

Yellow Is Yellow

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Yellow: Race in America Beyond Black and White. By Frank H. Wu.[‡] New York: Basic Books, 2002. Pp. 399. \$26.00.

I am an American. I was born in New York City and raised in America's heartland. I grew up playing with G.I. Joe, camped in front of Saturday morning cartoons, and eating Thin Mints. I was in little league and park district soccer. I said the pledge of allegiance every day in elementary school; I watched the fireworks every Fourth of July; and when Lee Greenwood declared that he was "proud to be an American,"¹ I sang along. I am an American and a patriot. Yet, almost half of all Americans believe that I am a traitor-in-waiting. Because I am chinese American²—because I *look* Chinese—nearly one out of every two Americans I meet thinks that, if I had state secrets, I would pass them to mainland China.³ My yellow face leads one of every three Americans to conclude that, on the whole, I am more loyal to China than I am to the United States.⁴

To add insult to the personal injury, non-asian Americans⁵ continue to deny that asian Americans⁶ suffer from race-based discrimination, despite evidence

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1. Lee Greenwood, *God Bless the U.S.A., on AMERICAN PATRIOT* (1992).

2. The decision not to capitalize "chinese" or hyphenate the term "chinese American" is deliberate. The same rule applies to all similar terms, such as "asian American," "african American," and "european American." See *infra* text accompanying notes 94-95 for why this Note has deviated from this rule.

3. A national survey conducted in March 2001 found that forty-six percent of Americans believe that "Chinese Americans passing on secret information to China is a problem." COMM. OF 100, AMERICAN ATTITUDES TOWARD CHINESE AMERICANS & ASIAN AMERICANS 35 (2001), available at <http://www.committee100.org/Published/C100survey.pdf>. The survey covered American attitudes toward chinese Americans in a number of different contexts, such as family values and as heads of corporations. Its most significant finding was that one quarter of Americans hold very negative attitudes toward chinese Americans. *Id.* at 25.

4. *Id.* at 22.

5. The decision not to hyphenate the term "asian American" applies even when referring to "non-asian Americans." See *infra* text accompanying notes 94-95 (explaining the rationale for this decision).

6. "Asian American" is a broad label under which fall two equally broad colors, yellow and brown. Yellow Americans include chinese Americans, japanese Americans, korean Americans, vietnamese Americans, laotian Americans, and others, and brown Americans include those of South Asian descent, such as indian Americans and pakistani Americans. Further discussion of these intricacies and distinctions is profoundly important, but well beyond the scope of this Note. Most of the issues covered in this Note likely apply to all asian Americans, but my focus—due largely to the limits of my own personal

to the contrary. To begin with, many non-asian Americans argue that any race-based discrimination against asian Americans is rational, and therefore not the “bad” sort of discrimination. The fact that many Asians are actually foreign makes it “reasonable” to assume that a particular asian American is foreign. Similarly, it is “reasonable” to believe that individuals with ethnic (racial) ties to a country will likely betray the United States to that country. And why not? After all, the Supreme Court added its imprimatur to this logic sixty years ago in *Korematsu v. United States*.⁷

Assuming that it is “rational” to treat asian Americans as foreign or loyal to foreign countries,⁸ however, it is still “bad” discrimination. On the basis of race, asian Americans are being denied just as much, if not more, than other racial minorities. We are not simply lesser Americans, deprived of equal rights or opportunities; as perpetual “foreigners,” we are deprived of our “American-ness” altogether. Moreover, when Americans clash with European or African nations, european Americans or african Americans do not suffer. But when non-asian Americans lash out at Asians or Asian countries, it is asian Americans—“rationally” regarded as Asian first and American second—who get hurt.⁹

Non-asian Americans also adopt the “reason” of the model minority myth to deny that asian Americans suffer from race-based discrimination.¹⁰ In short (and at the risk of trivializing it), the model minority myth says that asian Americans have succeeded. We allegedly average high salaries, comfortable housing, and good education. The “logic” white Americans derive from the model minority myth takes many forms, but the statement “You Asians are doing well; what do you have to complain about?” is probably the most recurrent. The perception is that our alleged success means asian Americans cannot, have not, or do not experience race-based discrimination. Furthermore, if we do, we have no right to complain about it. Annie Koh aptly described this dilemma:

experiences as a chinese American—and the primary focus of *Yellow* is yellow Americans. This Note uses “asian American” synonymously with “yellow American.”

7. 323 U.S. 214 (1944).

8. The reasonableness of these assumptions is not a given. However, as Wu argues, it may be more productive to concede the rationality and fight the consequent discrimination. FRANK H. WU, *YELLOW: RACE IN AMERICA BEYOND BLACK AND WHITE* 190 (2002) (“Rational discrimination has two parts to it. I say, concede the rationality of the practice and fight the discrimination of it. Arguing with a person over what to believe is even more difficult than arguing about how to behave.”).

