Lost in the Numbers: The Underrepresentation of Asian American Groups and the Case for Disaggregating “Asian” Data

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Abstract:

While certain Asian ethnicities outperform Whites and other groups with respect to socioeconomic achievement, other Asian groups fail to reach the same levels of success. Despite this, the aggregate treatment of Asian Americans continues in affirmative action debates, especially in the educational context. As a result, the unique needs and issues of groups such as Southeast Asians are often ignored. The aggregate treatment is also used to justify the exclusion of Asian Americans from affirmative action policies because of a belief that Asian Americans as a whole are already adequately represented in schools, and thus no longer need affirmative action.

This paper explores the perception and treatment of Asian Americans and its subsequent effect on the under-representation of certain Asian American minority subgroups in education. This paper uses an analysis of Asian American undergraduate student enrollment data in the University of California school system from 1999 to 2008 as an example. The analysis reveals significant under-representation of certain Asian American minorities and demonstrates the need to rethink admissions policies regarding Asian Americans. To remedy the situation, institutions must disaggregate data on Asian Americans in order to present a more detailed look at the successes and challenges that each Asian American group faces.
I. INTRODUCTION

The aggregate treatment of Asian Americans can often mask the issues of less prominent groups such as Southeast Asians. Paul Hawson has personally experienced this disconnect in identity that Southeast Asians can face in America. With his last name of Hawson, one might not envision Paul to conform to the standard image of an “Asian American.” On the other hand, with his classically East Asian features, one might be surprised to learn that Paul’s culture and background are very different from East Asian cultures. Paul was born in the Philippines and spent his early childhood surrounded by the Filipino culture of Quezon City. However, familiar surroundings and family ties were tempered by the lack of opportunities. Issues such as education often took a backseat when families were constantly worried about food and other basic daily necessities. When Paul turned eight, the Hawsons decided to seek a second chance in America.

At first, it was difficult for Paul to adjust to his new home, new language, and new peers, especially as a minority. His family faced many of the challenges familiar to minorities – a lack of resources and limited job opportunities. Paul focused on working hard in school, determined to succeed despite these hurdles. As a high school student, Paul maintained a high GPA, scored a 1270 on his SAT, and ultimately graduated at the
very top of his class. While in school, Paul had always felt that his successes were measured against that of the East Asian students. However, he felt that his circumstances differed dramatically from his East Asian classmates, who often had doctors and lawyers as parents, and siblings and relatives who had already attended college. Instead, he felt his background and situation were much more akin to those of minority groups which were traditionally viewed as needing assistance due to their socioeconomic barriers.

Paul’s feelings culminated during college admissions season, when he learned he had been rejected by the University of California Los Angeles (UCLA) despite his strong application numbers. He believed that this was in part because he was placed on equal footing with the more established East Asian as well as White applicants even though his circumstances identified more with minorities included in affirmative action type policies, such as his classmate who was accepted with a weaker GPA and significantly lower SAT score.

The collective perception and treatment of Asians Americans\(^1\) in affirmative action debates becomes problematic, especially in the educational context.\(^2\) Many of the institutions that collect data on race and ethnicity treat Asian Americans as a single homogenous unit. No distinction is given between the various groups, even though each

\(^1\) In this paper, I use the term “Asian” and “Asian American” to refer to people of East Asian and Southeast Asian descent in the United States. This includes Chinese, Japanese, Korean, Filipino, Vietnamese, Cambodian, and other Southeast Asian groups. I have chosen not to use the term “Asian Pacific American” (APA) or “Asian Pacific Islander” (API) because I will not be referring to Pacific Islander Groups or East Indians and Pakistanis (sometimes referred to as South Asians). Despite this, I acknowledge that these groups may have also become marginalized by broad classifications. To the best of my ability, I have removed data for East Indians and Pakistanis from my data. However, Pacific Islanders may still be included in my data because they are usually classified under the “Other Asian” category and are consequently inseparable.

\(^2\) I use the terms “Asian” and “Asian American” somewhat interchangeably in this paper to refer to the same group of people. I understand that they can be different, as “Asian” may refer to a person of Asian descent anywhere in the world, and not necessarily in the United States. However, for most admissions data in the United States, the racial category for Asian Americans is listed as “Asian” and not “Asian American”. Thus, when I refer to the classifications of Asian Americans, I will use the “Asian” term.
represents drastically different backgrounds and experiences. As a result, East Asians\textsuperscript{3} are typically well represented in education while Southeast Asians\textsuperscript{4} remain significantly underrepresented. With so much focus placed on the prominence and apparent success of East Asians, the unique needs and issues of other groups such as Southeast Asians can often get lost in the shuffle. The use of aggregate data has also led many policymakers and institutions to misperceive Asian Americans as the “model minority.” This perception is used to justify the myth that Asian Americans as a whole are adequately represented in areas such as education, and thus do not need inclusion in affirmative action policies. Compared to other minorities, the unique position of Asian Americans as the model minority especially injures underrepresented Asian subgroups such as Southeast Asians which continue to be underrepresented. These underrepresented groups will arguably never reach a critical mass if schools continue to classify and treat Asian Americans according to obsolete racial classifications.\textsuperscript{5}

