

# **UCLA**

## **Asian Pacific American Law Journal**

### **Title**

Here's How The Affirmative Action Conversation Fails Asian American Students

### **Permalink**

<https://escholarship.org/uc/item/81f6c2gr>

### **Journal**

Asian Pacific American Law Journal, 28(1)

### **ISSN**

2169-7795

### **Author**

Tsao, Leah

### **Publication Date**

2024

### **DOI**

10.5070/P328164500

### **Copyright Information**

Copyright 2024 by the author(s). All rights reserved unless otherwise indicated. Contact the author(s) for any necessary permissions. Learn more at <https://escholarship.org/terms>

# Here's How The Affirmative Action Conversation Fails Asian American Students

*Leah Tsao*

## ABOUT THE AUTHOR

Former President of OCA-Asian Pacific American Advocates, San Diego Chapter; Research Assistant at San Diego Mesa College, Office of Institutional Effectiveness 2021–2023; daughter of beneficiaries of the Immigration and Naturalization Act of 1965.

I would like to thank the countless people who have fought tirelessly and courageously for generations before me and those who continue to fight to this day in the quest to advance the social, educational, and political well-being of all humans to one day be able to live free from adversity and injustice.

In particular, I would like to acknowledge Professor Katlin Choi and Dean Hai Hoang, whose endless care and devotion, leadership, and commitment to their students were instrumental to San Diego Mesa College earning federal designation, as well as substantial grant funding from the United States Department of Education, as an AANAPI Serving Institution. Special recognition to Professors Jen Derilo and Amber Alatorre who took it upon themselves to create a much-needed learning community through an AANPI lens, known as KAPWA, when nothing of its kind existed before. I am truly grateful for these unsung heroes whose work must receive the recognition and appreciation it deserves. And finally, special thanks to the staff of the APALJ for their diligent and meticulous work in the editorial process, and most of all for giving me this opportunity to share my views.

Even after the landmark U.S. Supreme Court decision in which Asian Americans were the plaintiffs in the case of *Students for Fair Admissions v. Harvard*, Asians continue to remain a non-sequitur in the ongoing debate on race and equity.<sup>1</sup>

In a recent column in *The New Yorker* headlined “Why the Champions of Affirmative Action Had to Leave Asian Americans Behind,” writer Jay Caspian Kang sums it up perfectly.<sup>2</sup> He writes:

---

1. *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023); see Jay Caspian Kang, *Why the Champions of Affirmative Action Had to Leave Asian Americans Behind*, *THE NEW YORKER*, (June 30, 2023), <https://www.newyorker.com/news/our-columnists/why-the-champions-of-affirmative-action-had-to-leave-asian-americans-behind> [perma.cc/4SCQ-TR9N].

2. See Kang, *supra* note 1; Hua Hsu, *The Rise and Fall of Affirmative Action*, *THE*

“Asian Americans, the group whom the suit was supposedly about, have been oddly absent from the conversations that have followed the ruling. The repetitiveness of the affirmative-action debate has come about, in large part, because both the courts and the media have mostly ignored the Asian American plaintiffs and chosen, instead, to relitigate the same arguments about merit, White supremacy and privilege. During the five years I spent covering this case, the commentators defending affirmative action almost never disproved the central claim that discrimination was taking place against Asian Americans, even as they dismissed the plaintiffs as pawns who had been duped by a conservative legal activist.”<sup>3</sup>

The plaintiffs have indeed been duped, transformed into “model minority minions” tasked with protecting the status quo of White privilege and advancing the conservative MAGA agenda.<sup>4</sup> However, by that same token, social justice warriors in favor of affirmative action are no less accountable for pushing the model minority forward in their messaging and putting the spotlight on Asians.<sup>5</sup> Instead, Asians are portrayed as the culprit instead of the hero, problematic to the cause, shamed and demonized by a label coined by a sociologist in 1966, a label we never asked for.<sup>6</sup>

The Asian race became synonymous with being a wedge to achieving racial harmony and a weapon used to gaslight other minorities.<sup>7</sup> Affirmative action advocacy shifted its focus to blaming Asians rather than building solidarity with Asians.<sup>8</sup> Despite believing in affirmative action, I refuse to participate in this game of tug-of-war, either as someone’s sacrificial lamb or as their opponent’s scapegoat. It’s painful to swallow this double-edged sword.

Social justice doesn’t begin or end with a stamp of approval from the admissions office, even from Harvard. This case failed to articulate the crux of the issue, about how model minority stereotypes may impact policy and decision making.<sup>9</sup> Decades of Asian student activism from coast to coast clearly demonstrates this widespread problem about how anti-Asian bias creates an environment of exclusion and invisibility in higher education for Asian students.<sup>10</sup>

Cathy Park Hong, Pulitzer Prize finalist for her book “Minor Feelings: An Asian American Reckoning” writes, “The indignity of being Asian in this

---

NEW YORKER, (Oct. 8, 2018), <https://www.newyorker.com/magazine/2018/10/15/the-rise-and-fall-of-affirmative-action> [perma.cc/SSF5-TGCP].