9. For instance, in April 2001, a U.S. spy plane was captured by China after colliding with a Chinese fighter jet. *E.g.*, Henry Chu & Paul Richter, *U.S. Spy Plane, Chinese Fighter Collide over Sea*, L.A. TIMES, Apr. 2, 2001, at A1. The ensuing public outcry in the United States saw talk shows and radio personalities calling for the internment of chinese Americans and for the boycott of Chinese restaurants, restaurants presumably owned by chinese Americans. *E.g.*, K. Connie Kang, *Study Finds Persistent Negative Perceptions of Chinese Americans*, L.A. TIMES, Apr. 25, 2001, at A18.

10. The idea that asian Americans are a “model minority” is perhaps the most commonly discussed form of non-asian American denial. *E.g.*, ROBERT S. CHANG, *DISORIENTED: ASIAN AMERICANS, LAW, AND THE NATION-STATE* 55 (1999); Natsu Taylor Saito, *Alien and Non-Alien Alike: Citizenship, “Foreignness,” and Racial Hierarchy in American Law*, 76 OR. L. REV. 261, 306 (1997).

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“When asian Americans agitate, we are seen as overprivileged malcontents playing at social justice, not a minority seeking voice and addressing discrimination.”¹¹

Yellow is Frank Wu’s powerful, but insufficient, answer to non-asian American naysaying and rationalizing. Like many asian American scholars (and like the author of this Note), Wu seeks to cast light on the asian American struggle from the shadows of the black-white race paradigm that has dominated this country’s civil rights landscape.¹² For a number of reasons, which will be addressed in Part I, *Yellow* succeeds on that front. However, Wu’s challenge to non-asian Americans (beginning with the book’s day-glow yellow cover screaming from the bookshelves) is incomplete. Although he declares that the black-white paradigm is deficient, Wu—like so many asian American scholars—fails to legitimize the asian American race problem as one uniquely its own. He does not argue for yellow as *yellow*; instead, he concludes that yellow is gray—no more than a lesser shade of black.

Yellow is yellow; yellow is not gray. As I will argue in Part II, anti-asian American discrimination is a lesser shade of black only if one understands all problems of race to exist on the same spectrum. Race problems, however, exist on multiple spectra, and the problem of yellow is wholly different from the traditional black-white paradigm. I will argue that the problem of yellowness lies in our perpetual foreignness. Notwithstanding the fact that discrimination against asian Americans is *actually* different from the black-white problem, it is also functionally important to push yellow as yellow. As I will argue in Part III, when we do not insist that the asian American race problem is one significant in and of itself, we facilitate non-asian American rationalization and denial of anti-asian American discrimination, and we insult our very personhood. Of course, any argument will raise objections, and in Part IV, I will briefly anticipate two such objections. In Part V, I will conclude with a final bid for a new beginning.

11. Annie Koh, *The Yellow Peril: Honorary Whiteness and the Trap of Asian American “Success,”* TYPE, Nov. 1998, at 14, 14-15.

12. The argument is that race and the civil rights debate in America have adopted a purely biracial (black-white) model. Asian American and other non-black racial minority scholars have recently begun to criticize the black-white paradigm. E.g., Robert S. Chang, *Toward an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space*, 1 ASIAN L.J. 1, 27-28 (1994); Juan F. Perea, *The Black/White Paradigm of Race: The “Normal Science” of American Racial Thought*, 85 CAL. L. REV. 1213, 1214-15 (1997); William R. Tamayo, *When the “Coloreds” Are Neither Black nor Citizens: The United States Civil Rights Movement and Global Migration*, 2 ASIAN L.J. 1 (1995). In 1994, Michael Omi and Howard Winant called for a “decisive[] break with the bipolar model of race” in the wake of the 1992 Los Angeles riots. MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES* 154-55 (2d ed. 1994). They have been attributed with beginning the movement against the black-white paradigm. See Janine Young Kim, Note, *Are Asians Black? The Asian American Civil Rights Agenda and the Contemporary Significance of the Black/White Paradigm*, 108 YALE L.J. 2385, 2385-86 (1999).

I

Yellow is a look at both asian Americans as a racial minority and race issues from an asian American perspective. In the first few chapters of the book, Professor Wu seeks to debunk the model minority myth¹³ and to illuminate the perpetual foreigner syndrome,¹⁴ two stereotypes particular to asian Americans. It is worth noting that Wu addresses not only the absurdity of these stereotypes, but also the numerous ways in which these stereotypes harm asian Americans (and sometimes other groups). Much of the remainder of the book is taken up by discussions regarding the broader race issues of immigration,¹⁵ affirmative action,¹⁶ racial profiling (which he terms "rational discrimination"),¹⁷ and multi-culturalism.¹⁸ To varying degrees, Wu weaves into these discussions the effect these issues have on Asians and asian Americans, and the ways in which Asians and asian Americans can and do affect these issues. For instance, the chapter on affirmative action is more of a general position paper on affirmative action,¹⁹ whereas the discussion on multi-culturalism has a significant asian American bent.

Yellow succeeds in making a powerful (initial) attack on the black-white paradigm and a strong case that yellow belongs. The strength of Wu's argument, I believe, lies in what *Business Week* book reviewer Catherine Yang calls the "tools of [his] trade[]." ²⁰ While Wu "lacks the poetry of [speechwriter Eric] Liu's writing or [journalist Helen] Zia's compelling narratives," Yang believes that Wu brings a lawyer's "clear expository style [and] excels at using logic to unclothe the inconspicuous manifestations of racial thinking."²¹ I believe that Wu's legalistic approach is a significant advantage over other scholars.

