
Asian Pacific Americans and Affirmative Action

From the Trial Transcript of Professor Frank Wu

Expert Witness for the Student Defendant-Intervenors
in the University of Michigan Law School Affirmative Action Trial:
Grutter v. Bollinger, et al.

12 February 2001

The Coalition to Defend Affirmative Action & Integration and
Fight for Equality By Any Means Necessary (BAMN)

GRUTTER - BOLLINGER, ET. AL.
TRIAL -v- VOLUME 13
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*Frank Wu, being first duly sworn by the Court to tell the truth,
was examined and testified upon his oath as follows:*

DIRECT EXAMINATION
BY MS. MASSIE:

Q: *Hi, Professor Wu.*

A: Good morning.

Q: If you could spell your name for the record, please.

A: Sure. Frank, F-r-a-n-k, Wu, W-u.

Q: Tell us about the teaching you have done or are contracted to do if you would, sir.

A: Sure. I'm currently an associate professor of law at Howard University in Washington, D.C. where I've taught since 1995. I also serve as the director of our clinical program, and I supervise students practicing in the D.C. Superior Court. I teach civil procedure, and I teach federal courts on some of their subject. I have previously taught as a fellow at Stanford University. I've taught civil rights at American University, in one of its summer sessions. I would be a scholar and residence teaching again on Asian American civil rights at Deep Spring College in about one month.

Q: I understand you got a JD, a law degree from the University of Michigan.

A: That's right, class of 1991.

Q: Professor Wu, how long have you been doing academic work on questions relating to Asian Americans, civil rights, and social policy?

A: Probably for about fifteen years or so.

Q: And how long have you been doing academic work on questions related more specifically to Asian Americans and affirmative action?

A: At least ten years.

[...]

Q: You've testified before Federal Governmental entities on questions involving Asian Americans and civil rights, and specifically, Asian Americans and affirmative action including the judiciary committee of the House of Representatives and the United States Civil Rights Commission?

A: That's right. I've testified before the House in 1995, and the Civil Rights Commission in I believe 1998.

Q: Amidst a very long list of public appearances you've hosted a PBS series entitled "Asian America" for some time?

A: That's right. I've hosted about thirty episodes of that series which is syndicated by PBS.

[...]

Q: Is it fair to say, Professor Wu, that you're one of the foremost nationally recognized experts on issues of Asian Americans civil rights and social policy?

A: Well, at the risk of being immodest, I would say, yes, I have written very widely, and probably have studied it more extensively than just about anyone else who looks at these issues.

[...]

Q: Professor Wu, partly in response to a question that the Court asked of another witness who was very well qualified, but somewhat less qualified in this particular area than you, I'd like to start by asking you to tell us all who are Asian Americans?

A: Well, the term “Asian American” is usually used to refer to some ten million or more Americans who can trace their ancestry to Asia, to any of more than some two dozen countries in Asia, or to a Pacific Island. It includes people of diverse backgrounds. Some people, relative newcomers to the United States, some people who may be third, fourth, or fifth generation Californian. People of different ethnicities, different faiths, different linguistic backgrounds, different walks of life. But what they have in common is their Asian heritage, Asian ancestry. And that makes them a minority in the U.S. According to the 2000 census, it looks like Asian Americans comprise approximately four percent of the nation’s population.

[...]

It’s easy though to think that all Asian Americans are people who have just moved here, who are “fresh off the boat,” as people sometimes say. But Asian Americans also include people of second, third, fourth and fifth generation whose ancestors have worked, for example, on the railroad in the 1880s, whose ancestors were in California before it was a state, and before it joined the Union, who were in the south, in the U.S. as part of a fantastic scheme to import Chinese laborers shortly after 1864, to compete with the recently freed black slaves.

There are people who can trace their ancestry back more than a hundred years from this country, people such as the Japanese American soldiers, the Nisei, N-i-s-e-i, meaning the second generation soldiers of the Army 442 Central Postal Directory that fought in World War II in the segregated armed forces, the most highly decorated unit on a per man basis to have served in the U.S. Army. A unit which lost 800 men in rescuing the so-called Lost Battalion that were behind enemy lines. Those were native-born American citizens who by birth, by birth right, were part of this country, they along with their families in locked up in internment camps. They are also Asian Americans.

