cards. The administration is attempting to accomplish this by drastically redefining public charge, a relatively obscure

part of immigration law, in order to make it more restrictive and punitive towards immigrants.

Public charge has long been a part of federal immigration law. Since 1882, federal immigration law has formally barred admission to immigrants who were likely to become “public charges.” The public charge rule remains a part of immigration law to this day, 8 U.S.C. § 1182(a)(4)(A). Public charge was never formally defined by statute but was interpreted by the federal government as someone likely to become primarily dependent on cash assistance or long-term institutionalization at government expense for subsistence for decades. This understanding has served as the legal definition under a written policy adopted by the federal government in 1999. Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, 64 Fed. Reg. 28,689, 28,689 (26 May 1999). Under this

In contrast to this long-standing and relatively limited legal interpretation, the Trump administration’s new public charge rule attempts to redefine public charge itself by adding additional public benefits programs for negative consideration, more explicitly defining negative and positive factors for public charge assessment and going well beyond the boundaries of the Immigration and Nationality Act and the Administrative Procedure Act.

Under the new public charge rule, the federal government would punish certain types of immigrants and explicitly favor others. Immigrants seeking admission to the country and applicants for green cards would be favored if they are wealthier, better educated, and generally in better health with private unsubsidized health insurance. People who are younger (under 18) and those who are older (over 60) would be disfavored, along with those with more limited

Despite the reality that the vast majority of public benefits recipients are not immigrants and that immigrants use fewer public benefits than US-born citizens, the new public charge rule explicitly targets this population for disparate treatment.

legal interpretation, immigration authorities look at the totality of the circumstances in determining whether someone should be considered a public charge and should be denied admission to the United States. They would look at someone’s age, health, family status, financial status, education, and work skills and whether they had an affidavit of support, an immigration document in which a sponsor promises to financially support the immigrant, 8 U.S.C. § 1182(a)(4)(B)(i). The negative use of public benefits was also limited to a narrow scope of public benefits programs, primarily through direct cash assistance to recipients, like through Supplemental Security Income (SSI) and Temporary Assistance to Needy Families (TANF) and through long-term government-paid institutional care under the 1999 Field Guidance.

English and lower education levels. Applicants in poor health and without private health insurance or the means to pay for their health expenses would also be heavily disfavored.

Receiving certain public benefits for 12 months within a 36-month period in the aggregate would also be severely disfavored and would make admission to the country uncertain and legal permanent residency increasingly difficult to obtain. The new expanded list of public benefits considered for public charge includes public benefits that do not provide cash aid or long-term institutional care. The expansion includes federally funded Medicaid, which provides health care for millions of low-income families, though there are exceptions for emergency services, children under 21, pregnant women, and new mothers. The addition of

Supplemental Nutrition Assistance Program (SNAP) jeopardizes the ability of families to put food on the table, while the addition of Section 8 and federal public housing could mean families face the impossible dilemma of choosing between either homelessness or lawful immigration status. The aggregate part of the new public charge rule could mean that a single mother could receive Medicaid and SNAP for just six months, which could be necessary for life-saving medical treatment and to put food on the table for her family, but would count as the full 12 months under the rule due to the receipt of two benefits per month.

Fortunately, the public charge rule is not applicable to all immigrants and is not applicable to US citizens at all. The rule only applies to (1) noncitizens seeking entry to the United States, like on a visa; (2) immigrants seeking to adjust to legal permanent resident status; and (3) legal permanent residents who were outside of the United States for 180+ days and are seeking reentry. The test does not apply to legal permanent residents seeking to naturalize, refugees, asylees, Violence Against Women Act (VAWA) self-petitioners, T-visa recipients (survivors of human trafficking), U-visa recipients (survivors of serious crimes), special immigrant juveniles, and certain other noncitizen immigrants with humanitarian parole/status. While the public charge rule is only applicable to some types of immigrants, the reality is that the overwhelming majority of recipients of public benefits are not immigrants but are instead US-born citizens.

Medi-Cal, California's Medicaid program, provides health access and health care to millions of families. However, approximately 70 percent of Medi-Cal recipients are US-born citizens.⁷ The numbers are similar for other major public benefits programs in California. US-born citizens make up 72 percent of SNAP recipients, formerly known as "food stamps."⁸ US-born citizens also make

up 76 percent of CalWORKs recipients, California's temporary assistance to needy families program.⁹ Similarly, 68 percent of SSI recipients are US-born citizens.¹⁰

In addition, although immigrants are less likely to use public benefits in general, when immigrants do rely on public benefits, they use fewer benefits than US-born citizens.¹¹ Despite the reality that the vast majority of public benefits recipients are not immigrants and that immigrants use fewer public benefits than US-born citizens, the new public charge rule explicitly targets this population for disparate treatment.

Besides the millions of AAPIs that could be directly impacted by the new public charge rule, the chilling effect has expanded well beyond those who are or could be directly impacted by the new rule. Across the country, families not only are dropping or not renewing existing public benefits that could fall under the new rule, like Medicaid and SNAP, but are shying away from non-impacted public benefits and government programs altogether. From free and reduced-price school lunches to the Women, Infants and Children (WIC) program, families are deciding to disenroll or not apply in fear of potential immigration consequences. This will have a devastating negative impact on the health and prosperity of the AAPI community.

In light of the negative impacts, advocates from across the country have worked tirelessly to oppose the changes to the public charge rule. Asian Law Alliance submitted public comments vigorously opposing the new rule to the Department of Homeland Security during the public comment period; worked with the One Nation AAPI Coalition to travel to Washington, DC, to speak with legislators about the harm this new rule will cause to AAPI families; and worked to provide education and training about the proposed rule and its impacts to the community. The chilling effects of the public charge rule are real and have

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drastically impacted the lives of millions of AAPIs, even among those not directly impacted by the public charge rule. Asian Law Alliance stands with immigrants and will continue to fight the administration's changes to the public charge rule. We hope that you will stand with us and the immigrants that make this country great.

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A History of Asian American, Native Hawaiian, Pacific Islander Health Policy Advocacy: From Invisibility to Forging Policy

Kathy Ko Chin and Amina Ferati

In 1985, the Secretary of Health, Education, and Welfare (precursor to today's US Department of Health and Human Services), Margaret Heckler, commissioned a ground-breaking study on minority health. It was the first time the US government commissioned experts to study the health status of minorities. In the study, secretary Heckler remarked that disparities in the health status of minority Americans is "an affront both to our ideals and to the ongoing genius of American medicine." Those ten volumes laid the groundwork for minority health and disparities work within the federal government that continues today, including establishing the Office of Minority Health (OMH). OMH is charged with addressing many of the disparities highlighted decades ago.

While we often talk about the historical significance of the Heckler report as a catalyzing moment that led to the eventual recognition by federal policymakers of health disparities that existed throughout the history of this nation, what is *missing* is equally important. The report included

While we often talk about the historical significance of the Heckler report as a catalyzing moment that led to the eventual recognition by federal policymakers of health disparities that existed throughout the history of this nation, what is missing is equally important

a sad and disappointing set of citations that marginalized and vanquished any basis for addressing health disparities for Asian Americans (AAs) or Native Hawaiians and Pacific Islanders (NHPIs). In the ensuing

35 years, national, state, and local advocates have all worked uphill against this inaccuracy that impacts everything, from investments in communities to data collection and health programs. Across ten volumes, there was only one citation about NHPIs, which said that there was not enough data to say anything about that population. And for AAs, the conclusion was that AAs, based on limited data that were available and aggregated together, were healthier than their counterparts. This was the model minority myth codified.

If the report was the unavoidable public testimony to health disparities that federal policymakers could not ignore, it was a *galvanizing force* for AA and NHPI advocates. Among AA and NHPI advocates across the country, initially organized across AA ethnicities, there was agreement that such an inaccurate set of conclusions rested on two facts: (1) inadequate and aggregated data painted an inaccurate picture, and (2) there was no voice for AA and NHPI communities in federal health policy.

From that, the Asian & Pacific Islander American Health Forum was born.

Initially known as the Asian American Health Forum, the group brought together advocates from the five most populous AA ethnic communities, as well as community physicians, community clinics, academia and researchers, students, and health activists. Eventually the group grew to speak to the interests

across all AAs and NHPIs, known as the Asian & Pacific Islander American Health Forum (APIAHF).

In these 35 years, a robust and wide-ranging set of sister policy advocacy organizations have emerged, including but not limited to:

- * Association of Asian Pacific Community Health Organizations (AAPCHO)

- * Asian Pacific Partners for Empowerment, Advocacy and Leadership (APPEAL)

- * National Asian Pacific American Women's Forum (NAPAWF)

- * National Asian Pacific American Families Against Substance Abuse (NAPAFASA)

- * National Asian American and Pacific Islander Mental Health Association (NAAPIMHA)

- * National Council of Asian Pacific Islander Physicians (NCAPIP).

Together with the above and other organizations, we form the health committee of a larger federal advocacy coalition, the National Council of Asian Pacific Americans (NCAPA), which brings together 34 national organizations working across AA and NHPI commu-

nities in civil rights, education, housing and economic development, and immigration. APIAHF, as the oldest and largest federal health policy organization, has

been proud to co-lead the NCAPA health committee for over 20 years.

Since APIAHF's inception, we have helped transform health policy for AAs and NHPIs with the close partnership of our sister national advocacy organizations described above, particularly AAPCHO. Through the decades, we have seen what is possible and what can change when AA and NHPI voices, experiences, disaggregated data, and stories are not just at policymaking tables but actively shaping policy. Some of our greatest efforts have included:

- * Working closely with the National Institutes of Health (NIH) to recognize AA

and NHPI researchers as qualifying for research grants focused on vulnerable communities and pushing for the creation of the National Institute for Minority Health and Health Disparities (NIMHHD).

- * **Protecting immigrant families** by fighting decades-old restrictions in federal law, including the Personal Responsibility and Work Opportunity Reconciliation Act and, more recently, public charge.¹

- * Fighting for accessible health care for all through the **National Standards for Culturally and Linguistically Appropriate Service in Health and Health Care**.²

- * Securing the inclusion and ultimate adoption of higher standards for the collection of race, ethnicity, and primary language data³ and civil rights protections⁴ as part of the landmark **Patient Protection and Affordable Care Act (ACA)**.

- * **Enrolling one million AAs and NHPIs** in coverage⁵ through the Action for Health Justice network of over 70 community health centers and community-based organizations across 23 states and in 56 languages. APIAHF co-lead this effort with

AAPCHO and Asian Americans Advancing Justice affiliates, AAJC and Los Angeles.

- * Filing the only **AA- and NHPI-focused amicus briefs to the Supreme**

Court defending the ACA, in partnership with AA and NHPI communities nationwide, highlighting the impact of the law and what was at stake and subsequently working with national advocates to defeat the more than 50 attempts to repeal the law in Congress.

- * Leading efforts to push the OMB to separate "Asian" and "Native Hawaiian or Other Pacific Islander" categories in the 1997 federal data collection standards. In 2016, APIAHF and AA and NHPI advocates nationwide organized 5,000 comments urging OMB to revise those standards for the first time in over 20 years.