Nowadays, people are rarely outright bigots. Following the success of the Civil Rights Movement and political correctness, "[m]ost people have become . . . conditioned to regard racism as reprehensible. . . ." ²² However, because "[w]e are required by daily life to make judgments about people with a modicum of data, very quickly, and under stress," ²³ people continue to be racial because race is an easy bit of data with which to make quick, generalized judgments. Caught between their reflexive racial impulses and their condi-

13. Wu, *supra* note 8, at 39-77.

14. *Id.* at 79-122.

15. *Id.* at 122-29.

16. *Id.* at 131-72.

17. *Id.* at 173-213.

18. *Id.* at 215-59.

19. Wu has written a piece on affirmative action focusing on the asian American perspective. Frank H. Wu, *Neither Black Nor White: Asian Americans and Affirmative Action*, 15 B.C. THIRD WORLD L.J. 225 (1995).

20. Catherine Yang, *Race Matters*, BUS. WEEK, Feb. 25, 2002, at 24.

21. *Id.*

22. Wu, *supra* note 8, at 13.

23. *Id.* at 196.

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tioned outrage toward racism, people seek solace in reason. They shroud their judgments in logic and become rational discriminators, “rel[ying] not on animus but on analysis.”²⁴ It is claimed that this is what asian Americans face—reason not racism. The model minority myth and the perpetual foreigner syndrome are logical conclusions. So, more than flowery prose or asian American narrative with which non-asian Americans cannot identify,²⁵ the law professor’s propensity for and excellence at using logic is exactly what is needed. And Wu delivers.

Yellow’s book jacket, its title, and its first three chapters are no less than an assault on non-asian American rationalization. Like any good lawyer or debater, Wu begins with a powerful opening statement, challenging non-asian Americans with his screaming yellow cover, his subtitle (*Race in America Beyond Black and White*), and his observation: “People speak of ‘American’ as if it means ‘white’ and ‘minority’ as if it means ‘black.’”²⁶ He then provides an encyclopedic compilation of facts and factual anecdotes, piling up heaps of evidence of discrimination against asian Americans. I cannot possibly do his factual array justice here, but I will mention a few of the more potent selections. Wu points out that books about race have “relegated Asian Americans . . . to the margins and footnotes.”²⁷ He reminds non-asian Americans of forgotten stories. For instance, Jack London coined the term “yellow peril” (in a piece that has somehow been “expurgated from the canon”).²⁸ Meanwhile, Vincent Chin, a chinese American, was beaten to death with a baseball bat by two xenophobic white Americans, each of whom received a slap on the wrist—probation and a \$3,780 fine.²⁹ At the same time, Congressman John Dingell blamed “little yellow men” for the American automobile crisis.³⁰ Finally, and most shockingly, the California chapters of the American Civil Liberties Union (ACLU) had to break off from the national organization to support Fred Korematsu and others during the Japanese internment, because even the ACLU

24. *Id.* at 191.

25. For an argument in favor of narrative as an important tool in the asian American struggle, see CHANG, *supra* note 10, at 61-75. See also *id.* at 76-97 (providing examples of asian American narrative); HELEN ZIA, *ASIAN AMERICAN DREAMS: THE EMERGENCE OF AN AMERICAN PEOPLE* (2000) (same).

26. WU, *supra* note 8, at 20.

27. *Id.* at 26. Professor Juan Perea has also made this observation. Perea, *supra* note 12. He looks closely at several works on race relations in the United States, demonstrating in exquisite detail how they focus solely on the problems of Blackness with regard to Whiteness. A more recent example of this phenomenon could be found in the coverage of the issue of race in relation to this year’s Oscars. Michael Wilmington, for instance, asks “Is Oscar racist?” and then states that the whole issue is about “how African-Americans are portrayed on screen, and their place within the industry” thus implying that racism equals discrimination against african Americans. See Michael Wilmington, *More Than Awards Are at Stake*, CHI. TRIB., Mar. 24, 2002, Arts & Entertainment, at 8.

28. WU, *supra* note 8, at 13-14.

29. *Id.* at 70.

30. *Id.*

abandoned us asian Americans at our time of greatest need.³¹

Wu then builds his facts into the very logic to which rational discriminators so desperately cling. In one of his best logical ripostes, Wu points out the unconscious racism by non-asian Americans who are trying to be sympathetic. He responds to those people who claim to appreciate how much discrimination asian Americans face in the United States because they as Americans have felt prejudice as tourists in China or Japan: "If the idea is to match up the situations, then the appropriate counterpart to the treatment of a white American in Asia is the treatment of an Asian American in Europe. Otherwise, the necessary implication is that America is a white nation."³² Such people may in fact appreciate the discrimination faced by asian Americans in the United States (indeed, by Wu's logic, they may have experienced greater discrimination), but their assumptions betray their good intentions. Further, while confronting the model minority myth, Wu offers this oft-overlooked, discriminatory logic: "The model minority myth tells us that the only good Asian American is a genius workaholic, not an average or normal man or woman."³³ Finally, Wu assails the media's coverage of the "Asian American campaign finance scandal" with the following logic: "The inclusion of Jay Kim, a Republican, in stories about John Huang, a Democrat, when the two had nothing to do with one another and were involved in scandals that were unrelated, only underscores the racial perceptions that linked them. All they had in common was their race."³⁴