[...]

Q: With that introduction I’d like to ask you to turn your attention to questions about anti-Asian, anti-Asian Pacific American racism. Can you tell

us about the forms of discrimination that persist against Asian Americans in the United States?

A: Sure. I would divide this into different types. First, there is the straightforward racial prejudices and discrimination and bias. The sort of thing that a consensus now recognizes is wrong. And second, a more a subtle form of discrimination. A form of discrimination that may be in some instances unconscious, or unintentional or even on its surface not look like bias, but if you examine it a little closer, more clearly reveals itself. Let me start though by talking about the first type.

Asian Americans face straightforward, plain old racial discrimination. You see that, for example, in the glass ceiling. If you look at the federal government’s 1995 glass ceiling study, what you find is that in many categories Asian American individuals who have the same qualifications as their white peers, the same educational background, working in the same types of jobs, earn less money. So when everything is controlled for, what you find is there are racial disparities, disparities that can be explained by nothing other than racial backgrounds. So they face the glass ceiling at the workplace where even though they may have a Ph.D., they simply can’t make as much money.

There’s a sociologist, Joyce Tang, who has studied phenomenon and has taken a look at Asian Americans working in technical fields. And she has found that many of the reasons that people offer turn out to be false. Sometimes people say, well, it’s probably because all these Asians are coming from someplace else, maybe they don’t have good language skills. Well, she did a study which controlled for nativity. She looked at people born in the U.S., native-born Asian American and compared them with native-born Caucasian. And what she found was not only did you still see these same disparities equally – well-educated, qualified people, yet mysteriously, at companies that presumably are not actively discriminating, at companies that did hire these people, but they’re just not getting promoted, just not getting paid at the same rate.

In fact, in some instances, she found a real oddity, that Asian Americans who are native-born in many instances make less than whites who are

foreign-born. So it has nothing to do with whether or not you're born in the country. And it doesn't have to do with language.

She found that what some people say about Asians not being interested in management, that turned out to be false as well. Sometimes you hear people, well, Asians are more interested in the technical aspects of these things. They want to be engineers. They don't want to be managers. They don't want to be vice president. They don't want all that hassle and stress. They don't want to rise in the company.

Well, by using extensive surveys, that's simply false. Asian Americans working in these technical fields are just like their white peers. They do want to be in management. They'd like to be in charge. They wouldn't mind being the vice president, and they're just not offered those opportunities.

Again, this happens not in every instance but often enough that structurally, systematically, a pattern emerges and you see it again and again and again in rigorous, empirical research. That's one example of glass ceiling. Another example is if you look at housing. Housing segregation for Asian Americans exist. It is not quite as bad as a housing segregation for African-American, it is housing segregation. Asian American of the same socio-economic status as the whites who own houses in neighborhoods where they'd like to buy can't buy into those neighborhoods quite often. Asian Americans tend to live in segregated areas. Again, not entirely, but you still find a persistent housing segregation.

You also see hate crimes. We've seen a rise in hate crimes towards Asian Americans, ranging from the 1982 brutal beating of Vincent Chin who was killed by two out-of-work auto workers, who took a baseball bat, a Louisville slugger to his head and just beat his head until he was senseless and in a coma and died a few days later. Those out-of-work auto workers who pursued Vincent Chin from a nightclub where they had all been, blamed him. They had called him – you'll have to pardon my language, your Honor – they called him, "You dirty, fucking Jap," as they were killing him. And that case I think stands a symbol for many Asian Americans of the sort of violence that can still

occur to someone who is no different than anyone else other than because of their racial background.

Those two people who killed Vincent Chin, who received probation and a \$3,700, \$3,785 fine said that they blamed him because they were out-of-work auto workers, and they thought it was because of people like him that they were out of work.