Through the decades, we have seen what is possible and what can change when AA and NHPI voices, experiences, disaggregated data, and stories are not just at policy making tables but actively shaping policy.

* Supporting and leading the introduction of the **Health Equity and Accountability Act** with the Congressional Asian Pacific American Caucus and the more than 300-member Community Working Group.⁶

Equally important to the core federal policy advocacy that our organizations have led has been the behind-the-scenes infrastructure and coalition building that is the cornerstone of our AA and NHPI collective success. In the decades since the mid-1980s, APIAHF went from being the first AA and

our communities. Less than 0.17 percent of efforts funded by NIH include AA and NHPI participants.⁷ This research is critical to informing the evidence base of conditions that disproportionately impact AAs and NHPIs, such as stomach cancer and hepatitis. At the same time, federal data collection standards that are necessary to ensure AA and NHPIs are counted are wholly inadequate and have not been updated since 2010. Language access remains a challenge for the one in three AAs who are limited English

Asian Americans and NHPIs are 23 million and rising, and yet federal policy resources fail to reach our communities. Less than 0.17 percent of efforts funded by NIH include AA and NHPI participants.

NHPI national health organization to now co-chairing the NCAPA Health Committee with 13 members. The committee serves as a hub for AA and NHPI federal health policy work.

Through the years, APIAHF has been proud to be the clear, strong voice in the nation's capital on the health of AAs and NHPIs. Through our network of over 100 community-based organizations (CBOs), across 34 states and the Pacific, we connect the voices, stories, and data about our communities with the highest levels of government—the administration, Congress, and even the Supreme Court. We have become the voice for our communities by working closely with our CBO partners to deeply understand the issues and challenges they face as human service providers and also their clients' issues and challenges. By seeing the patterns across the nation, we are able to act across all three branches of government to advise, advocate, and push for federal policies that advance and assure the health of all residents of the United States, including territories and US-affiliated jurisdictions.

The result has been demonstrable wins for AA and NHPI health policy, but we still have much to do.

AAs and NHPIs are 23 million and rising, and yet federal policy resources fail to reach

proficient, and recent efforts by the Trump administration to limit civil rights protections stand to deepen these disparities.

The list of challenges could go on, but we—AA and NHPI advocates—know what it takes and are here to fight for visibility and inclusion in federal policy.

Our communities deserve no less.

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Leading from the Margins: Immigrant and Refugee Leadership for a Green New Deal

Shina Robinson

The climate emergency is finally in full spotlight.¹

After decades of movement building and generations of resistance, people of color, indigenous youth, immigrants, women, and girls are finally grabbing headlines. Tackling the crises of wealth inequality and systemic racial injustice together, the fight for climate justice unites so many avenues for a clear path forward to the transformation we need.

At Asian Pacific Environmental Network (APEN), we've been building ranks of Asian American immigrant and refugee community leaders across California to take on polluting corporations, transform racist land-use policies, assert new visions for community health, and engage thousands of immigrant voters in multiple languages. For over 25 years, we have embodied the principles of environmental justice, “build[ing] a local, national, and international movement of all peoples of color to fight the destruction and taking of our lands and communities.”²

and place. With a clear-eyed vision from the frontlines, solidarity across borders, a willingness to address the root causes, and structural support for those already deeply impacted, we have the opportunity to radically shift course for the better.

Politicians, technocrats, and corporate boards are ready to act, whether or not they agree on the cause or scale. Unfortunately, many of the proposals for climate action from both sides of the aisle are more like false promises rather than real solutions to the crisis. From those who diminish the urgency of the crisis and want fossil fuels to continue unabated to those who accept the crisis yet insist on market-based mechanisms as a business opportunity to commodify air, water, land, and public services, these actors are all protecting the status quo that puts profit over people and planet. In California, we've lived the consequences of letting the oil and gas industry design climate solutions. For years, California's

A transformative Green New Deal needs to answer important questions about who benefits from this new economy, who controls it, and who has been left out in the past. The Deal has to be about restoration, repair, and balance. And it requires an end to American empire.

Now, we are ready to advance our solutions at scale.

In California, APEN and frontline communities across the state are designing a Green New Deal that centers on layered solutions to the multiple crises we are facing, creating the infrastructure and policies to repair our connections to each other

cap-and-trade program has let big polluters off the hook with allowances to pollute and carbon-trading schemes to “offset” their pollution, while turning our communities into environmental sacrifice zones. Tackling on climate change requires more than balancing a math equation—it requires a change in values.³

A transformative Green New Deal needs to answer important questions about who benefits from this new economy, who controls it, and who has been left out in the past. The deal has to be about restoration, repair, and balance. And it requires an end to American empire.⁴ That means frankly addressing historic and ongoing injustices in our current extractive economy rooted in slavery, genocide, and war. It means transforming decision making around infrastructure, energy, labor, and food. It means shifting the supply chain of the green economy to eliminate frontline impacts;⁵ it means supporting economies of scale that are based on mutual exchange and cultivating shared wealth.

Roots of the Crisis: Imperialist Assaults on Human Rights, Ecosystems, and Sovereignty

The roots of the climate crisis go to the heart of how our economy functions. Immigrants and refugees have borne the brunt of harmful one-sided free trade deals that allow money to flow freely across borders while restricting the movement of people; these policies incentivize businesses to participate in a race to the bottom, with wages, worker safety, and environmental regulations seen as trade barriers—the undercutting of all worsening the climate crisis.⁶ However, like multinational corporations, carbon emissions don't observe national boundaries in a global dig-burn-dump economy.

Immigrant, refugee, indigenous, and Black families know firsthand the destabilization wrought around the world to support an empire-building economy. The growing number of climate refugees from the world's coastlines know firsthand the impacts of foreign corporations “securing” and extracting natural resources in new markets at all costs.⁷ Families fleeing conflict rooted in food and water scarcity know. Whole communities pushed off their ancestral lands have known the impacts for generations because of the foreign-owned plantations that displaced them. It's time

to bring the folks from the margins into full participation going forward to redefine sound policy, sustainability, wealth, and progress. Visionary and intersectional solutions based on lived experiences offer a just transition⁸ from an economy of boundless exploitation to a one of sustained, shared prosperity.

The endless growth paradigm is directly tied to military action and foreign intervention. Over the past century, US administrations have exploited Asian and Pacific islands as outposts for war or resource extraction. For decades, Southeast Asian communities have withstood the impacts of chemical weapons, bombing campaigns, and covert war. Islander communities are still enduring the damages of nuclear testing in the Pacific and ongoing neocolonial status.⁹ The United States operates over 800 bases around the world to secure natural resources for profit and the regimes that will keep those resources flowing.^{10,11} Operating often outside local jurisdictions and unaccountable to host governments, the US military and other human rights abusers have committed high levels of violence against surrounding local communities, women, children, trans people, and even soil and water. Wreaking havoc on the health of generations of families and local ecosystems, “the US Department of Defense is one of the world's worst polluters. Its footprint dwarfs that of any corporation.”¹²

Paramilitary forces also contribute directly to the climate crisis. Globally, the mining industry was responsible for the deaths of the most land defenders. Many corporate polluters are skilled at tax avoidance,¹³ shrinking public funds and demanding further private takeovers. Excess profits readily go toward undoing already anemic legal protections for land and workers.¹⁴ The Philippines is currently the world's deadliest country for environmental activists, where indigenous peoples steward land atop mining reserves, fight against the spread of export-crop plantations, and protect the country's last old-growth forests and endangered species from short-sighted

development.¹⁵ In return, indigenous peoples face private armed security forces that target community leaders and their supporters with harassment, intimidation, and assassinations.¹⁶ Globally, “indigenous peoples protect 80 percent of the planet’s biodiversity. Indigenous peoples and local communities who have distinct cultural and social ties to ancestral homelands and bioregions still care-take at least a quarter of the world’s land area.”¹⁷ Bold, visionary climate

Without and within the United States, policies abound that criminalize those least responsible for the current crises.

solutions come from those who are already standing up to mercenaries while slowing down the climate crisis for the rest of us. A just Green New Deal (or a Red New Deal)¹⁸ is an opportunity to ally with the frontlines against the violence of endless growth.

All industries in our global capitalist economy are pushed to compete for the lowest costs and highest profits, even the industries we need to grow in order to phase out fossil fuels. Solar companies rely on mining that is highly polluting and unsafe for workers, and instead of responsible recycling, some send e-waste overseas or use prison labor.¹⁹ Establishing a renewable-energy economy to meet the demand of the global need cannot continue exporting the problems of developed countries to formerly colonized ones while inaccurately claiming the mantle of climate leadership.²⁰ Forcing developing economies to rely on exporting only raw goods, processing waste, and incentivizing shortcuts in environmental and labor regulations—all these actions uphold a colonial relationship and limit innovation at a scale the Earth needs. “Recent studies show that, as long as countries cooperate, all continents have the wind, solar and hydropower resources they need in a zero-emissions world. An International Green New Deal could utilize these differences and ensure that renewable energy is available to all of them year-round.”²¹

Without and within the United States, policies abound that criminalize those least responsible for the current crises. Over-policing of working-class tenants, houseless populations, public transit riders, and struggling public school students punishes those with the least financial means and smallest carbon footprint. Governments across the world protect the right to make exorbitant profit on mobility, housing, and education and incentivize incarceration, creating obstacles to solving the root causes of climate catastrophe. This includes waves of policies across the United States and the world that criminalize protest. Water protectors, land defenders, activists fighting for human rights and racial justice, and even the journalists who document their stories are under attack. “‘Water is Life’, ‘Black Lives Matter’, ‘Abolish ICE,’ and ‘No Ban on Stolen Land’ are not mere slogans but demands for a dignified life.”²² Climate solutions support economies of care, especially for our most vulnerable. Instead of punishing the resilience and resistance of frontline communities, we can learn from their struggles to promote healthy relationships with places and each other and welcome a dynamic process of dissent and accountability that deepens democracy.

Centering Frontline Leadership in California’s Halls of Power

To build up a Green New Deal that addresses the root causes of climate change, a New Deal that we deserve, we’ll have to transform the political infrastructure. In California, we’re experimenting with new processes to create policy and plans from the grassroots up. During the last several years of wildfires, frontline communities endured destruction at the intersection of the climate and economic crises. Immigrant communities were not getting information in language; precarious and undocumented workers were afraid to miss any work and went into dangerous fire zones or stayed away from shelter and evacuation.²³ Queer communities were alienated when the only

shelters available to some weren't welcoming to their identities. Disabled folks were among the highest fatalities. Grassroots environmental-justice organizations saw these gaps and won Senate Bill 160 (Jackson) that requires counties to make their emergency plans culturally competent through community engagement, so communities can plan for and meet all of the diverse needs during the next emergency regardless of ethnicity, citizenship status, language spoken, gender identity, sexuality, medical needs, or age.