3. See Kang, *supra* note 1.

4. See *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181; Kang, *supra* note 1.

5. See Kang, *supra* note 1.

6. See Asian American Pacific Islander Coalition (AAPIC), “Model Minority Myth,” Univ. of Cal. San Francisco, <https://aapicoalition.ucsf.edu/model-minority> (last visited Mar. 3, 2024) [https://perma.cc/Q4HJ-DU23].

7. See *id.*

8. See Hsu, *supra* note 2.

9. See *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181.

10. See Hsu, *supra* note 2.

country has been underreported. We have been cowed by the lie that we have it good.”<sup>11</sup>

In 1995, at Northwestern University, a student hunger strike that lasted 24 days pressured the university to establish an Asian American Studies Program which resulted in raising awareness and support from students from campuses all across the country.<sup>12</sup> In 1999, the Asian American Studies Program was established as a minor, and the major in 2016.<sup>13</sup>

Here in San Diego, Sparky Mitra, opinion editor at the UCSD Guardian, describes the never-ending battle with administration since 1984 in Asian student activism.<sup>14</sup> She states, “It would take 36 years of arduous advocacy before the Asian American and Pacific Islander Studies minor program would be officially established at UCSD.”<sup>15</sup> The Asian Pacific Islander Middle Eastern Desi American (APIMEDA) Programs and Services would not exist today without faculty, staff and students taking great measures.<sup>16</sup> But the struggle continues as APIMEDA operates on a shoestring budget with one full-time associate director, one full-time program coordinator, three undergraduate assistants, and one graduate assistant and no designated space to support 13,000 students.<sup>17</sup>

Since 2018, there has been a glimmer of hope with federal level support to address the lack of visibility and resources Asian students experience at their college campuses, known as the Federal Department of Education AANAPISI grant for Asian Americans and Native American Pacific Islanders and low-income individuals.<sup>18</sup>

In 2021, San Diego Mesa College became the first institution in San Diego to receive both AANAPISI designation and funding to create programs that will serve Mesa’s 16 percent Asian Pacific Islander student population.<sup>19</sup> But the ultimate test of empowerment is whether Asian American stud-

11. CATHY PARK HONG, *MINOR FEELINGS: AN ASIAN AMERICAN RECKONING* (2020).

12. History: Asian American Studies Program - Northwestern University, HISTORY: ASIAN AMERICAN STUDIES PROGRAM - NORTHWESTERN UNIVERSITY, <https://asianamerican.northwestern.edu/about/history> (last visited Feb. 24, 2024) [<https://perma.cc/LJ6X-62H5>].

13. *Id.*

14. Guest Writer & Sparky Mitra, 39 Years Later, UC San Diego Continues to Fail APIMEDA Students, UCSD GUARDIAN, (Mar. 14, 2023), <https://ucsdguardian.org/2023/03/14/39-years-later-uc-san-diego-continues-to-fail-apimeda-students> [<https://perma.cc/K5J2-PHAY>].

15. *Id.*

16. See History, APIMEDA PROGRAMS AND SERVICES, <https://apimeda.ucsd.edu/about/history.html> (last visited Feb. 24, 2024) [<https://perma.cc/3QG6-9BL6>].

17. Meet the Staff, APIMEDA PROGRAMS AND SERVICES, <https://apimeda.ucsd.edu/about/staff.html> (last visited Feb. 24, 2024) [<https://perma.cc/VR6T-8RHD>].

18. See ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTIONS PROGRAM, US DEPARTMENT OF EDUCATION (2023), <https://www2.ed.gov/programs/aanapi/index.html> [<https://perma.cc/M6BL-JGYM>].

19. Asian Pacific Islander Student Data Dashboard, SAN DIEGO MESA COLLEGE, <https://www.sdmesa.edu/about-mesa/institutional-effectiveness/institutional-research/data-warehouse/APIDashboard.shtml> (last visited Feb. 24, 2024) [<https://perma.cc/83FT-7P9V>].

ies will join the ranks of other full-fledged institutionalized ethnic studies departments at Mesa, a familiar uphill battle historically faced by students and faculty in colleges across America.

At the end of the day whether one is for or against affirmative action, we all share the same end goal of wanting justice. The plaintiffs believe meritocracy is the solution.<sup>20</sup> Others disagree.<sup>21</sup> In the meantime, Asian Americans continue fighting for visibility and inclusion from the classroom to the courtroom, long after the day they receive their college acceptance letters.

---

20. See *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181.

21. See Hsu, *supra* note 2.