So you see hate crimes. You see other instances. We saw in the 1980s and 1990s a gang, a white gang in New Jersey that attacked South Asian women. They called themselves the "Dot Busters" in reference to the popular movie, "Ghost Busters" and they would assault Asian women, basically picked out at random, but selected because of their ethnic background.

So you see hate crimes. You see these different forms of racial discrimination that persist to this day. You no longer – and I hope we don't see anything like the Internment again, we don't see the sort of discrimination perpetrated by the government itself, but you see widespread societal discrimination in instances which sometimes are condoned, are condoned because people think, well, it's different than other racial discrimination. These are foreigners, they're not American, they don't have the same rights.

Now, there is a second type of racial discrimination though that Asian Americans face. And it's more subtle, but in some ways every bit as dangerous. There is a myth called the model minority myth. There's a stereotype of Asian Americans. I think in order to understand how this stereotype works, I first have to describe a stereotype. At first it might strike people as quite a positive stereotype. It's the stereotype of the Asian immigrant who comes here penniless with nothing more than the shirt on his or her back, but who by dint of hard work, ethnic, good values, by opening a small business, that they operate seven days a week, 24 hours a day, that even though they speak broken English, though they have a Ph.D. that they can't use, and have to work running a drycleaners or a small store, they nonetheless persevered and succeed. And then you see their children become the whiz kids, the protégés who play the violin at the age of five, and become valedictorian of the high school, so when the top ten of the graduating

class are read off it's Chang, and Kim, and Patel. You see these images of Asian Americans taking over college campuses, winning all the scholarships, and going off to Harvard or Yale or Stanford and breaking the curve in calculus or physics. Starting to use science experiments at the age of thirteen. They're whiz kids, geniuses.

You see this positive image of Asian Americans as the so-called model minority. We see that in newspaper articles. You see it in television programs. There was a *New York Times* article that was entitled "Asian Going to the Head of the Class," for example. In some of my published work, I cite dozens of examples through the '80s and '90s of this very positive glowing image of Asian Americans as super successful. *Fortune Magazine* dubbed them the "super minority." So it's this notion that somehow that Asian Americans have triumphed. They represent, as another magazine writer put it, "the triumph of the dream."

You might look at this and say what could possibly be wrong with this, this is a wonderful celebration of opportunity. It shows how well Asian Americans are doing. I guess there are three things wrong with this, and I'd like to go through them in order.

First, this is a stereotype, it's false. Second, if that's not enough, this causes the backlash for Asian Americans – who should be suspicious of any stereotype not matter how positive – because of what it can conceal. Third and finally, it often is used as it was when it was first mentioned by the *New York Times Sunday Magazine*, an article by William Peterson in 1966, to make an explicit comparison between Asian Americans and African-Americans to say in effect, they made it, why can't you.

Let me start with the first problem. The stereotype is simply as a factual matter wrong. It is not an accurate stereotype. Now, truth be told some, Asian Americans have been successful. They deserve praise. They deserve credit. I mean to take nothing away from them. But if you take a look at Asian Americans what you find is that Asian immigration is selective. Before 1965, before comprehensive changes to the laws that were passed in 1965, there were tiny quotas for Asian ethnic groups. For example, a total of no more than

185 individuals of Japanese descent could come into the U.S. per year before 1965. So what you found before 1965, people who came here tended to be well-to-do, or had already gone to school and got a great deal of schooling or both, well-to-do and people who had at least gone to college if not had already gotten a masters or Ph.D., tended to be people who represent the cream of the crop of their home land. This was a phenomenon we all know "brain drain." They would come here and get Ph.D's and do well.

So when you look at Asian immigrants what you realize is they're not representative, they're not representative in Asia. They represent the lucky few, the ones who had the means to get out, or the talent to get out.

[...]

Let me give you a concrete example. If you look at South Asians, what you find is according to some studies as many as two-thirds of them arrived in the United States with better than a bachelor's, with at least a master's, a Ph.D. or an M.D. So this creates a terrible skewing of our picture. That means you're comparing Asian immigrants and Asian Americans who are doctors when they arrive here against a general U.S. population that haven't completed college, that has just slightly on average done more than completed high school.