APEN's own leaders were looking at the impacts of the climate crisis through the lenses of housing and energy.²⁴ So much of California's housing stock that is still in reach for working-class people is older, inefficient, and exposed to environmental health hazards. This deteriorating housing stock is one of the largest contributors of greenhouse gases in the state.²⁵ Combined with extreme heat days, growing local air pollution, and more days of wildfire smoke each year, older housing amplifies dangerous

conditions for vulnerable renters, while skyrocketing energy bills exacerbate the affordability crisis. Through AB 1232 (Gloria), APEN's leaders called for state energy-efficiency investments into rental housing to be paired with a suite of anti-displacement protections as well as coordination with public health programs to improve overall habitability of working-class homes. The state legislature was not equipped nor ready for such an intersectional, holistic proposal to move in its entirety through the legislative process. Nonetheless, AB 1232 was an eye-opening first attempt for both our community members and decision makers to generate policies that come from lived experiences and designed to meet urgent needs in a bold way.

While it is important and needed for frontline leaders to gain ground inside the halls of power, the inside strategy can never

take the place of the battles on the outside. The Red New Deal, principle 3 articulates: "politicians can't do what only mass movements do." Transformative New Deal policies require deep participation of everyday people across issue areas to create the structural change that climate solutions demand. As the Just Transition framework explains, "If it's the right thing to do, we have every right to do it."²⁶ California recently legalized public banks, opening the door for a way to invest in renewable energy infrastructure, climate adaptation and resilience, and low-interest loans for projects to upgrade or shift transportation, food systems, and more. This wouldn't have been possible without the indigenous uprising that ignited in Standing Rock and a tenacious divestment campaign in solidarity across campuses, cities, and states. Taking pension money, endowment funds, and public investments out of pipelines and into

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public banks that are accountable to communities instead of shareholders increases the solutions that are possible. In Oakland, community groups were able to introduce a Tenant Opportunity to Purchase Act, while eyes across the country were on the Moms-4Housing fight that is shifting the paradigm of power and rights.²⁷ Investing in ways to keep people home is key to health, education, transit infrastructure, and the social fabrics needed for climate resiliency. In ways entrenched powers cannot conceive, people power is bringing innovative, intersectional solutions up from the grassroots to the word of law.

"Resilient" and "resourceful" are words often used to describe poor and working-class communities of color around the world. There is a beautiful way that people can take care of each other in the face of such ugly theft and degradation. There

is also trauma that comes from being in a community chronically exposed to instability, scarcity, and violence, while others are continuously protected from disruption and harm. Healing systemic injustices requires a different understanding of togetherness and no false pretenses about the sacrifice zones business as usual requires. Those fighting locally for safety, dignity, and deep democracy are those securing a livable future on a planetary scale. A transformative, movement-led Green New Deal means co-building resilience and sharing resources for the long term, surviving and thriving together.

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Reclaim Our Power: Principles for Utility Justice in California

Sydney Fang and Chelsea Lee

As artists and activists whose families have been impacted by the California wildfires and Pacific Gas and Electric's utility shut-offs, we are inspired by the recently launched "Reclaim Our Power!" utility justice campaign led by Asian Pacific Environmental Network (APEN), California Environmental Justice Alliance (CEJA), Local Clean Energy Alliance (LCEA), Movement Generation, North Bay Organizing Project, and People Organizing to Defend Environmental and Economic Justice (PODER).

Uniting the communities who have been disproportionately burdened by the impacts of California's dangerous and polluting energy system, the campaign demands "a safe, reliable worker- and community-owned energy system that benefits all Californians, especially the people most harmed by PG&E."¹ We designed ten comic-style images that illustrate the Reclaim Our Power! campaign's ten core principles to achieve an energy transition that is grounded in justice.


We chose to draw comics because the medium is creative and accessible for communicating with membership bodies of the anchor organizations, key audiences, and constituencies of the campaign including, young people, differently abled people, and low-income residents of color on the frontlines of pollution and climate change. As a medium, comics can cultivate imagination of what could be possible through images and multiple languages to activate immigrant and refugee communities.

We hope that this art can offer powerful provocations to challenge current narratives around climate justice in ways that words alone cannot. The following pages contain the images we've drawn in partnership with the campaign and their letter to the governor of California, calling for seats at the table to resolve the PG&E disaster. We invite you to support the campaign and learn more at reclaimourpowerca.org.




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DISTRIBUTED POWER

INSTEAD OF MASSIVE POWER PLANTS AND LONG, COSTLY TRANSMISSION LINES THAT CUT THROUGH WILDFIRE-PRONE AREAS...



LET'S GENERATE POWER IN OUR NEIGHBORHOODS!

WE NEED TO BUILD A WEB OF NEW ENERGY SYSTEMS THAT GENERATE, STORE AND DISTRIBUTE CLEAN, RENEWABLE POWER LOCALLY, SO OUR NEIGHBORHOODS CAN BE RESILIENT!

WORKER & COMMUNITY CONTROL

A SAFE SYSTEM RELIES ON GOOD UNION JOBS SO THAT WORKERS WHO KNOW THE EQUIPMENT BEST CAN SPEAK OUT, IF THEY SEE PROBLEMS. COMMUNITIES KNOW WHAT KIND OF ENERGY WE NEED. **TOGETHER, WE CAN MAKE DECISIONS THAT PUT PEOPLE BEFORE PROFIT.**

LET'S BUILD AN ENERGY SYSTEM THAT WORKS FOR ALL OF US!

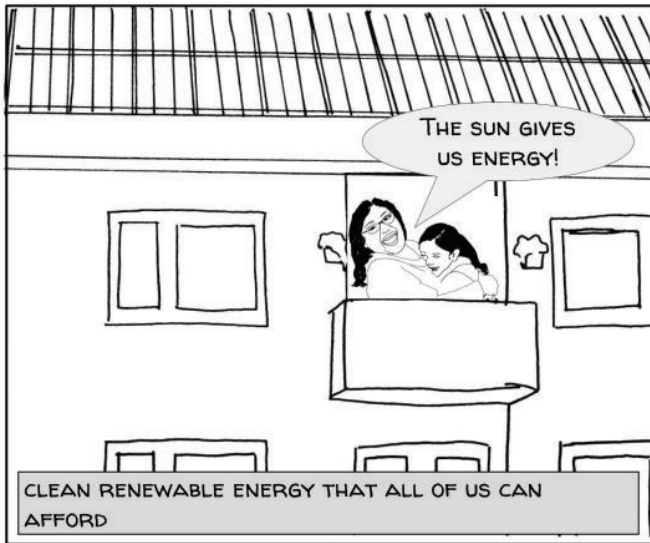


ENERGY WITHOUT INJUSTICE!

POWER WITHOUT POLLUTION!



CLEAN RENEWABLE ENERGY FOR ALL



ENVIRONMENTAL JUSTICE



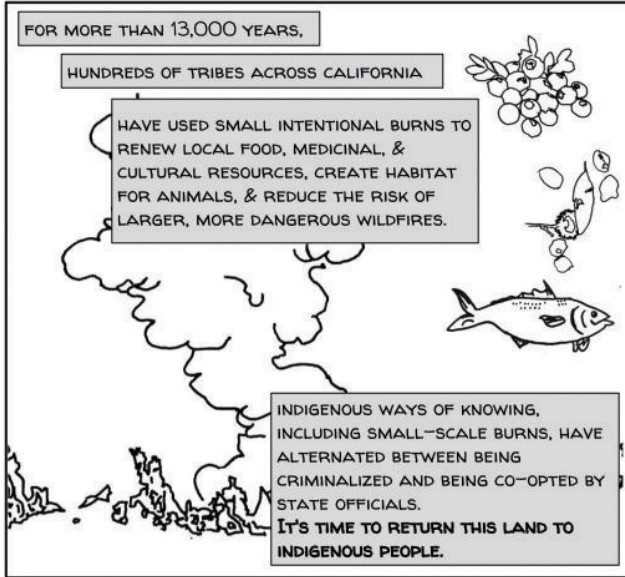
FRONTLINE LEADERSHIP



PROTECT ALL WORKERS



INDIGENOUS SOVEREIGNTY & LAND STEWARDSHIP



EQUITABLE EMERGENCY PLANNING



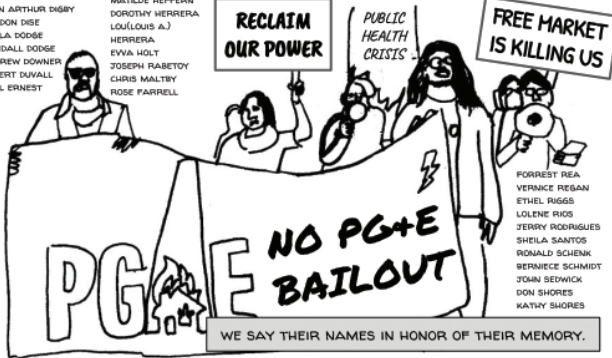
CORPORATE ACCOUNTABILITY

PG&E IS RESPONSIBLE FOR THE DEADLIEST WILDFIRES IN CALIFORNIA HISTORY.

JOYCE AGHESON
HERBERT ALDERMAN
TERESA AMMONS
RAFAELA ANDRADE
CAROL ARRINGTON
JULIAN BINSTOCK
DAVID BRADBURY
CHERYL BROWN
LARRY BROWN
RICHARD CLAYTON BROWN
DEBORAH MORNINGSTAR
BARBARA CARLSON
VINCENT MARIO CAROTA
DENNIS CLARK
EVELYN CLINE
JOHN ARTHUR DIGBY
GORDON DISE
PAULA DODGE
RANDALL DODGE
ANDREW DOWNER
ROBERT DUVALL
PAUL ERNEST

AS A RESULT OF PG&E'S NEGLIGENCE, THE CAMP FIRE CLAIMED 85 LIVES, AND THE TOWN OF PARADISE WAS DESTROYED.

JAMES GARNER	DOROTHY LEE	JUDITH SIPHER	JESUS PERMANDEZ	ANDREW BURT
RICHARD JAY	MACK	LARRY SMITH	JEAN FORSMAN	JOANNE CADDY
GARRETT	SARA MAGNUSON	RUSSELL STEWART	ERNEST FOSS	CHRISTOPHER
BILL GOOBOUT	T.K. HUFF	VICTORIA TAPT	DAVID MARBURY	SALAZAR
SHIRLEY HALEY	GARY HUNTER	SHIRLEE TEAYS	CARL WILEY	PHYLLIS SALAZAR
DENNIS HANKO	JAMES KINNER	ELLEN WALKER	ELIZABETH GAAL	GARY HUNTER
ANNA(TON) HASTINGS	HELEN RACE	DONNA WARE	JOAN TRACY	JAMES KINNER
JENNIFER HAYES	JOY PORTER	ISABEL WEBB	T.K. HUFF	WARREN LESSARD
CHRISTINA HEFFERN	BEVERLY POWERS	MARIE WEHE	DAVID YOUNG	JOANNE MALARKEY
ISHKA HEFFERN	ROBERT QUINN	KIMBER WEHR	SALLY GAMBOA	JOAN MALARKEY



WE SAY THEIR NAMES IN HONOR OF THEIR MEMORY.