This paper explores the perception and treatment of Asian Americans and their subsequent effect on the underrepresentation of Asian American minorities in education. The following section, Part II, represents a brief history of Asian American social movements in the United States, including the origination of the “Asian” classification and Asian American involvement in the affirmative action debate. Part III examines the differences within the Asian American community, particularly between East Asians and

\textsuperscript{3} I use the term “East Asian” to refer to Chinese (including those from Hong Kong), Taiwanese, Japanese, and Koreans.

\textsuperscript{4} I use the term “Southeast Asian” to refer to groups such as Filipinos, Vietnamese, Cambodians, Laotians, Hmong, and other groups from Southeast Asia.

\textsuperscript{5} There may be issues with the release of data for smaller student sub-populations. The Family Educational Rights and Privacy Act (FERPA) may violate schools’ obligations to limit certain types of disclosure because individual students may be identified. However, the recognition, collection, and disclosure of data according to more specific Asian subgroups (such as East Asians and Southeast Asians) may be effective in addressing problems of underrepresentation.
Southeast Asians. Part IV explores the societal perception of Asian Americans and discusses the model minority myth and how it perpetuates the treatment of underrepresented Asian American minorities. This section also discusses how Asian Americans have become de-minoritized in affirmative action debates. Part V provides data as a method to assess the discrepancies between the Asian American groups by analyzing student enrollment data in the University of California school system. The analysis reveals significant underrepresentation of certain Asian American minorities and demonstrates the need to rethink admissions policies regarding Asian Americans. Part VI discusses efforts that have been taken to disaggregate data on Asian Americans. Finally, Part VII proposes changes to current policies that may address problems of underrepresentation or, at a minimum, facilitate an informed discussion regarding the underrepresentation of Asian American minorities. Part VII also discusses how the misrepresentation of Asian Americans, resulting from the use of aggregate data, can serve as a compelling argument in support of the inclusion of Asian Americans in affirmative action policies.

II. BACKGROUND: THE DEVELOPMENT OF ASIAN AMERICAN SOCIAL MOVEMENTS

Prior to the 1960’s, the average person of Asian ancestry in the United States simply identified with his specific ethnicity. Each ethnicity was usually perceived individually, as evidenced by targeted discriminatory acts such as the Chinese Exclusion Act of 1882 and the Japanese internment during World War II. It was not until the civil rights movement in the 1960s that Chinese, Japanese, and Filipinos began to use the term “Asian American” as a collective rallying point, in spite of the significant differences
among them.\(^6\) Seeking to overcome racist “oriental” labels and stereotypes of Asian passivity, activists mobilized a new consciousness to challenge prior racism and discrimination.

With this collective identity movement mobilized, Asians Americans became highly involved in the affirmative action debate.\(^7\) For example, in 1970, Berkeley’s Boalt Hall School of Law created The Asian Special Admissions Program in response to lobbying by the Asian American Law Students’ Association (AALSA).\(^8\) Five years later, after the faculty proposed to eliminate the program, AALSA submitted a report refuting the contention that Asian Americans no longer needed special admissions consideration. Despite AALSA’s efforts, the faculty at Berkeley ultimately decided to end the special admissions program.

Asian Americans were also involved in the UCLA School of Law’s affirmative action policies.\(^9\) In 1969, Asian American students admitted under the regular admissions process proposed the inclusion of Asian American applicants in the school’s affirmative action program, which had until then only considered African American, Hispanic, and Native American applicants. The faculty initially rejected the proposal, claiming that Asian Americans did not experience the same levels of socioeconomic and educational disadvantages. However, the Black and Mexican law students associations at UCLA supported the Asian American students’ proposal, with each organization giving up one of their reserved slots to accommodate two Asian American slots. After

continued pressure by these groups, the school finally created six slots for Asian American students in 1971.

Asian Americans also played a role in the landmark case of *Regents of the University of California v. Bakke* (1978). Of the fifty-seven amicus briefs submitted, one was filed by the Asian American Bar Association of the Greater Bay Area in support of the affirmative action policies. The brief argued that Asians were still significantly underrepresented in the predominantly white legal profession and that affirmative action was needed in order to diversify the profession. The Justice Department also filed an amicus brief in the case, in which it used statistics apparently showing Asians’ success in admissions to argue that Asians no longer needed inclusion in affirmative action policies. In response to the government’s brief, the Asian and Pacific American Federal Employee Council (“APAFEC”) submitted a fact sheet that revealed the inaccuracy of the government’s statistics. APAFEC also argued that the aggregation of groups such as Koreans, Indians, Samoans, Vietnamese, Pakistanis, and Cambodians failed to take into account the diverse circumstances and needs of each group. APAFEC’s efforts appeared to have made an impression; during the oral arguments, the Solicitor General acknowledged the difficulties in accurately assessing the representation of the various ethnicities that were included under the term Asians American.