So the first reason that this image is false is because it wrongly suggests that all of the success is due solely to opportunities in the United States. And, again, don't get me wrong. This is a wonderful country. I am very pleased that my parents came here, and that I was born here. It does offer tremendous opportunity, and some people are able to avail themselves of it, but it would be highly misleading to suggest that Asian Americans by themselves as a racial group represent in some way the triumph solely of the system here. They represent instead a complicated table of factors, some of which have to do with who we open our doors to and who we welcome. That's one reason it's false.

Another reason it's false is because the most often cited statistic that you hear is family income. You sometimes hear as you did when the 2000 Census came out that Asian Americans have

attained parity. That average income for a family of Asian Americans is equal to or greater than the average income of whites. This is extraordinarily misleading for several reasons. Let me detail some of them.

First of all, Asians are geographically concentrated. A majority of Asian Americans live in high-income, high-cost states. Hawaii, California and New York constitute those three states, constitutes if not a majority then certainly a plurality of the Asian American population in the United States. Well, as it happens, those three states also have people of all racial backgrounds a higher than average family income. There are just not as many Asian Americans in South Dakota or Alabama so when you look at Asian American family income it's terribly inflated because of this geographic skewing.

Asian American family income is also distorted by the fact that on average, Asian Americans have larger families with more wage earners. The typical Asian American family has two wage earners. People of color tend to have families with more wage earners. I mean, sometimes the Asian American families with extended families living in one household, everyone putting their income into a common pot.

Now, clearly, it doesn't make sense to compare a household where you have both adults working to make an income of 60,000, let's say, against a household where you have one wage earner making 59,000, and then to say that the two-earner household at 60,000 is somehow better off than the one wage earner household at 59,000. It may be true, but it's true only in the most superficial and misleading sense.

Now, Asian Americans also tend to be much more entrepreneurial, tend to engage in small business endeavors that are much higher risk. So what you find with Asian Americans if you just look at the simple question of income, Asian Americans have not obtained parity. They have obtained parity only when you ignore the different factors. When you look at individual Asian Americans as the 1995 Federal Government Glass Ceiling Study did, what you find and get is, comparing individual Asian Americans controlling for education level and occupational field, that

Asian Americans make less money on average than whites. It's unambiguous data so this is just false in the sense that if you look at the condition of Asian Americans, most Asian Americans are not the super minority.

There are also significant ethnic differences, true that Chinese Americans and Japanese Americans have incomes that cluster toward the top if you do an ethnic breakdown. But you also find that Southeast Asians, you find Filipinos and you find others clustered toward the bottom. Their socio-economic status is much more similar to that of African-Americans than it is of white Americans. So there are tremendous ethnic variations as well.

So the stereotype is – like most stereotypes – thin and flimsy and just doesn't stand up to scrutiny. So no matter what you think public policy should be, if you simply ask yourself where are Asian Americans, what is their status, this notion that Asian Americans have made it and are well-to-do is incorrect.

Second, this image leads to backlash. Every part of the positive stereotype is correlated to the connected counter-part, and it gets flipped around very easily. Let me offer a few examples. You sometimes hear Asian Americans described as hard working. Well, hard working very quickly becomes unfair competition. You sometimes hear Asian Americans described as good at math and science. I'm often told, oh, could you fix my computer. You must be good with computers. Yet, that quickly turns into they're nerdy and geeky, and can't be lawyers, they can't be managers, they lack of people skills. You sometimes hear Asian Americans praised for strong families, family values, a nuclear family that stays together. Yet that can be turned around. Asian Americans next can be criticized for being too clannish, too ethnic, too insular, not mixing enough, self-segregating.

[...]

Another reason the model minority myth is dangerous is because it is explicitly a comparison that's used not to praise the Asian Americans at all but to insult African Americans.