INVEST IN CLIMATE RESILIENCE



When I Grow Up, I Want to Become a Better Daughter

Cindy Huang

Growing up in Chinatown in San Francisco with my family of four living in a tight one-room apartment, I was not given the luxury of privacy, which meant that I could hear every noise and conversation in the apartment at any given time. Whether that be the blaring TV in the living room or the near-daily bickering between my immigrant parents, I grew up wondering if there would ever be a moment of complete silence and peace in my home. On top of that, although I spoke Cantonese at home, I constantly felt like I had disagreements with my mother, as we would spend hours trying to explain our perspectives to each other only to be even more frustrated by the end of our conversations. It wasn't until I got older that I realized we were trying to communicate with each other through different world-views—her perspective was more aligned with traditional Chinese values, while my perspective stemmed from my acclimation to White, American culture. There was something missing in our communication even though we were speaking the same language, and the constant miscommunication left us both confused and exasperated. Home felt chaotic, and I was overstimulated by the conflicting sounds and voices I heard on a daily basis. However, I didn't feel like I had the ability or skills to discuss these issues with my parents, despite speaking Cantonese fluently. There was a missing link that I was determined to locate somewhere along the way in my development.

I remember that after I discovered that my mother was a teacher in China, 8-year-old me submitted an “About Me” classroom

assignment and wrote, “When I grow up, I want to become a teacher.” Perhaps it was naïve of me to think that pursuing a career in teaching would open up a window for me to think and speak like my mother. And sure enough, after getting a master's in education and teaching English to 12th-grade newcomer immigrants for a few years, I was discouraged by how much I did not like being in front of the classroom teaching 25–30 students at once. Instead, what I really enjoyed were the moments of connection with my students: the check-ins that I had with individual students during class time, the tutoring sessions I spent with them during lunch break or after school to provide them feedback on their essays and college personal statements, or the little conversations I had with them during passing period when they shared with me quick tidbits of successes or frustrations both in school and in their personal lives. Listening to my immigrant students talk about their home countries, reading their personal statements, and learning about their immense stress due to acculturation and English language difficulties, I saw a glimpse of my mother in each of their stories. By creating and building connections with my students, I was able to develop an understanding of their lived experiences and struggles, which gave me the unique position of being able to speak to their lives in a way that I was not able to as a teacher in front of the classroom. That was when I knew that I needed a career change that better reflected the kind of work I wanted to do: building connections with people and,

ultimately, better understanding my mother and her experience as a Chinese immigrant in this country.

I started my master's program in mental health counseling about a year and a half ago, and this past year, I obtained a counseling internship working with Chinese immigrants with substance use disorder. While I did not specifically seek out my internship to work with individuals who struggled with addiction, I had intentionally sought out an internship site that trained counselors to conduct counseling sessions in Chinese. I wanted to refine my bilingual abilities in my counseling work, with the ulterior motive to learn how to better communicate in Cantonese with my mother.

Some of the most valuable training that I received at my internship site happened in supervision, which was the weekly scheduled time that my supervisor would help me talk through the challenges that I experienced when counseling Chinese immigrants. With my supervisor's help, I learned to adapt the English counseling interventions that

I learned in my master's program into Cantonese. I learned how to discuss mental health issues with my clients in a way that was more culturally appropriate and less stigmatizing for them to share in sessions. I also learned to reframe my clients' feelings from a different point of view. For example, many of my Chinese immigrant clients would say things like, "Even if I miss her, it's in the past" or "There's no point in thinking about it anymore," which, I learned, would require a good listening ear to pinpoint that the clients are actually disclosing that they do, in fact, miss her or have thought about it in the past. To extract the thoughts and feelings from my clients to describe their experiences, I have to present the words to them as if they were foreign, as if we were speaking about someone else other than them. It has been helpful

for me to say things like, "If I were you, I'd feel hurt" or "I've heard other people who have experienced something similar who said that they still think about it." This way of reframing feelings helps to depersonalize the emotions and take the pressure off them, which puts them more at ease to open up and freely discuss those emotions in the room with me. My supervisor described this roundabout way of clients sharing thoughts and feelings as them opening a door for the counselor just a crack, just to test whether the counselor would take the bait, which would take a perceptive counselor to keep an eye out for these small openings and ask for more.

My counseling skills were unexpectedly put to the test when my mother called me a few weeks ago to catch up. She asked the usual questions—what I've been eating, how I'm doing in grad school, who I'm hanging

However, I didn't feel like I had the ability or skills to discuss these issues with my parents, despite speaking Cantonese fluently. There was a missing link that I was determined to locate somewhere along the way in my development.

out with, and if there were new eligible men that I might be interested in dating in my social circles. I found myself feeling more comfortable speaking to my mother in Canton-

ese, sprinkling in some new vocabulary that I picked up from my clients, and my mother commented on how "sophisticated" I had become in my word choices.

My mother then started talking about a recent verbal conflict with my brother. Without intentionally doing so, I found myself jumping into counseling mode and using counseling techniques that I learned from school and my counseling internship. I did a lot of paraphrasing and summarizing of what my mother shared with me. I asked some open-ended questions for her to explore her feelings some more, and then I offered an interpretation of her feelings to help her reflect on what she shared.

"Mom," I said, "It seems as though you had certain intentions going into that conversation with him, but he misinterpreted and assumed the worst. If I were you, I'd

feel pretty hurt that your own son misinterpreted your intentions to be malicious.”

My mother paused before elaborating on her frustrations. I affirmed her feelings and then asked for her permission to provide some of my thoughts on the situation.

“Mom, can I share with you what I think might be my brother’s point of view, based on what you’ve told me so far?”

It seemed as though, for the first time, my mother was intent on listening to me. She didn’t interrupt me as I offered my brother’s perspective, and she asked follow-up questions regarding how to best resolve this conflict.

At the end of the conversation, my mother said, “You seem like a different person now. What you say makes sense to me now, and I don’t have a rebuttal anymore because what you share is so reasonable. I feel like you understand me now.”

My initial feeling after that conversation was one of pride; my mother gave me the highest of compliments when she said that she felt understood by me now. I felt like that was a big victory considering all our misunderstandings and exasperated conversations from my youth. I had taken steps closer to my goal of improving my communication with my mother in Cantonese, and my counseling work had helped me immensely. However, the pride eventually

feel as though she was able to see from my point of view or my brother’s point of view as Chinese Americans in this country. Even in the conversation that I had with her, I had to advocate on my brother’s behalf, helping her to understand his perspective during their disagreement. I still had to put in the work to help her understand that there could be another way of looking at any given situation because we were speaking from and operating from different worldviews. And I considered how daunting that task would be in the long run—to essentially continuously “translate” thoughts and feelings from my Chinese American worldview into Cantonese and in a way that my mother would understand from her traditional Chinese worldview. And what if, in future conversations, I continue to try to emotionally support my mother using what I’ve learned from my counseling work, but she still feels as though I don’t quite understand her, retracting her initial compliment of feeling understood by me? What would become of my endeavor thus far to learn more about her, connect with her, and try to better understand her?

But perhaps all of this—the frustration, the seemingly endless seeking of answers to the missing link in my communication with my mother, the continuous and unintentional use of counseling skills in conversations with my mother—could

But perhaps all of this—the frustration, the seemingly endless seeking of answers to the missing link in my communication with my mother, the continuous and unintentional use of counseling skills in conversation with my mother—could be my sacrifice, my way of giving back to my parents who have had to give up so much more for me to have this Chinese American experience in this country.

waned, and a day later, upon processing that conversation, I felt disappointment.

While my mother said that she finally felt understood by me in that particular conversation, that feeling wasn’t necessarily reciprocated on my end. During that conversation, and a few more conversations I’ve had with my mother since then, I didn’t

be my sacrifice, my way of giving back to my parents who have had to give up so much more for me to have this Chinese American experience in this country. There are plenty of other spaces and relationships in which I can feel seen, heard, and known, but what a privilege it is for me to provide that for my own mother and immigrants

like her, who may feel othered and misunderstood in so many other contexts in this country time and time again. If in the 45-minute counseling sessions with my Chinese immigrant clients or in my two-hour long phone conversations with my mother I can give of my time and counseling skills to provide a safe, therapeutic space for them to healthily release their thoughts, feelings, stressors, and trauma, even if imperfectly and just for a moment in time, then maybe that is enough.

Why I Serve

William Jung

I abruptly end my phone call with my girlfriend and immediately rush to the bunker. The enemy is attacking our combat outpost with mortars. In this remote part of Paktia Province, Afghanistan, we often feel like sitting ducks and extremely helpless. All we can do is pray that one of those mortars doesn't land on top of us as we wait out the enemy's attack. The enemy gets lucky and strikes our food storage connex, destroying our supply of food. All we have left to eat for the next couple of weeks is Meals Ready to Eat or MRE (ask any veteran, and you'll immediately get an emotional response) and the care packages we have receive from our families. As I sustain myself with ramen and hot Cheetos, I ask myself, "How did

I felt the pressure to constantly prove that I am worthy to be called an American.

I get here? Why did I choose to serve in the military and ended up in this situation?"

The earliest memory I have of myself is when I was six or seven in Los Angeles, where I was born and raised. I was getting ready for a nap time in kindergarten, and the spot I picked happened to be next to a little blonde girl. My kindergarten teacher pulled me aside and told me that I couldn't sleep next to the girl. Instead, she pointed me to a corner in the room and told me that's where I was to take my nap. That corner of the room was where all the other brown, black, and yellow kids were. I didn't realize at the time, but this confusing moment was just first of many more to come.

Like many Asian Americans, I was not immune to attempts that made me feel inadequate to be a part of our society. These attempts drew a distinct line for me from the early ages of my life, telling me that there were "us" and "them," that I wasn't a part of the group but rather it was something I should be consistently chasing after. The attempts implicitly established a hierarchy that placed "them" on a pedestal and created a wall that always seemed to be growing. "Them" became too distinct for me to approach, yet it was something I constantly pursued, for the idea represented what it meant to be a true American.

I felt the pressure to constantly prove that I am worthy to be called an American. When I enrolled in high school after living in Korea for seven years, my guidance counselor placed me in math and science courses below the ninth-grade level. Her rationale was that I was enrolled in English as a second language because I had forgotten English while I lived in Korea. My mother protested that I would be fine in ninth-grade math and science classes because Korea placed heavy emphasis on math and science classes. She added that her plan was for me to attend a four-year university. My guidance counselor's response? I would be lucky if I attend a community college.

When I was stationed in Kansas, my friends invited me for some food and drinks to celebrate my first weekend in the state. Our first stop of the night was to a local bar, and my friends had entered the bar before me. When I presented my identification card to the bouncer, the bouncer stopped

me from entering, scanned me from top to bottom, and stated, “You know this is a country-ass bar.” I was caught off guard and asked what he meant by his statement. The bouncer repeated what he had said, which made me become confrontational. Hearing the commotion, my friends came out of the bar and took me to a different place.

At the time, I believed that serving my country would somehow prove my worthiness to people like my kindergarten teacher, my high school guidance counselor, and the bouncer in Kansas. I wanted to prove to them that I am assimilating to their culture, that I am fitting in, that I am doing my share as an American.

When I initially decided to serve in the military, many people asked me why I was choosing a career path not sought after by many. I would share with them the various reasons why I chose to serve, but I never disclosed one reason. At the time, I believed that serving my country would somehow prove my worthiness to people like my kindergarten teacher, my high school guidance counselor, and the bouncer in Kansas. I wanted to prove to them that I am assimilating to their culture, that I am fitting in, that I am doing my share as an American. I wanted to prove that I am a legitimate American and show that I’m not just yellow, but also red, white, and blue.

not agree with what they have done, I swore an oath to protect all Americans, and their actions prove to me that I am doing what I set out to do. I used to think that I had to prove myself, but their actions have done that for me.