To this extent, *Yellow* makes great strides for the asian American struggle. As Jeff Chang writes, "With *Yellow*, Wu sets out to form a broad, popular argument about the place of Asians in America, and in large part he succeeds."³⁵ The book has garnished Wu attention on both National Public Radio³⁶ and *The O'Reilly Factor*³⁷—immense progress for asian American scholarship.³⁸

II

Yellow's overarching message, however, is "gray."³⁹ "Race is more than

31. *Id.* at 98.

32. *Id.* at 88.

33. *Id.* at 76.

34. *Id.* at 112.

35. Jeff Chang, Book Review, *Mother Jones*, Jan.-Feb. 2002, at 73, 73 (reviewing Wu, *supra* note 8). Don Nakanishi writes in a passage quoted on the back cover of *Yellow* that the work "can be rightfully compared to W.E.B. DuBois's *Souls of Black Folk*."

36. *Talk of the Nation: Asian Americans in the U.S. Today* (National Public Radio broadcast, Jan. 10, 2002) [hereinafter NPR Broadcast].

37. *The O'Reilly Factor: Unresolved Problem—Interview with Frank Wu* (Fox News Network broadcast, Feb. 26, 2002) [hereinafter *O'Reilly Factor*].

38. "Asian American" issues are rarely discussed outside of "asian American" sources, such as the *Asian Law Journal* and the *Asian American Policy Review*.

39. In interviews, Wu has mentioned that a more appropriate title for *Yellow* would have been "Gray." NPR Broadcast, *supra* note 36; *O'Reilly Factor*, *supra* note 37.

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black and white,” writes Wu, “Yellow belongs. Gray predominates.”⁴⁰ The strictly black-white race paradigm is wrong, he argues. It has failed and continues to fail to include asian Americans. Yellow belongs. Wu argues, however, that yellow is not in and of itself a cause. He rejects a scheme in which every hue—black, white, red, yellow, brown, etc.—stands alone.⁴¹ Rather, Wu believes that asian Americans (and presumably other non-black racial minorities) bridge the gap between black and white. They “do not automatically side with either blacks or whites,”⁴² and as a result, have at one time or another been on both sides. “Asian Americans almost always must locate an elusive place between black and white.”⁴³ Thus, yellow belongs, but as a shade of black or white, not as yellow. In Wu’s civil rights model, asian Americans and other non-black racial minorities are effectively gray. They build coalitions with whites and blacks, and use their dualistic perspectives to help move the two sides closer together. Interracial marriages and the mixed race movement—more grayness—form the “nucleus” of those coalitions.⁴⁴ Gray predominates.

Wu is wrong. Yellow is not gray. Wu’s underlying mistake is that he believes all problems of race lie on the same spectrum. He claims, for instance, to take the “key step” of “car[ing] about race without caring exclusively about my race.”⁴⁵ This belief traps Wu into a no-win comparison of yellow and black. If one adopts a single-dimensional view of race problems, how can one adopt anything other than a black-white view? After all, this country did “cut its eye teeth on racism in the black/white sphere,”⁴⁶ and there is no greater racial dichotomy than that that exists between blacks and whites.

Once one is limited to a black-white view, yellow does appear to be a lesser shade of black. The asian American struggle is “not as inspiring if the unique history and distinctive present circumstances of African Americans are fairly weighed.”⁴⁷ Indeed, “Asian Americans also may benefit just by not being black.”⁴⁸ For instance, the assimilation of Asian immigrants “has been eased because they can and do distinguish themselves from African Americans.”⁴⁹ As Wu points out,

40. Wu, *supra* note 8, at 18.

41. During his tenure, President Clinton established a race relations committee. A now-famous debate arose between the chair of the group, Professor John Hope Franklin, and committee member Angela Oh. Oh has been characterized as seeking a new civil rights model, wherein black, white, red, brown, and yellow were each considered independently. Franklin sought to abide by the status quo—a black-white model. Wu advocates choosing neither option, and walking a middle path. *Id.* at 32-36.

42. *Id.* at 19.

43. *Id.* at 32.

44. *Id.* at 300.

45. *Id.* at 314.

46. *Id.* at 34.

47. *Id.* at 64.

48. *Id.* at 66.

49. *Id.* at 164.