In 1966, a sociologist named William Peterson who taught at Berkeley wrote an article, "Success Story, Japanese American Style." It was a popular article for the *New York Times Sunday Magazine*. He later followed it up with a book. This same old article has been called the most influential article ever written about Asian Americans. I think that's an accurate description of this article. In it, Dr. Peterson was very sympathetic. He talked about the Internment. He reviewed and gave a summary of Japanese-Americans in the United States from the early part of the century. He said they had done so well that they had overcome every obstacle that race could put in front of them. Then he said, I'm quoting here, "Their example stands in contrast to what we might term 'problem minority.'" And you didn't need the author there to nod and wink at you to see who those problem minorities were because he then went on to say that the only Japanese Americans who weren't successful were juvenile delinquents who ran with as he put it, Negro and Mexican gangs. So he very clearly set up this contrast between Asian Americans as the successful minorities and African Americans as the unsuccessful ones.

Q: Is there anything about the content of stereotypes against Asian Americans that interacts specifically with the practice of law?

A: Absolutely. One of the popular stereotypes of Asian Americans is the sort of thing that I used to hear as a child growing up. I still hear it now and then. A personal example: You sometimes hear people say, oh, Asians, you are all so polite. I was once at a convention of the AAJA, the Asian American Journalists. This was in 1987 in Los Angeles. There was a guest speaker who had been brought to talk to us. He opened up by saying, you know, I'm so pleased to be here, to speak before all of you Asian Americans because you are all so polite. And at that moment, everyone in the room hissed him. To be polite, that seems like a compliment, oh, you're so polite. But that's just something else. It suggests being submissive, not aggressive enough for courtroom work. There's a notion and – I've been counseled on this. I was counseled on it when I was younger and still in law school by people who thought that maybe an Asian American wanting to do trial work might not be the best choice. You might not be able to impress a judge or a jury. You might not be able to get clients

because there's this notion, oh, you're so polite, we'd rather have someone who is going to be gutsy, who is going to in there and be a fighter.

So these stereotypes certainly do affect people who want to go into law who happen to be of Asian background.

There is still a notion that Asian Americans are deficient with verbal skills. You know one of the reasons I think I'm told you speak English so well is because there is the expectation what when I open my mouth I'll confuse my R's and my L's, that I won't be able to articulate myself and put together a sentence or a paragraph.

[...]

Q: Do those stereotypes of passivity and submissiveness also have an impact on the fields of politics for Asian Pacific Americans?

A: Sure. There are far fewer Asian Americans in politics than there would be given how many Asian Americans there are in Hawaii, in California, and elsewhere. There are Asian Americans who are quite successful. Two members of the cabinet, for example. Several members of Congress. And there are Asian Americans who have run for office and who have won. Gary Locke, the governor of Washington State, for example. Asian Americans who have run in districts that are predominately white, who have appealed and crossed racial lines. Michael Wu formally of the City Council of Los Angeles who ran for mayor – almost. There are Asian Americans who do pursue politics but politics is also another realm where like law, language is important.

I think there's that same sense that Asian Americans are quite often talked about, yet are absent from the debate. They're not in the room. They're not speaking. Asian Americans, for example, frequently appear in affirmative action cases, but are the margins. And to my knowledge, this is the first time that someone of Asian descent has testified in an affirmative case of this nature where a challenge has been brought. Even though if you look at cases, you'll see footnotes here and there, Asian Americans mentioned, we're talked about, but we are ourselves lack a voice. And that sometimes is internalized.

[...]

Q: You mentioned the question of affirmative action and how it relates to Asian Americans. That's the next main topic I want to cover with you. There's been a bunch of testimony in this case so far about Asian Americans and affirmative action, much of it – or I should say some of it – tending to suggest that Asian Americans are victims of affirmative action policies. Let me ask you first if you could address whether Asian Americans have benefited from affirmative action.

A: Absolutely, Asian Americans have benefited in at least three different ways. Let me go through those three ways.

First, Asian Americans have benefited because we are directly included in most but not all affirmative action programs. We are included where it is appropriate for us to be included. The federal government contracting set aside programs, Asian Americans are included. Asian Americans are included in affirmative actions that were entered as a matter of court decree in California. In the cases of San Francisco involving contractors, and cases involving the police department and the fire department, Asian Americans are included, are beneficiaries and have benefited as much if not more than other people of color.