I serve to protect all Americans and to defend the American way of life. It does not matter if I agree or disagree with their behaviors. It does not matter if I am familiar or unfamiliar with their culture. The Americans I protect are bound by common values

(equality, fairness, and diversity to name a few), and the American way of life I defend is in adherence to those common values. Therefore, the Americans and the American way of life are not exclusive to “them,” but rather, the Americans and the American way of life are inclusive of all who share our common values. The distinction of “us” and “them” does not exist because there is not a one-size-fits-all definition of what it means to be an American. I learned that I no longer have to feel inadequate and try to emulate an undefinable but distinct idea of what American is. As long as we share the same common values, we are *all* Americans and *all* of our ways of life are the American

I learned that I no longer have to feel inadequate and try to emulate an undefinable but distinct idea of what American is. As long as we share the same common values, we are all Americans and all of our ways of life are the American way of life.

However, now I am glad that they—the kindergarten teacher, the guidance counselor, and the bouncer—were the way they were. I’m glad that they said what they said and acted the way they did. I’m glad because it tells me that I, and those who came before me, have done our duties to protect their rights and their freedom. It tells me that I have done my job to protect their decisions and that the sacrifices made by my brothers and sisters were not in vain. Although I do

way of life. In that regard, the individuals in my life I mentioned were un-American in their actions.

From an early age, some people made me feel like I was not a full member of our society. The misguided actions of the few instilled upon me that my culture and my way of life was not the American culture and the American way of life because it was different and foreign to them. I had to constantly mask what I was accustomed to in

an effort to seek and mimic that of the others. It was not until later in my life through my service to the American people that I learned that one's culture does not disqualify anyone from being an American. As long as the values and ideals align, I am a true American and my culture is the American culture, just like anyone is a true American and their cultures are the American culture.

Movement-Building, Asian Americans, and the Struggle for Racial Justice

An Interview with Megan Ming Francis by Emily Chi

Can we start by talking about how your identity and background have affected your work?

I was born and raised in Seattle, Washington, which is on the West Coast. There's a concentration of Asian Americans in Seattle, so my entire friend group growing up was Asian and Black. Who I am as a person was very much shaped by this environment. I had a strong mom who is Chinese American and a dad who is Jamaican American and very strong cultures from both sides. My mother's parents were also in Seattle, so my Chinese grandparents were around. I always knew in terms of my early identity that I was Chinese *and* I was Jamaican. There's no way that I'm walking down the street and someone goes, "Oh, look at that Asian girl."

But growing up in Seattle was interesting at that time, especially if I think about my high school experience. I had a lot of Asian friends who very much understood issues around race, class, and colorism in their families and in the Asian communities and actively worked to build bridges. There were Chinese and Japanese American students—friends of mine—working to build bridges with Filipinos and Cambodians because there were all of these groups in Seattle at that time.

For me, growing up in Seattle and especially coming of age in my teenage years I was very much used to and was familiar with—and I don't know the perfect word here even though I should—cross-Asian organizing. I went to a public inner-city high

school, and every day you were confronted with the severity of poverty and inequality in our society. I say all that because that's what shaped me. White people weren't really in my life. Coming out of high school, I didn't have many close White friends. I had close Asian friends and close Black friends. Obviously, that changed once I went to college.

I was going to ask: was there a culture shock moment?

Yes! Absolutely! When I went to college I was like, "Who are these Asians?" It was also because I grew up in Seattle, in an environment in which there were Filipinos and Cambodians kicking it with Black people all the time. In my community at that time, especially in the Black community, it wasn't like this big bridge and there're Asians over there. We did things, we hung out at each other's houses, so there wasn't a huge divide. Then, obviously, I went to college and I was like, "Woah." My roommate my first year was Chinese American from Houston, Texas. I don't think she was used to Black people.

It's interesting for me, especially reflecting back upon my high school experience, because I would be in majority-Asian spaces and not even think about it. However, when I went to the Asian student club at Rice University where I did my undergrad, they were surprised to see me. And their concerns weren't about concerns that I'm used to; instead of thinking about coalition building and solidarity, they were focused on food and having those cultural dinners

that student groups hold. My response was like, “Ehhhh.” It just felt that our concerns were misaligned. Especially at Rice University, there were a lot of Chinese—not even a lot of Japanese, but just a lot of Chinese. In terms of Southeast Asians, I was like, “Where’d they all go?” But that response is, again, very West Coast. We have a lot of Filipinos, a lot of Cambodians, a lot of Laotians in terms of different groups. For me, it felt like there was a divide that I didn’t know was actually there. It increased my awareness about the way that I had been raised and increased my awareness of my Blackness in Asian spaces.

Getting back to this question about identity—for me in undergrad, who I am has always played a huge role in terms of what I actually think is important and has shaped me. I gave a lot of background around me in high school and these different groups because a lot of people say that their undergrad years tend to be the most formative in terms of who they are and what they care about and shape their orientation about how they encounter different things for the rest of their lives. But for me in terms of socialization, it was these early years in high school. So, for me now coming into undergrad and to figure out what I actually want to do for the rest of my life, I decided that I wanted to do economics and political sci-

government treats different groups and the way groups see themselves because of policies and laws. I was able to understand the interior of my life, my parents’ journey in terms of them both being immigrants in this country, as well as my experience growing up, and my experience in undergrad as well as understanding that my experience growing up was actually a very unique type of experience. Most mixed kids like me do not have that experience at all. I still have all these Asian friends and Black friends in Seattle.

Then economics helped me understand the way so many people I grew up with lived in poverty and would not get out of poverty and why so many people who I also knew did really, really well. You know, you’re kicking with your friends and then people go their different ways. There is a reason why that happens because of the way in which structures are actually set up.

And then I went to graduate school at Princeton University. In terms of my PhD, I was really interested in the criminal punishment system, hyper-incarceration, and my experience in the American South definitely led me face to face—more than Seattle ever did—with stark inequality, White supremacy, and racism and especially what African Americans experience in this country and the role of the carceral state in that.

The problems that impact Black people are the same structures that also oppress Asian Americans. This whole pact that certain Asian Americans believe will set them free, that this proximity and getting closer to Whiteness and by playing by the rules is not actually going to get them free at all. It’s only going to lift the 1 to 5 percent of Asian Americans, and they are going to be complicit in the larger program, which this White supremacist country has always been a part of, which is oppressing people of color.

ence. That’s because those two majors helped me understand the world around me better.

Political science classes at that time helped me understand the way that political systems operated and the way that

And I’ve always been driven by a quest to understand inequality and at the very basic level how it impacts good people and why people can’t get out of it. Through that experience, I’ve lived in Princeton, I’ve lived

in Philly, I've lived in Brooklyn, New York. I think for me growing up in this post-undergraduate six years of graduate school getting my MA and PhD, I can't even think outside of identity because, to me, it's everything. It informs the most important things to me.

Focusing on the carceral state is what I decided to do. My dissertation focused on the NAACP's campaign against racial violence and a quest on how Black people get free and how we can mobilize in communities and what lessons we can take away from early mobilization in terms of contemporary efforts today.

At the same time, in terms of how does my Asian American identity impact who I am and my work today? That identity from an early age in terms of high school has never left, and my research is still very much on Black people today, on the ways in which American political and legal institutions oppress communities of color and especially Black people. But it is also a question about how people can mobilize and not just on how Black people can mobilize. It's a question of how can Asian Americans also mobilize, because the problems that impact Black people do not just impact Black people. The problems that impact Black people are the same structures that also oppress Asian Americans. This whole pact that certain Asian Americans believe will set them free, that this proximity and getting closer to Whiteness and by playing by the rules is not actually going to get them free at all. It's only going to lift the 1 to 5 percent of Asian Americans, and they are going to be complicit in the larger program, which this White supremacist country has always been a part of, which is oppressing people of color. I think, because I'm a political scientist and I focus on race and politics, you always wonder what Black and Brown coalition-building looks like, but because of

my identity and because it's always been real to me, because I've seen it's possible, I'm always thinking about what Black and Asian coalition-building actually looks like.

Also, I think one of the other things in this post-September 11 era that has fascinated me and horrified me is the way in which laws

When I talk to some of my Asian American friends who care a lot about these issues, I think they feel a little bit intimidated to come into these spaces and be wrong. I think that is a very real fear.

have constricted and have focused, especially on Arab and Muslim communities; in the ways that immigration policies don't just affect urban Muslims or don't just affect the southern

border but very much also affect Asian American populations as well in terms of relatives that come here, in terms of our work visas, in terms of our star student visas as well. Part of my whole interest is how we continue to smash the door in on White supremacy. And that's going to take more than Black people mobilizing. So for me, one of the things that's been really exciting for me, and another shout-out to the West Coast, but I've seen really great Asian American mobilizers and organizations on the West Coast that are trying to actively do that work.

When I talk to some of my Asian American friends who care a lot about these issues, I think they feel a little bit intimidated to come into these spaces and be wrong. I think that is a very real fear. And in terms of all the craziness from the Trump administration, so many Asian Americans who I know are horrified about what's going to happen but also feeling a little bit frozen about what to do. Many believed their golden ticket was proximity to Whiteness, being quiet, and playing by the (rigged) rules. Now, do they need to be louder and think more strategically about coalition building with Black and Brown folks? And I think that is scary for some because that's not the logic that they have operated their entire lives on. And so there's this new

question about what to actually do. And I'm like, "Get in there!" Because what we know about the system is it will continue to oppress groups of color. Even if you're not right now the target of its entrapment, racism is dynamic, and it will absolutely come for you.

I appreciate so much of what you said. I've been noticing a lot of Asian Americans, realizing that they've been choosing White supremacy by not choosing to be with people of color, who are facing this issue of also not knowing how to do this, though. They don't know where they fit in because they have benefited from these policies, and there's also almost this imposter syndrome of "Who am I to walk into these POC spaces?" because there's also so much history of animosity between minority groups. It's not just that there is a lot of racism amongst Asian Americans against Brown and Black people, but it's also the opposite way. So I think that's an interesting area that our generation of AAPIs is starting to grapple with.

I think Black and Brown people have skepticism of Asian Americans in these spaces. Let's say that I didn't know you, Emily, and I didn't know your politics, but you were like, "Hey, I'm really interested in these issues." You may walk into the [Black Student Union] or the Equity Coalition, etc., and people might look at you skeptically because it has not been the experience in a lot of Black circles of Asian Americans giving a damn. It's been Asian Americans profiting from their closeness and their proximity to Whiteness. So in terms of how to be in these spaces and how to make space, means to do all the homework and to be okay with feeling uncomfortable. And I think that's hard—to listen much more and to do the work. Asian Americans know how to work, but I think this is just unfamiliar work. But it's about knowing that it can be done. I've legit seen it my entire life, so of course it can be done.