The model minority myth is generous by comparison. Asian Americans are depicted as honors students with pocket protectors who program laptop computers; African Americans are depicted as street thugs with concealed weapons who peddle coke bags. If the model minority myth is bad, it is modest next to the street thug image.⁵⁰

Race problems, however, exist on multiple spectra, and the problem of yellow is wholly different from the problem of black. Making a similar point, Angelo Ancheta writes that “[s]ubordination falls along a separate axis for [asian Americans, Latinos, and arab Americans]. The axis is not white versus black, but American versus foreigner.”⁵¹ Wu is wrong when he contends that the “maltreatment [of non-black racial minorities] is of a kind, if not to the same degree,” as the discrimination african Americans face.⁵² The discrimination we asian Americans face cannot be compared in degree because it is not even of the same kind. Moreover, Wu is wrong when he argues that “[t]he practices inflicted on African Americans and those that affected other people of color are related and mutually reinforcing.”⁵³ Stated another way:

[W]hereas Blacks deal with second-class citizenship, a status repugnant to principles of American democracy, Asian Americans are viewed as outsiders to whom access is rightly denied. . . . [B]ecause Blacks are assumed to be American citizens, the demand for equal rights, opportunities, and privileges appears more legitimate than when immigrants demand those same things.⁵⁴

Wu’s fundamental error also explains why other asian American scholars continue to cling to the black-white paradigm.⁵⁵ They are paralyzed by the thought of breaking free from the status quo, as if rejecting the black-white paradigm necessarily “suggest[s] that slavery and the experience of Black Americans has not been of central importance in the formation of American society.”⁵⁶ Mari Matsuda proclaims, “I am also Black[,]”⁵⁷ as she warns asian Americans that “[w]e walk through the fire that the [black-white] color line produced, and we ignore this history at our peril.”⁵⁸ Matsuda, however, misunderstands the goal. We do not need to dispense with the paradigm. The black-white paradigm is not *wrong*; it is incomplete. It “limits people’s understanding and willingness to engage with the history and current situation of Asian

50. *Id.* at 66.

51. ANGELO ANCHETA, RACE, RIGHTS, AND THE ASIAN AMERICAN EXPERIENCE 64 (1998).

52. WU, *supra* note 8, at 35.

53. *Id.*

54. Janine Kim, *supra* note 12, at 2405. However, Janine Kim does not reject the black-white paradigm. See *infra* notes 55, 86 and accompanying text.

55. E.g., Mari Matsuda, *Planet Asian America*, 8 ASIAN L.J. 169, 170 (2001) (“I do not reject the Black/White paradigm of racial oppression in the United States.”); Janine Kim, *supra* note 12 at 2387 (“It is my belief . . . that the [black/white] paradigm is important to the Asian American civil rights agenda today and that to eliminate it from race discourse would mean losing an important tool for living in and understanding our evolving, racially stratified society.”).

56. Perea, *supra* note 12, at 1252.

57. Matsuda, *supra* note 55, at 170.

58. *Id.* at 178.

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Americans in the United States.”⁵⁹

Yellow, therefore, is yellow. Asian Americans face distinct and unique race-based discrimination. And the problem of yellowness is that asian Americans are treated as perpetual foreigners.⁶⁰ “Asian American = Foreigner,” writes Ancheta,

reflects a pervasive theme in the formation of Asian American identities and experiences, and encompasses many of the stereotypes, prejudicial attitudes, and public policies that subordinate Asian Americans. . . . [T]he Asian American-as-outsider theme has found expression in many of the laws and constitutional cases that define the fundamental powers of government and that demarcate the most basic rights related to race.⁶¹

For a number of reasons, most of which Wu covers in his chapter on the perpetual foreigner syndrome,⁶² the primary race-based bar that an asian American must clear is the perception that she is foreign. The problem appears to stem in part from the concept of the “yellow peril,” that Asians and their oriental culture pose a threat—in Jack London’s words, we are a “menace”⁶³—to the American way of life. Recently, the notion of the yellow peril has taken the form of a fear of Japanese business in the 1980s and an undifferentiated fear of China in the past five years. The result is that non-asian Americans lash out, but, since they cannot reach Asia, asian Americans become their proxy for foreign Asians.⁶⁴ Bigotry kept tough anti-Asian immigration policies in place for many years.⁶⁵ Therefore, another explanation for the perpetual foreigner syndrome may be that asian Americans are relatively new to this country,⁶⁶ as opposed to black Americans, who have a long history in the United States and are not regarded as perpetual foreigners. Similarly, we may be regarded as perpetually foreign because of the high, relatively recent influx of Asian immigrants.⁶⁷ One asian American scholar suggested to me recently that the media and Hollywood foster the perpetual foreigner syndrome by constantly airing Asians with accents.

59. CHANG, *supra* note 10, at 11.

60. The problem of brownness—both Latinos and asian Americans of South Asian descent—is probably also perpetual foreignness. However, why brown Americans are treated as perpetual foreigners and how perpetual foreignness is used to discriminate against brown Americans likely differs from the yellow American experience. *See supra* note 6 (discussing how “brown Americans” fit into this discussion).

61. ANCHETA, *supra* note 51, at 64.

62. WU, *supra* note 8, at 79-129.

63. *Id.* at 13 (quoting Jack London).

64. *See* Saito, *supra* note 10, at 295-96 (attributing the presumption of asian American foreignness to an “ongoing conflation of the domestic and the international”).

65. *E.g.*, Susan K. Lee, *Racial Construction Through Citizenship in the U.S.*, 6 *ASIAN AM. POL’Y REV.* 89, 92-93 (1996).