[...]

Q: Before the lunch break you were talking about the rise in hate crimes and racist attacks against Asian Americans in California following the abolition of affirmative action there. I would like to ask you now about a different subject that captures something about the relationship of Asian Americans to affirmative action, and that is the level of support in the Asian American community and amongst Asian American civil rights organizations for affirmative action.

Have APA's, Asian Pacific Americans, come out for or against affirmative action?

A: I would say the answer to that is clearly Asian American groups overwhelmingly support affirmative action programs, and Asian American voters do so, as well. If you take a look, for example, at the vote on Proposition 209, and if you

take a look at the fact findings of the U.S. District Court that considered the later challenges to Proposition 209, what you find is that while a majority of whites voted for Proposition 209, a majority of members of each and every racial minority group, including Asian Americans, voted against the measure.

[...]

If you take a look in California, one of the prominent grass roots civil rights organizations in the San Francisco Bay area is called Chinese for Affirmative Action and you could guess from the title of that group that they are supportive of affirmative action programs. This is a group that just celebrated, I believe, its twentieth anniversary. It has done community work, it does a great deal of outreach.

It represents, I think, as much as any group could, the views of Asian Americans and certainly the views of Chinese Americans in the San Francisco Bay Area, where they make up a quite sizable part of the population. If you look at other groups, the Organization of Chinese Americans, the Japanese American Citizen's League, those are two of the largest Asian American civil rights groups. OCA was founded in 1973, JACL in 1929. They are among two of the older groups. If you take a look at the Korean American groups, a variety of them out there, what you find is that they consistently support affirmative action principles and I have been very pleased in the past to have done work for them.

I was asked, for example, in 1997 to author a brief to the Ninth Circuit on behalf of fifteen Asian American community groups which signed that brief. So I have found certainly in the work that I do that Asian Americans by and large, with support that's broad and deep and which is committed, like other people of color, recognize that affirmative action is a necessary remedy for racial discrimination.

I sometimes have the privilege of speaking on college campuses. Sometimes I am invited by the deans or by the college, sometimes I'm invited by departments or by student groups. When I spoke at University of Texas, for example, I was invited by the Asian American Studies program. Quite

often I'm invited by Asian American Studies programs to speak, and specifically because they know that I have some knowledge of this area and they would like that background.

Q: Some of the Asian American organizations you named are currently active in efforts that are afoot to reverse the region's ban on affirmative action in the UC system; isn't that right?

A: Yes, that's right.

Q: Did you – do you have any information about the position of Asian Pacific American students at the University of Michigan on affirmative action at the law school there?

A: I would say they are quite supportive, as well, that they reflect this general trend, but which, by the way, is also borne out by the surveys and polls. There are very few surveys and polls that actually look at Asian Americans, because in order to reliably survey Asian Americans you need to oversample by quite a bit, because Asian Americans are only four percent of the population. It's a very difficult group to survey and survey well, but what there is out there shows that Asian Americans do support these programs.

Now at the law school, I am aware of that from the fact that they have invited me to speak. I spoke there last semester in the fall and I have spoken at the law school in the past since graduating, so it's a group that's reached out to me and I in turn have reached out to them and I know that their membership is quite solidly in support of affirmative action.

Q: And what group is that, you said?

A: The Asian American Law Students Association at the University of Michigan.

Q: A final topic on the relationship of affirmative action to Asian Americans. What – how have Asian Americans been figured or used rhetorically in the debate over affirmative action?

A: Well, it's very interesting. One of the Law Review articles that I wrote, much of it is devoted to analyzing the sudden prominence of Asian Americans. One of the great frustrations of Asian

Americans until very recently, that when people talk about race, we talk about it as a literally black and white matter, as if there are two and only two racial groups and everyone must fit in either one of those two racial groups. So Asian Americans have quite often been frustrated, have said, well, where are we in this debate, why do we not see ourselves among the people sitting at the table making these decisions, why are we not listened to, why are we not heard.