I've been thinking a lot about coalition-building and rediscovering our history and realizing that we have more in common than we think we do. I think especially for new immigrants. So I'm 1.5/2-ish generations. And so when they came, it was like, "We're just surviving," and it did feel zero sum because that's the culture and structure they walked into. My parents grew up in East San Jose, and there was a lot of diversity but also a clear division between the different races. And so they just grew up accepting that it's a division and it's us against them. They never really had a point where they decided for themselves. So, how do you go backwards and say, "No, wait, we have so much in common between these groups," We're not divided and shouldn't be pitted against each other"?

No, I think that's good. Now that you reminded me of the Japanese organization that does phenomenal work in this area: Densho. And it's a celebration of and also a revisiting of the history of Japanese Americans in this country. It's all about talking about the history of Japanese Americans and reminding Japanese Americans about their history and never forgetting it. Because we know this history and we know how the United States operated and we know the way in which it targeted us, that we should always be aware of the way this government targets specific groups and cages specific groups, which is what allowed them to support activism around Muslim and Arab communities. And also now to support activism around mostly Latinx and mostly Mexican American communities at the border. If we had just asked how might we reach Japanese Americans: "Why should I be concerned about post-September 11 surveillance policies around Muslims?" You might get concerned about them once you understand the longer history.

I think the same thing can be said in terms of, like, Chinese Americans, whether those are in terms of workers who worked on the railroads, the ways in which their wages were taken, the ways that they were

forced to carry permit cards with them, and how they were always questioned about their loyalty and citizenship. These things never just sit in the past. But I think often-times, and this is one of the things of course growing up in a Chinese American home is that all the bad things—let’s not talk about them. Let’s not talk about all the bad things. Let’s just focus on working really hard and on this figment of the American Dream and studying really hard and getting good grades and doing really well and then owning a home. But really bad things happened. In my home, a lot of struggle was involved in order to get Mom and her parents to come to the United States. She was not born here, and so to get her to come here took an incredible amount of sacrifice, but that was all, like, let’s just not talk about that past and let’s not talk about the ways that we were treated once we got here. It’s just that you overcome it.

I think that’s part of it. We don’t like talking about our pain or our shame and so there’s no space for us to share similarities with other groups if we ourselves are not even willing to acknowledge our own pain.

I feel that, in a lot of Chinese American homes, if you don’t speak about the way in which the government acted towards your community, it didn’t happen. But if you do talk about it, it makes it so real. We live in the mythology of the so-called American Dream, in the lies and the stories that we tell each other, tell ourselves. So many times, what immigrant families do in order to survive in this country is that they have to lie to themselves about how the American political system works, because if we think about it for too long, it’s terrible. It is debilitating in many ways. And so, I think that there is a bit of mythmaking that has been going on about the way that White supremacy works, the oppressiveness of these institutions. and unfortunately, that mythmaking has allowed us to operate in this space that is fantasy. Some Asian Americans are an exception to the rule, right? When Trump or political elites who are racist talk about

“those people”—like those people who talk about immigrants—like we aren’t part of that group. Like we’re the good immigrants. Again, this secret pact that we often times unknowingly make.

If we talk about it, it can be taken away, so just don’t take it away.

Right, just don’t talk about it. If you talk about it, then you won’t be able to do what we think you can do. You won’t go to Harvard. You won’t become the CEO of this organization. No, to me, you can go to Harvard and you can be the CEO, but it can also expand your understanding of your responsibilities to your family, to your community, to your fellow citizens. I think that’s worthy.

Challenging the Colorblind Assertion: The Present-Day Case for Affirmative Action

An Interview with Winifred Kao by Sydney Fang

AAPR interviewed Winifred Kao, the litigation director of Asian Americans Advancing Justice – Asian Law Caucus (ALC), regarding the *Students for Fair Admissions, Inc. v. Harvard University* lawsuit. Kao discusses the key racial justice issues, including what might explain the divide among Asian Americans, and where we need to go from here. The editorial board of AAPR released a statement in support of affirmative action policies in 2018.

Can you introduce yourself and your organization?

I'm the litigation director at Asian Americans Advancing Justice – Asian Law Caucus. We are a civil rights legal organization based in San Francisco, California. We are part of a national affiliation of progressive Asian American organizations. One of our affiliation's consistent platform positions has been support for affirmative action in education and other sectors of public life. Our affiliation is also part of the legal team for a multi-racial group of students, includ-

What was the case about? Who were the plaintiffs?

This case was brought by a group of Asian American students who were rejected by Harvard and organized and led by Edward Blum. Blum is a conservative activist. He has been no friend of civil rights. He helped organize and fund the *Fisher* cases, which challenged the use of race as a factor in holistic admissions at the University of Texas. He was also behind the *Shelby* case, which successfully dismantled a key provision of the federal Voting Rights Act.

The *Harvard* case is like prior cases that have challenged affirmative action in admissions, but this time, Blum used Asian Americans plaintiffs instead of White plaintiffs, claiming that recognizing race as a factor in admissions hurts Asian Americans. It's not the first time in civil rights history that we've been pitted against other minority groups. We need to reject that framing and recognize what's really at stake.

ALC has shown support for holistic

admissions. Can

you share more about what holistic admissions entails and why it's important?

I think there is a lot of confusion about holistic admissions in Asian Ameri-

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can communities. Holistic admissions is *not* about racial quotas or ceilings or caps. It's not about assigning negative points to

can communities. Holistic admissions is *not* about racial quotas or ceilings or caps. It's not about assigning negative points to

Asians for being Asian. All of that would be illegal.

Holistic admissions is a process of looking at an applicant as a whole person. It recognizes that we are more than just a test score or GPA. It recognizes that, frankly, the more interesting parts of who we are and what we bring to the table are our passions, pursuits, our other accomplishments and talents (be they musical, athletic, creative, entrepreneurial), and our life experiences and perspectives. It recognizes that our life experiences and perspectives are necessarily shaped and informed by our background, our gender, our socioeconomic class, *and our race*. You can't divorce those characteristics from our identity or personality—nor should we want to. It's part of the richness of who we are that we should embrace and celebrate. Holistic admissions allows schools to take all of those different factors, including race, into account.

What do you think explains the divide between the Chi-

nese American plaintiffs and civil rights organizations? The plaintiffs claimed that race-conscious admissions are discriminatory without questioning how current practices and systems uphold White supremacy, while civil rights organizations defended affirmative action, a policy that came from the Civil Rights Movement?

Blum and others who have attacked affirmative action were smart about it. They said they are for racial equality, that we should be “colorblind” and not look or talk about race at all. Instead, they say we should just use supposedly “race-neutral” measures like test scores and grades to make admissions decisions.

Part of the problem is that in response, proponents of affirmative action sometimes

don't answer that colorblind assertion. We talk about diversity, which is obviously important, but it's not just diversity for the sake of diversity—it's also about equality and equal access. We need to address the colorblind argument head on and defend the fundamental equality of Black, Latino, and other minority students and their right to access our college campuses.

To do that, we need to remind folks that the reality is we don't live in a colorblind society. All of us can see that. Even if we nominally remove race as a factor in admissions, we're not left with a race-neutral application process. Like it or not, race affects our educational opportunities from the day we step in the schoolhouse door. That reality doesn't disappear or become

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irrelevant when we sit down to fill out a college application.

Take GPAs. Our K–12 schools are more segregated and unequal today than they were 40 years ago. The majority of Black, Latino, and other minority students go to schools that are majority-minority. Those schools have fewer resources than majority-White schools—in terms of AP courses, teacher turnover, extracurriculars, sports, college counselors, and test prep opportunities. There are also dynamics with both explicit and implicit racial bias in academic tracking, discipline, and mentorship. GPAs capture and magnify a lot of those racial inequities and biases. A 3.6 GPA from a minority student who goes to an all-minority school with fewer AP courses and resources and support just represents

a different kind of achievement and will to learn than, say, a 3.6 from a student who goes to a White-majority, suburban school, who doesn't have to deal with the same kinds of challenges and hurdles.

Test scores are not race-neutral either. I know test scores have a special place many Asian parents' psyches because high-stakes testing is something used in Asian countries, but the history of the tests in the United States is that they were originally developed and used to exclude minority students from Ivy League schools. That bias is hard to root out because the test is "normed" and questions are selected so that those who did well on the test before do well on the test again—so that there is a consistent "standard" or measurement from year to year. That norming process builds in bias from year to year. Professor Claude Steele and others have also done studies about how racial stereotypes about intelligence or academic capacity negatively warps the high-stakes test-taking experience for minority students. It's not

a race-neutral experience for a lot of minority students who take those tests.

Maybe more importantly, I don't think anyone actually thinks that a three-hour test that you take on a single day in your life accurately captures who you are; what

you have to contribute in the classroom; or what kind of leader, teacher, entrepreneur, lawyer, or doctor you might want to be. The value of the SAT in predicting future academic success is very low.

If schools are going to use test scores and GPAs in admissions, they can't fairly evaluate or compare cold test scores or GPAs in isolation. They *have* to look at the context behind the numbers, including the impact of racism and segregation on those numbers,

in order to understand what those numbers actually mean and measure. In fact, *not* looking at that context is an unfair bias *against* Black and other minority students.

If affirmative action was no longer allowed, what would it mean, and how would this impact diversity and Asian Americans?

If the plaintiffs had successfully struck down race-conscious holistic admissions at Harvard, affirmative action at other colleges and universities across the country would have fallen—a devastating step backward for everyone.

I think we sometimes forget—and perhaps some segments of our Asian immigrant communities don't know the history—but the fight for affirmative action was, and fundamentally still is, about the fight for the promise of equal and integrated education, as set out in *Brown v. Board of Education*. Affirmative action has been and continues to be the only effective desegregation program for higher education.

I think we sometimes forget—and perhaps some segments of our Asian immigrant communities don't know the history—but the fight for affirmative action was, and fundamentally still is, about the fight for the promise of equal and integrated education, as set out in *Brown v. Board of Education*. Affirmative action has been, and continues to be, the only effective desegregation program for higher education.

Just to take a step back: After *Brown* was decided in 1954, there was widespread resistance to desegregation. That resistance wasn't just limited to the South or to K-12. It happened in the North, and it extended to public colleges and universities. One exam-

ple is the University of Michigan, where I went to law school. I was there when Barbara Grutter famously sued the school for its use of race in admissions, and I was part of a group of multiracial students who successfully intervened in that case to defend affirmative action.

During the case, I was struck to learn that between the years of 1960 and 1969, the University of Michigan Law School graduated over 2,000 students. Of those, only *nine*

were Black. None were Native American, Latino, or Asian American, and very, very few of them were women. Remember this is a *public* institution, paid for by *all* of the people of Michigan. It wasn't until student actions during the Civil Rights Movement pushed the university to adopt affirmative action programs in the 1970s that the school was opened up for the first time, in a meaningful way, to Black and other minority students, including Asian Americans or women. The first Asian American students didn't graduate from U of M Law School until *after* it adopted an affirmative action admissions program. The same is true in public universities across the country.

Affirmative action also opened up doors for our community in employment and public contracting. It was one of our only ways to break into "old boy" networks, where then, and now, jobs still often go to people and companies "in the know," or who know the right people. Affirmative action gives other qualified folks a chance. A lot of Asian American communities can see the importance of these programs in employment, public contracting, and other contexts.