66. *E.g.*, Pat K. Chew, *Asian Americans: The “Reticent” Minority and Their Paradoxes*, 36 *WM. & MARY L. REV.* 1, 34-35 (1994).

67. *Id.* at 35.

Whatever the reason or reasons, this is the problem of yellowness.⁶⁸ I am willing to wager that every yellow-appearing American has been asked, more than once, “No, where are you *really* from?” As Professor Chang writes, “It is this sense of ‘foreignness’ that distinguishes the particular type of racism directed at Asian Americans.”⁶⁹

Even the model minority myth, long thought of as a compliment on asian American assimilation, portrays asian Americans as outsiders. It is our yellowness—our Asian work ethic, our Asian family values, our Asian culture—that makes us so successful.⁷⁰ Indeed, the myth is but a positive spin on the fears pervading the concept of the yellow peril. Turned around, “Hardworking and industrious becomes unfairly competitive; family-oriented becomes clannish; mysterious becomes dangerously inscrutable.”⁷¹ Just as the notion of the yellow peril casts us as outsiders, so does the myth. It is simply a matter of being admirably different versus menacingly different.

Thus, yellow is yellow, without being gray. It is true that asian Americans do not share the oppressed history of black Americans, nor do we share the intense racial discrimination still faced by black Americans. On the other hand, the Chinese are the only racial group to have ever been targeted by an exclusionary U.S. immigration law. From the beginning, we asian Americans have been forced to trumpet our loyalty and make explicit our patriotism. Takao Ozawa did so before the U.S. Supreme Court in 1922 in a bid for citizenship,⁷² declaring himself more American than Benedict Arnold.⁷³ “In name, I am not an American,” proclaimed Ozawa, “but at heart I am an American.”⁷⁴ The

68. Saito, *supra* note 10, at 295 (“Perhaps because Asian immigrants were excluded from citizenship for so long, or perhaps because the imager slips from race to nationality so easily, foreignness is a deeply ingrained aspect of the racial identification of Asian Americans.”). For an excellent piece that considers the reasons for the perpetuation of the perpetual foreigner syndrome, see Keith Aoki, “Foreignness” & Asian American Identities: *Yellowface, World War II Propaganda, and Bifurcated Racial Stereotypes*, 4 UCLA ASIAN PAC. AM. L.J. 1 (1996).

69. CHANG, *supra* note 10, at 53.

70. Frank H. Wu, *From Black To White and Back Again*, 3 ASIAN L.J. 185, 212 (1996) (reviewing IAN F.H. LOPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF WHITENESS* (1996)) (“The very success of Asian Americans can be attributed to their foreignness. The article that introduced the ‘model minority myth’ explained Japanese American success by reference to foreign roots and non-American culture.”).

71. Saito, *supra* note 10, at 296. Brant Lee makes a similar point, stating that:

The foreigner is an outsider. When the next recession comes, or when we are at war, or when national security is considered to be at stake, the outsider becomes the enemy, and the positive ‘model minority’ image—disciplined, hard working, efficient, strong traditional family ties—easily transforms itself into the characteristics of a diabolical threat—Disciplined! Tireless! Efficient!—and racially devoted to an insular ethnic identity that mere American citizenship will never weaken.

Brant T. Lee, *Liars, Traitors, and Spies: Wen Ho Lee and the Racial Construction of Disloyalty*, 10 ASIAN AM. POL’Y REV. 1, 14 (2002).

72. *Ozawa v. United States*, 260 U.S. 178 (1922).

73. Suzanne A. Kim, Comment, “Yellow” Skin, “White” Masks: Asian American “Impersonations” of Whiteness and the Feminist Critique of Liberal Equality, 8 ASIAN L.J. 89, 94 (2001).

74. *Id.* (quoting from his brief in *Ozawa*).

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Japanese American Citizens League (JACL) began doing so in the midst of World War II and continues to do so today. Its creed, penned during the tensions preceding Pearl Harbor, is an almost obsequious tribute to the United States: "I believe in her institutions, ideals and traditions; I glory in her heritage; I boast of her history. . . ." ⁷⁵ I do so today in 2002 in my introduction to this Note, offering my suburban American upbringing as some sort of downpayment on my loyalty. The twisted irony of our hyper-patriotism is that true American heroes "ought to be the ones who fight injustice," not capitulate and assimilate. ⁷⁶ Yet we cannot fight because "fighting, by default, makes you an opponent of the system you are fighting." ⁷⁷ We would then be un-American, the very thing we set out to avoid. Furthermore, the comments we receive—"You speak good English" and "That's how we do things here in America"—insult our intelligence and our very personhood. And we bear the blame for Pearl Harbor, the Vietnam War, the Korean War, and the decline of the American automobile industry, as well as the incredulity non-asian Americans direct toward China's human rights abuses, foreign Asian political contributions, the caning of an American student in Singapore, and on and on. ⁷⁸ Our experiences cannot be compared, as apples to apples, to that of black Americans, and they needn't be. The problem of yellowness is significant in and of itself.