[...]

What has happened, however, is that with the affirmative action debate as it's typically carried out, Asian Americans are brought into this debate as a wedge group. Instead of bringing us in to expand the dialogue, instead of bringing us in to recognize that we are American citizens, that we are minorities, that we have a stake in this process, and that civil rights laws protected us, what often happens is Asian Americans are brought in to this debate and held up, and that message is heard over and over again that they made it, why can't you.

It's quite an ironic message. It's ironic, because on the one hand, proponents of color blindness would have us believe that they cannot see color and that they will not see color, that they will not use racial references and they would have us believe that that is how they behave.

Now, what's ironic about it is, if you are color blind, if you don't look at race, if you don't talk about race, if you don't categorize people in that way, you can hardly hold up Asian Americans and say, look at them over there, aren't they doing well. It shows that you can't simultaneously do that. You can't both say I'm color blind and yet single out Asian Americans as a racial group for praise. It's just on a very literal level not possible to do that. But that's what we see some people trying to do, trying to praise Asian Americans and use them in some sense as a pawn to attack affirmative action.

Sumi Cho, a law professor at DePaul University in Chicago, has written about this as a form of racial mascot, as using Asian Americans as a person of color as a mascot for an argument that really isn't about Asian Americans at all. Michael Greve, who has been a leader in some of

these efforts, and I'm not quite sure if he currently has ties to CIR, but Michael Greve once wrote, I believe for the *Wall Street Journal*, an article urging the strategy, in that he described how using, as he put it, the white male face on this argument was no longer quote-unquote palatable. He said that it would make sense to make the same argument, but put an Asian American face on it. That's how he described it.

And he said on the one hand, that does help Asian Americans to some extent, but then he revealed what his true agenda was. At the same time, this gives us our vehicle, our opportunity, so he is in essence using Asian Americans as his vehicle to advance his argument, and I think that's disingenuous and unfortunate. It is a very destructive way to bring Asian Americans into this debate.

Let me give you a very concrete way of thinking about this. Sometimes you hear people say that they don't discriminate, our company doesn't discriminate, our college, our institution, and you can tell we don't discriminate, because, look, we have a bunch of Asian Americans here. We have hired Asian Americans or admitted Asian Americans and that shows that we're free of racial prejudice.

Now, if you sit back and think about that for a moment, that does indeed suggest that they are free of racial prejudice toward Asian Americans, unless it turns out that all Asian Americans are concentrated in the lower paying jobs or something like that, but let's assume that in fact Asian Americans are distributed evenly throughout this company or this college, they hold positions of responsibility and management and authority.

That says nothing, nothing at all about discrimination against African Americans. It is perfectly possible for a person or an institution to harbor virulent anti-black sentiment and yet reach out to Asian Americans.

[...]

Q: I'm going to wrap things up here, but before I ask you a couple of concluding questions, Professor Wu, you mentioned that people sometimes bring to you questions that incorporate

stereotypes about the ability of the black students you teach at Howard, and so I want to ask you whether your black students are in every way the equals and the peers of the non-black students you have encountered, both at Howard and elsewhere on other teaching assignments and so on?

A: Absolutely. They are every bit as capable. They display the same range of talents. They are also tremendously diverse. You know, it's by no means true that every black student is just like every other black student. They have differences of socioeconomic class, differences of political partisan preference, different religious faiths, different geographic origins, different ethnicities. You know, some would identify as black, but not African American, they would identify as Caribbean or Afro-Canadian or part of a broader Diaspora, and there is something about Howard that allows them to express their diversity in a way that they wouldn't elsewhere, because there is a critical mass – each individual doesn't automatically become a stereotype.

[...]

Q: Professor Wu, does affirmative action in admissions, in law school admissions, in your opinion, create a double standard that disadvantages Asian American applicants?

A: Absolutely not. It responds to double standards that would exist otherwise.

Q: So without affirmative action, absent affirmative action, there would be in law school admissions a double standard that would work to the disadvantage of minority applicants?

A: Absolutely.

[...]