We need to do a better job of educating our communities about what these programs mean for higher education. Here in California, because of Proposition 209, public universities have been barred from using race in admissions. Since then, without affirmative action, we have seen the *re-segregation* of public higher education in this state. Post-209, the flagship public universities, with the most resources and opportunities have become predominantly White with only certain Asian groups. Many Black, Latino, Native American, and other underrepresented Asian American subgroups have been pushed to lower-tier schools with fewer resources and opportunities or out of the public education system entirely. Tellingly, we have also seen attacks on the minority students who are left on those flagship campuses, including anti-Asian racism, attacks on ethnic studies and women's studies, and generally a rise in bigotry of all

kinds. Is that really the direction we want to go, as a society?

You laid out the stakes of this case and the importance of current holistic admissions, which unfortunately, is insufficient to remedy more systemic exclusion and racism. Where do you think the conversation on education and equitable access should be? What is the role of people of color and specifically Asian Americans?

I think we've allowed the narrow Supreme Court doctrine to limit our public discourse about affirmative action too much. It should be the other way around. We need to push the law to recognize the reality we live in. Beyond just diversity, we should be talking about current, present-day racial inequalities and segregation in education and how we need to take affirmative measures to account for and address those issues. Colorblindness is not the reality, and trying to ignore that race exists is not a solution. Ignoring race actually isn't even a choice for those of us who aren't White, is it? Asian Americans need to organize and educate our own community members around these questions and the broader issues at stake. If we don't do that, other conservative interests clearly will.

Breaking Down Barriers: Legal and Political Advocacy for AAPI Communities

An Interview with John C. Yang, the president and executive director of Asian Americans Advancing Justice (AAJC), by Aimee Hwang

Can you briefly introduce yourself and your organization?

My name is John Yang. I am the president and executive director of Asian Americans Advancing Justice | AAJC in Washington, DC.

What are the most pressing issues for the AAPI communities and other communities of color today that you see?

Certainly over the past couple of years and looking into 2020, I would characterize the following issues as being my top priority: immigration, census, voting rights, and what I characterize as discrimination generally along with racial profiling. Some other issues that would be up there would be tech and telecoms equity and health equity.

AAJC is experiencing a resurgence in the telecommunications and technology area. What brought that about, and what is AAJC working on in that issue?

It's an interesting issue because that's an issue where the first reaction that people have is "why is a civil rights organization like AAJC involved in telecoms as it sounds like a much more technical issue?". And the reason is simple: just as housing, employment, and banking have a civil rights component, technology has a clear civil rights component. Especially now given that people find jobs, find houses, get lines of credit, get loans through technology and the internet. So, making sure that Asian Americans are a part of that conversation and have equity in that space is critical. Otherwise, we are getting left behind when it comes to these issues.

In terms of what we at Advancing Justice | AAJC are doing in this space: it is really making sure that the Asian American perspective is represented, with respect to making sure that our community has access to that technology in an equitable manner. We are making sure that our community is being considered with respect to privacy, artificial intelligence algorithms, when it comes to how people see ads, how people see job ads, and to make sure that people understand that the Asian American community is a very diverse community. I think one of the very common misperceptions is that Asian Americans are already very technologically savvy and that we don't have issues in this area. And although it is true that a segment of the Asian American community does have access to technology and that are the, what we would call, early adopters of new technology, there's another huge segment of our population that is getting left behind. We want to make sure that we don't fall into the "model minority stereotype," which is a very rudimentary understanding of our community.

I think that's one of the things that certainly technology companies and policymakers are often surprised by—how complex our community actually is. Another aspect of this is oftentimes when we think of technology companies, it is true that there is a large number of Asian Americans working on the technical side of these companies and engineering side. But whether that translates to making sure that these products are appropriate, friendly, or usable for Asian Americans, there's still definitely a lag

there. That's part of what we seek to address with respect to this particular program.

So, you mention how incredibly diverse the AAPI community is. How does AAJC reconcile with that?

Part of it is just making sure that people have the data. That's why census work is critical to us. That's literally about making sure our community gets counted and the complexities and nuances of our community get counted. I always describe the Asian American community as a barbell. On one end of the spectrum, you have a large number of community members who, from a median-income point of view and from an education point of view, are doing quite well. But then you have another segment of our population, particularly the Southeast Asian community that, from education, poverty, and health care standpoints, is lagging

community, but then just more generally immigrant communities. Immigrant communities, regardless of wealth, are vulnerable because of language issues and because of unfamiliarity with our basic democracy. And so in those particular areas, oftentimes we align ourselves with Latino organizations because they share many of the same issues, concerns, and outlooks that we do. It makes sense for us to work together to provide an even broader narrative with respect to what immigrant communities look like and what immigrant communities think, so quite a bit of our work does include partners and allies who are not in the Asian American space.

I think it's also important to recognize that Asian Americans are probably about 6.5 percent of the American population, and it's the fastest growing community in the United States. We've grown by 42 percent between the 2000 and 2010 Census, and

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quite far behind. For us at Advancing Justice | AAJC, it's really about making sure those stories get lifted up as well so that the narrative isn't only about the successes of Asian Americans, which certainly we are proud of, but to elevate the needs that are out there that have yet to be addressed.

I know that AAJC often partners with other organizations that aren't necessarily representing AAPIs specifically. How does AAJC balance supporting AAPI issues while also being a supportive ally for other people of color?

Advancing Justice | AAJC lifts up and protects and advances the interests of those in our community generally who are vulnerable. There're two aspects of that. One aspect, which we started talking a little bit about, is with respect to the Southeast Asian

certainly we've probably grown by a somewhat similar rate, but perhaps a little bit less, between 2010 and now. But because we are only 6.5 percent, it's important to work with the Latino communities and the African American communities to make sure that all of us as communities of color and all of us as vulnerable communities are protected. Certainly in this day and age, with the politics that we face, there are people who try to divide us and people who try to use Asian Americans as a wedge, and I think that's the other aspect of why we are very intentional about working with partners who are outside of the Asian American space.

What kinds of barriers does AAJC experience in its work?

From an issues standpoint, the most common barrier is typically ignorance of the

Asian American community. It is always surprising to me the number of people that don't know that approximately two million Asian Americans are undocumented in the United States and that when we talk about Dreamers, there are approximately 30,000 Dreamers who are Asian. Justifiably, understandably immigration is often seen through a Latino lens, and I don't take anything away from that because whether you talk about undocumented immigrants or Dreamers, that is the largest population. But at the same time, there is a robust community of Asians such that whenever you talk about immigration as an example, you should be talking about Asian issues as well. So the first barrier I would definitely say is ignorance—the lack of understanding of Asian American communities.

Along those lines, certainly, would be the notion of the model minority stereotype. Oftentimes, especially right now with the Harvard case, when it comes to affirmative action there's a very big misunderstanding about where Asian Americans stand. Yes, there is a local group of Asians that does not support affirmative action, but all the polling that has been done has said that that group is in the minority. Rather, Asian Americans support affirmative action, typically around a 65 percent rate. And that is surprising to people. So, making sure that

stories are being told. Again, we've talked about stories around hate crimes. Rightfully, many of the stories revolve around African Americans, and I do not take anything away from that. But the number of Asian Americans, particularly South Asian Americans and Muslim Americans facing hate crimes and racial profiling is significant. And making sure that people see those stories as well—that would be the other barrier that I see: making sure that Asian Americans are not rendered invisible.

How is AAJC working toward overcoming those barriers?

Certainly a lot of our work I would put into a couple of different buckets. First, it's defending the interests of Asian Americans whether through discussions and conversations with policymakers to enact policies that take into account the Asian American experience, whether it is through lawsuits that protect Asian Americans, or whether it is through community activism to show the Asian American experience. That would be one bucket.

The second bucket would certainly just be lifting up Asian Americans more generally. That is through census work, that is through data that we try to gather on our hate crimes database, that is through reports that we put out on immigration and

If you are Asian American/Pacific Islander yourself, certainly it's about getting engaged with your identity and informing yourself and then just trying to play a role, and it could be any number of roles. One of the things I always say is that that we need all types in this movement.

people understand where Asian Americans stand on certain types of issues and the complexity of it in terms of barriers, that's definitely a starting point.

But what that also means is that, in terms of resources, the Asian American community is oftentimes an afterthought, whether that's funding for many of our grassroots organizations, how policymakers think about laws that are being crafted, and which

how immigration policy affects Asian Americans. That information alone is helpful in making sure that the community at large, not just the Asian American community but the overall community, sees Asian Americans and Asian American issues.

The last bucket is advancing the interests of Asian Americans. Again, that could take these different forms that we've talked about in terms of advocacy and community

engagement, but it's also about making the lives of Asian Americans better. Take voting rights as an example. We're making sure that we have policies in place that address language barriers. After all, certainly someone is not less of a citizen because English is not their first language just as someone is not less of a citizen because they have a disability. So we are making sure that we have policies in place that allow our communities to overcome those barriers. Obviously, we try to engage with the media and we try to engage with corporations as well. We do make a deliberate effort to try to talk to as many people as we can to engage in that dialogue and through that we advance the interests that are important to our community.

How can policymakers, advocates, researchers, and communities support the AAPI movement?

If you are Asian American/Pacific Islander yourself, certainly it's about getting engaged with your identity and informing yourself and then just trying to play a role, and it could be any number of roles. One of the things I always say is that that we need all types in this movement. Certainly, we need organizations like mine that are filing lawsuits, that are educating lawmakers, that are trying to draw attention to rallies and to issues affecting our community. But at the same time, we need more Asian Americans who are running for office so they are actually part of the hallways of power or Asian Americans who are staff members to members of Congress. We also need more Asian Americans in the corporate world. I always tell people, especially students, that it's OK to work for a corporation. I'm a lawyer by training—it's OK to work at a law firm as long as you remember your roots. We need Asian American advocates in all of those professions. Asian Americans are still underrepresented in corporate America, and they are still underrepresented in terms of equity partners at law firms.

And if you use those positions to make sure that issues affecting our communities get lifted up, don't forget that you're

accomplishing something. Don't think that anything is too small. There are so many different ways to help the community that you shouldn't feel that you have to take one path or another. Rather, even if you are a programmer working for Microsoft or Facebook or Google, remember that when you're programming, these algorithms you're creating, how you're creating them, how you're using data will have an effect on the community and be sensitive to whether that data are flawed going in because it will have an effect on what people see coming at them with respect to advertisements, job listings, bank loans, or mortgages. I think there're so many ways to help.

And the other thing is that our community is still a very young community. Certainly, there are the Chinese Americans who came over to work on the Transcontinental Railroad, there are Japanese American and Filipino Americans who also came over to work on farms from very early on. But it wasn't really until the Immigration and Nationality Act of 1965 that you saw a large number of Asian Americans come to the United States and have a path to citizenship because prior to that there were racial quotas for each country. And so, in that sense, our community is just coming of age right now. The possibilities are limitless, and in that I also think that our community should not think of themselves as having to fit into one box or another.

As part of the journal we try to get our edition into the hands of policymakers and congresspeople if possible. What do you think they should be doing?