III

Setting aside the fact that the asian American race problem is actually unique, it is also—for several reasons—functionally important to the asian American struggle to argue that yellow is yellow. It is not enough to clamor to be seen as yellow (and not as honorary whites or constructive blacks) without advocating yellow as yellow. If we asian Americans are going to claim that the black-white race paradigm is somehow insufficient (as we must), we need to be prepared to follow through. When we do not follow through, we facilitate the very rationalizing we seek to dispel. As Wu recognizes, the ironic legacy of the Civil Rights Movement is that "[a]s a nation, we have become so seemingly triumphant at vilifying racists that we have induced denial about racism." ⁷⁹ Many white Americans believe that "what should be, already is." ⁸⁰ As a society, America has made much progress on "racism," when "racism" is defined in terms of black and white. Acknowledging discrimination against asian Americans would be a huge blow to that myth of progress. Instead, non-asian Ameri-

75. Wu, *supra* note 8, at 234.

76. Lee, *supra* note 71, at 4.

77. *Id.*

78. Asian American scholarship has termed this aspect of the perpetual foreigner syndrome "looking like the enemy," or some version thereof. See, e.g., ANCHETA, *supra* note 61, at 62-81; Saito, *supra* note 10, at 301-08.

79. Wu, *supra* note 8, at 13.

80. *Id.*

cans deny and rationalize.

Arguing that yellow is gray props up this façade. It is a retreat from forcing non-asian Americans to come face to face with anti-asian American discrimination. Asian Americans should challenge the myth of progress by waving a yellow flag and insisting that the discussion about race has not been wholly inclusive. By contrast, the message of “gray” is that yellow is a lesser shade of black and anti-asian American discrimination is really anti-black discrimination. “Gray” couches discrimination against asian Americans in a comfortable way. If yellow is a lesser shade of black, it is a problem that has been or is being solved. Indeed, after convincing non-asian Americans that yellow might be important enough to notice, *Yellow* trails off and Wu leaves non-asian Americans wondering “so what?” As Scott Shibuya Brown wrote in the *Chicago Tribune*, “Where *Yellow* falls short is in articulating a vision beyond its trenchant observations.”⁸¹

Similarly, we must argue that yellow is yellow, or we risk encouraging non-asian American denial of discrimination against asian Americans. If yellow is a lesser shade of black, it is, in comparison with the “real thing” (anti-black discrimination), not a problem at all. Consider Wu’s appearance on *The O’Reilly Factor*. In Wu’s interview, Fox News analyst Bill O’Reilly appeared to be open to the notion that yellow belongs. Specifically, he asked Wu to point out the “institutional bias [in America] towards Asian Americans.”⁸² Wu gave him grayness: “[asian Americans discrimination is] one of the themes. But really, it’s about how complicated race is. You’ve got black on white, yellow on brown, you know, you’ve got all these different hues. Really, the title of the book should be ‘Gray.’”⁸³ Then Wu made yellow a lesser shade of black: “Well, [the bias against asian Americans] doesn’t compare, I should emphasize, to the bias against African-Americans.”⁸⁴ O’Reilly appeared to take Wu’s backpedaling and qualifications as a cue to lapse right back into rationalizing: “I think Asians get a fair shake in this country. They do very, very well here, as compared to their home countries. They’re on a parity with whites as far as salaries are concerned. I’m not seeing it.”⁸⁵

O’Reilly might have been more responsive if Wu had said that yellow is yellow. He appeared to be ready to listen if Wu could tell him the problem of *yellowness*—the “institutional bias” against asian Americans. However, as he did in *Yellow*, Wu argued that yellow is really only gray, and in so doing, facilitated the non-asian American denial of the asian American race problem.

81. Scott Shibuya Brown, *A Look at What It Means To Be Asian and American*, CHI. TRIB., Dec. 23, 2001, Books, at 3.

82. *O’Reilly Factor*, *supra* note 37.

83. *Id.*

84. *Id.*

85. *Id.*

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It is also important to argue that yellow is yellow for the sake of recognition. For instance, some asian American advocates of the black-white paradigm believe that the paradigm has been misunderstood. Janine Kim argues that it is “rife with complexities that reach beyond the races for which the words ‘black’ and ‘white’ stand.”⁸⁶ I, of course, disagree. I believe that the paradigm cannot stretch far enough to encompass the issues most significant to asian Americans—our problems exist on an entirely separate spectrum. Even assuming Kim is right on this point, however, she speaks to only part of the problem. At the end of the day, no matter how complex or nuanced, the black-white paradigm is still cast in terms of black and white. Professor Juan Perea asserts:

The mere recognition that “other people of color” exist, without careful attention to their voices, their histories, and their real presence, is merely a reassertion of the Black/White paradigm. If one conceives of race and racism as primarily of concern only to Blacks and Whites, and understands “other people of color” only through some unclear analogy to the “real” races, this just restates the binary paradigm with a slight concession to demographics.⁸⁷

As Wu has noted, “People speak of ‘American’ as if it means ‘white’ and ‘minority’ as if it means ‘black.’”⁸⁸

Thus, the black-white paradigm may address discrimination against asian Americans, but it does not *acknowledge* the color yellow. Whether our problems are exactly the same as those faced by black Americans or not, the solution is insufficient if it treats all discrimination as anti-black. Non-asian Americans discriminate against asian Americans because we are and look *yellow*. How can we accept a scheme that so belittles us by making our skin color—that which has caused us so much pain and harm—invisible? Yellowness is a defining characteristic for an asian American’s identity: I am male, I am twenty-four, I am five foot nine, and I am yellow. It is important to our very personhood to have our *yellow* problems addressed, rather than to have our problems addressed as a side effect, or bonus, of addressing black problems.

The same logic that undermined “separate but equal” is at work here. In *Brown v. Board of Education*,⁸⁹ the United States Supreme Court determined that separate schools for blacks and whites could seem superficially equal, but lack equality in an intangible sense. “Even though the physical facilities and other ‘tangible’ factors may be equal. . . . To separate [black children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.”⁹⁰ Similarly, if solving

86. Kim, *supra* note 12, at 2393.

87. Perea, *supra* note 12, at 1219. “Within the paradigm, the relevant material facts are facts about Blacks and Whites.” *Id.* at 1220.

88. Wu, *supra* note 8, at 20.

89. 347 U.S. 483 (1954).

90. *Id.* at 493-94.

anti-black discrimination solved anti-asian American discrimination, black Americans and asian Americans would be superficially equal. However, asian Americans would still lack equality in an intangible sense. Even though black Americans and asian Americans would have equal rights, to fail to recognize *yellowness*—to only articulate yellow in terms of another “real” color, like black—would generate a feeling of inferiority as to our status in the community that may affect our hearts and minds permanently. Just as there was something inherent to being integrated, there is something inherent to being recognized.

IV

At this point, I should note that I believe Wu would object to my characterization of *Yellow*. He might argue that his work does not diminish or retreat from the argument that yellow is yellow. Indeed, he has argued elsewhere that asian Americans should be “understood in their own right.”⁹¹ A proper conceptualization of his argument might more closely resemble Professor Robert Chang’s theory in *Disoriented: Asian Americans, Law, and the Nation-State*:

A critical Asian American legal studies will recognize that Asian Americans are differently situated historically with respect to other disempowered groups. A study of race relations in the United States cannot focus solely on the relationship between the dominant white majority and each subordinate minority group. It must also focus on interethnic and interracial relations. . . . Despite the historical differences in the treatment of different minority groups, the commonality found in shared oppression can bring different disempowered groups together to participate in each others’ struggles.⁹²

Thus, yellow is yellow. However, an effective theory of race relations must mix yellow with other colors. And the effect of the necessary coalition building is gray.

Saving my objections to coalition building for another time, my response to Wu would simply be that such a theory may have been his intent, but it was not the result. If Wu truly wanted to convey that yellow is yellow, but it must be mixed, he should have argued “Yellow belongs. Rainbow predominates.” Rather, *Yellow* points out that asian Americans bridge the issues of Black and White. Wu repeatedly reiterates that the asian American struggle pales in comparison to the black American struggle. The logical conclusion is that Wu believes yellow is gray. And that is wrong.

I realize many asian American scholars believe that pushing yellow as yellow is a mistake. They argue that this will only assist white Americans in playing racial minorities against each other, drawing our attention away from the real problem, which is generalized white oppression/subordination.⁹³ This de-

91. Wu, *supra* note 70, at 213.

92. CHANG, *supra* note 10, at 47.

93. See, e.g., Chris K. Iijima, *The Era of We-Construction: Reclaiming the Politics of Asian Pa-*

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serves a deeper debate, but I will respond briefly in two ways. First, asian American self-identification does not preclude shared concerns amongst racial minorities. Second, the problem for asian Americans is not subordination only by whites, but subordination by all non-asian Americans.

V

I am an American. I am a flag-waving, red-white-and-blue, “home of the brave” patriot. That I must say that, or that I feel that I must say that, is a sign of the discrimination faced by asian Americans in this country. Frank Wu’s *Yellow* is a powerful contribution to the recognition of that discrimination. He delivers an encyclopedic compilation of facts and factual anecdotes, and he assails the logic with which non-asian Americans rationalize and deny their discrimination against asian Americans. After a blistering attack on the black-white paradigm, however, Wu retreats. He crams us back into the black-white box, determining that yellow is no more than gray.

Our problems, though, are unique. The discrimination we asian Americans face is not simply a lesser shade of the discrimination faced by black Americans. In short, yellow is yellow. And the problem of yellowness is that we are treated as perpetual foreigners. To non-asian Americans, we are Asian first and American second. So I have followed the lead of my “angry-as-fuck”⁹⁴ college classmate, and I “refuse to capitalize asian and I defy the hyphen because asian should be just another adjective describing race, like black or white, and not a signpost” of presumed foreignness.⁹⁵

I am an asian American. I am yellow. And I, too, belong.

cific American Identity and Reflections on the Critique of the Black/White Paradigm, 29 COLUM. HUM. RTS. L. REV. 47, 75-77 (1997).

94. Koh, *supra* note 11, at 15.

95. *Id.* at 14.