Number one would be visibility. For policymakers at a very base level, they should work to give voice or give visibility to the Asian American community. So often, I have seen polls that are conducted—it's getting a little bit better now, I suppose—but so often I have seen polls that are conducted on any number of topics, on commercial issues or political issues, that will then break it down into what do White Americans think? What do African Americans

think? What do Latino Americans think? And then there's an "Other." Just simply acknowledging and giving statistics to the Asian American experience is critical as a starting point. Obviously for us, we would want to delve deeper into disaggregating the Asian American/Pacific Islander community into all of our different sub-parts. But having members of Congress giving voice to the Asian American experience is critical. In Congress, not only do they write laws, they actually produce a lot of studies. Through their budgeting process, they give grants or federal disbursements to different agencies that then produce data on the American experience. That data should include Asian Americans.

Number two would be making sure that Asian Americans are included at the table at all of these discussions. And not just as a token, but really so that our voice is heard. Then they must think about what piece of policy would really have a disproportionate effect on Asian Americans. I think those are just some of the things that legislators could do.

Legislators and policymakers definitely can do a better job of helping us set that narrative because they have the power of the podium and they can use that podium to give voice to our communities and other vulnerable communities. That's some of what we're seeing right now in the immigration debate: there's this anti-immigration rhetoric out there, and part of this rhetoric is created by a false narrative of immigrants as a drain on society, immigrants as being criminals, immigrants taking resources that belong to other so-called more deserving Americans. But those are all false narratives. We don't need to go into it here, but if you go into the studies behind it, studies show that crime rates among immigrants are lower than the native-born population. The economic contribution of immigrants is huge and really is helping to ensure that America is still growing. Having policymakers and

opinion leaders make sure that they voice those opinions and push back against false narratives that seem to criminalize, marginalize, minimize immigrants and communities of color is so important. Because we are already fighting an uphill battle to get that need filled; the more people who already have the ability to shine light on these problems—it's just critical.

How has your background and identity informed your own approach to your work, and how do you want to guide AAJC into the future?

I'm proud of the fact that in some ways my own background is a microcosm of the complexity of the Asian American experience. I have been very privileged in that, before this job, I had served as a political appointee during the Obama administration. I was a partner at a very large law firm. So, I had the benefit of privileges being at those types of positions. And recognizing that I'm Chinese American, which brings

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with it a certain amount of privilege when compared to other Asian populations. At the same time, I was once an undocumented immigrant. For a period of about eight or nine years, we were here without papers. And that experience and watching my parents navigate that experience and not having a path to citizenship myself, I think, has given me a deep appreciation of what it means to protect this community, what it means to advance this community, and all the things that we need to do. I think also having lived in China for six years as an adult, as a practicing lawyer, informs how our Asian American experience is even changing with respect to newer immigrants who are coming to the United States.

So, I feel very blessed and privileged to bring all these different experiences to bear in terms of our work at Advancing Justice | AAJC and to be really thoughtful about what issues are important to the Asian American community and how

to address them in a thoughtful way. Our organization prides ourselves on being constructive with everyone and trying to build bridges within the Asian American community, within communities of color as well as communities that don't necessarily think the same way we do or hold the same beliefs. And keeping that in mind, especially as the world is continuing to become more polarized, especially as with social media it becomes easier to just go into your own bubble or your own silo.

Moving forward, what do you see as AAJC's role in the advocacy space? What are you targeting towards? What's the goal in this next couple years?

Some of it will depend on the 2020 election. Up and down, the ballot will inform what we need to do in the next couple of years. Right now, we're just trying to defend Asian Americans and protect Asian Americans and the issues that we care about, whether they are immigration, voting, ensuring that we are fully counted in the Census, or protecting Asian Americans from racial profiling, especially as this trade war with China lingers on. Depending on the elections in 2020, we may be looking two years from now trying to undo some of the damage that has been done with respect to the anti-immigrant rhetoric and this othering of these vulnerable communities. Certainly, we are trying to build a more inclusive society, as our mission statement says, "fair and equitable for all." That's obviously a long-term goal, and that's obviously a goal that will take a lot of work in getting towards. But that's our goal.

In some ways, my goal is to put myself out of a job. It would be wonderful to have a day and age where organizations like mine are not really necessary because Asian Americans are already fully and equitably included in all of society and talking about the Asian American experience is already fully integrated into any discussions that are happening whether they are about policies, storytelling, etc. But obviously we are not there, and it will take a long time to get there, but that's the goal.

CONTRIBUTOR BIOGRAPHIES

RITA PIN AHRENS is the executive director for OCA - Asian Pacific American Advocates and education committee co-chair for the National Council for Asian Pacific Americans. Her passion for social justice stems from her lived experience as a Cambodian refugee in rural America, her involvement with the International Campaign to Ban Landmines, and her experience as a public school teacher, where she observed inequities in educational opportunities for low-income students and students of color.

Prior to OCA, Rita oversaw research and policy projects for APIA Scholars, the Southeast Asia Resource Action Center, the Campaign for High School Equity, and the National Board for Professional Teaching Standards. Throughout her career, Rita has advocated for both federal and local policies that improve the social and economic well-being of underserved communities.

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EMILY CHI was born and raised in the San Francisco Bay Area by immigrant parents from Seoul, South Korea. She is a master in public policy candidate at the John F. Kennedy School of Government at Harvard University, where she is involved in the Pan-Asian

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SYDNEY FANG (she/her, they/them) grew up in Santa Rosa, California, where her family endured the impacts of the recent Tubbs and Kincaid wildfires. She is the daughter of an immigrant from China and a refugee from Vietnam, a nail salon worker and a factory worker. A first-generation college graduate, Fang is the product of US refugee resettlement programs, public housing, reduced school lunches, K-12 public schools, and the University of California system. She is a master candidate in public policy and in urban planning degrees at Harvard University. She has spent the past ten years advancing grassroots organizing and policy campaigns for racial, gender, and environmental justice, which most recently includes her tenure as a part of the Bay Area-based Asian Pacific Environmental Network (APEN).

AMINA FERATI (JD) serves as president of International Advisory, Products and Systems (i-APS), a woman-owned and managed consulting firm that leverages global expertise with local presence to transform organizations and communities into partners for change. i-APS turns data into actionable knowledge and strengthens the capacity of organizations and communities through innovative solutions that enhance program impact and accountability.

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She is the author of the award-winning book *Civil Rights and the Making of the Modern American State* (2014). This book tells the story of how the early campaign against state-sanctioned racial violence of the National Association for the Advancement of Colored People (NAACP) shaped the modern civil rights movement. Francis marshals an extensive archival analysis to show that the battle against lynching and mob violence in the first quarter of the 20th century was pivotal to the development of civil rights and the growth of federal court power. Francis is currently at work on a second book project that examines the role of convict leasing in the rebuilding of southern political power and modern capitalism after the Civil War.

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MICHELLE LOO is the program coordinator at APALA, where they develop, plan, and execute campaigns and programs to

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Glenn attended the State University of New York (SUNY) at Stony Brook on Long Island and, as a beneficiary of affirmative action, graduated *cum laude* from the New England School of Law in Boston.

JULIE J. PARK is associate professor of education at the University of Maryland, College Park. Her book *Race on Campus: Debunking Myths with Data* (Harvard Education Press, 2018) uses social-science data to challenge misconceptions surrounding race in college admissions and campus climate. She served as a consulting expert until July 2018 for president and fellows of Harvard College (Harvard Corporation) ("Harvard") in connection with the matter of *Students for Fair Admissions, Inc. v. Harvard*, Civ. Act. No. 1:14-14176. The views and opinions expressed here are her own and do not reflect Harvard's views or information learned from Harvard about the case.

SHINA ROBINSON has a deep commitment to environmental justice as the intersection of human rights, equity, health, and ecological sanity. She has experienced the link between environmental health and poverty at a young age between visiting family in the Philippines and growing up in the shadow of a Los Angeles-area oil refinery. Shina began work with human rights campaigns while pursuing undergraduate degrees in international studies and political science at Long Beach State and focused on climate disaster relief and food justice. As the policy coordinator at the Asian Pacific Environmental Network, she supports community leaders to pass and implement policies for resistance and resilience in Oakland and Richmond and with statewide partners.

JOHN YANG is an experienced attorney with over two decades of policy, litigation, and corporate expertise and has been a leader in the Asian American and Pacific Islander and broader civic community. At Advancing Justice | AAJC, John leads the organization's efforts to fight for civil rights and empower Asian Americans to create a more just America for all through public policy advocacy, education, and litigation. His extensive legal background enables Advancing Justice | AAJC to address systemic policies, programs, and legislative attempts to discriminate against and marginalize Asian Americans and Pacific Islanders and other minority communities.

John graduated with honors from George Washington University Law School. Chambers USA recognized John as one of "America's Leading Business Lawyers" and as a Washington, DC, "Super Lawyer" by Law & Politics.

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ASIAN AMERICAN POLICY REVIEW

31st Edition

CALL FOR SUBMISSIONS

Print Journal Deadline: November 2020

Articles are also accepted for the online journal on a rolling basis

The *Asian American Policy Review* (AAPR) at the John F. Kennedy School of Government at Harvard University is now accepting submissions for its 31st print edition, to be published spring 2021. AAPR is the oldest journal in the United States dedicated to analyzing public policy issues facing the Asian American and Pacific Islander (AAPI) community.

We are **dedicated to publishing a wide range of work that explores AAPI communities and identities and examines the role of public policy** in the lives of Asian Americans and Pacific Islanders. We aim to publish a journal that captures a broad range of AAPI experiences, movements, and identities and makes this work accessible to policymakers and the broader public.

We welcome a wide range of submissions and are eager to publish work that broadens the boundaries of what constitutes public policy. Past editions have **published photo essays, poetry, and personal essays** that explore the intersection of culture, identity, and politics. We also encourage submissions that directly address public policy, including **research articles** and **case studies** on how different policies have affected the AAPI community, from the local to the federal level.

We strongly encourage submissions from authors of all backgrounds, including scholars, policymakers, civil servants, advocates, organizers, and artists.

Please reach out if you have questions about the journal or our submissions process. We are eager to talk with potential authors about submission ideas and the journal process.

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- * We prefer submissions that have **not been previously published**. All submissions must be based on **original work**.
- * Recommended formatting:
 - * **Original articles:** includes research articles, case studies, and other work examining issues facing AAPI communities and individuals (1,500–5,000 words)
 - * **Commentaries:** (750–1,500 words)
 - * **Media, film, and book reviews:** (750–1,500 words)
 - * **Artwork:** includes graphic design, installation pieces, photography, and paintings
 - * **Creative writing pieces:** includes short stories, poetry, and excerpts from larger works of all genres (500–5,000 words)
 - * **Short films and documentaries** to be featured on our website
- * **Abstracts for proposed pieces will also be accepted.** Final acceptance will be based upon production of a full submission.
- * Submissions must be formatted according to **The Chicago Manual of Style**.
- * All submissions should include a cover page with (1) the author’s name, (2) mailing address, (3) email address, (4) phone number, and (5) a brief biography of no more than 100 words.
- * All figures, tables, and charts must be clear, easy to understand, and submitted as separate files.
- * Authors are required to **collaborate with editing and fact-checking** and to comply with AAPR’s mandated deadlines.

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Thank you,
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THE ASIAN AMERICAN POLICY REVIEW

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