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13 APAFEC argued that although Asians were adequately represented in the medical field, many were educated prior to coming to the United States.
Asian American participation in affirmative action dialogue continues to this day, although not always with a unified stance on the issue. Recently, two amicus briefs were filed on behalf of Asian Americans in the *Grutter* case. In their brief supporting the defendants, the National Asian Pacific American Legal Consortium (NAPALC) argued that diversity benefited Asian American students and that Asian Americans should be beneficiaries of affirmative action programs under certain circumstances. The NAPALC brief was endorsed by several other Asian American rights organizations such as the Asian Law Caucus and the Asian Pacific American Legal Center. On the other hand, in their brief in support of the plaintiffs, the Asian American Legal Foundation opposed affirmative action, arguing that affirmative action policies could limit the enrollment of certain students in schools and would injure overachieving Asian American students. This apparent contradiction can be partly explained by the disconnect between the specific ethnicities each side attempts to represent as “Asian American.” That is, affirmative action policies which treat Asian Americans as a single entity may benefit certain underrepresented Asian ethnicities while injuring other, more established Asian ethnic groups.

III. DIFFERENCES AMONG GROUPS

To understand why the collective perception and treatment of Asian Americans in affirmative action debates is problematic, we need to comprehend the extensive amount Supplement: Regents of the University of California v. Bakke, Part Two 621, 641-642 (Philip B. Kurland & Gerhard Casper eds., 1978).


17 This discussion on the position of Asian Americans in affirmative action cases is not meant to be comprehensive. Although there are other cases outside of the educational context, I have chosen to focus on those involving affirmative action in education. Within the educational context, there are also additional affirmative action cases involving Asian Americans.
of diversity that exists within the Asian American community. The Asian American population has grown and diversified dramatically since the inception of the “Asian” classification in the 1960s. The range of issues and problems that individual ethnic groups face demonstrates that the all-inclusive “Asian” classification makes little sense for the diverse community we face today.

Population

Table 1: Asian Population\textsuperscript{18} by Detailed Group\textsuperscript{19}

<table>
<thead>
<tr>
<th>Detailed Group</th>
<th>Number</th>
<th>Percent of U.S. population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>8,370,401</td>
<td>2.98</td>
</tr>
<tr>
<td>Japanese</td>
<td>795,051</td>
<td>0.28</td>
</tr>
<tr>
<td>Korean</td>
<td>1,072,682</td>
<td>0.38</td>
</tr>
<tr>
<td>Chinese</td>
<td>2,422,970</td>
<td>0.86</td>
</tr>
<tr>
<td>Filipino</td>
<td>1,864,120</td>
<td>0.66</td>
</tr>
<tr>
<td>Hmong</td>
<td>170,049</td>
<td>0.06</td>
</tr>
<tr>
<td>Cambodian</td>
<td>178,043</td>
<td>0.06</td>
</tr>
<tr>
<td>Laotian</td>
<td>167,792</td>
<td>0.06</td>
</tr>
<tr>
<td>Thai</td>
<td>110,851</td>
<td>0.04</td>
</tr>
<tr>
<td>Vietnamese</td>
<td>1,110,207</td>
<td>0.39</td>
</tr>
<tr>
<td>Other Asian</td>
<td>478,636</td>
<td>0.17</td>
</tr>
</tbody>
</table>


\textsuperscript{18} Table 1 includes people who reported as Asian only (and does not include those who reported as Asian and at least one other race). The “Other Asian” category includes respondents who did not fall into one of the nine categories, such as Bhutanese, Burmese, Indonesian, Sri Lankan and Pacific Islanders.


Note: Although East Indians and Pakistanis were removed from this table, Pacific Islanders remain (due to their aggregation in the “Other Asian” category).
The Asian American population in the United States includes individuals from over 15 different countries. Table 1 demonstrates that the Asian population is far from being homogeneous, with large numbers of East Asians as well as Southeast Asians. The largest Asian ethnic group is Chinese Americans (2.4 million people), followed by Filipino Americans (1.9 million people), Korean Americans (1.1 million people), Vietnamese Americans (1.1 million people), and Japanese Americans (0.8 million people). The significant number of “Other Asians” (0.5 million people) also indicates that there are many more individual ethnicities beyond those listed. Although many consider East Asians and “Asians” to be synonymous, Table 2 indicates that East Asians only represented 51.5% of total Asian Americans in the year 2000. Given the fact that nearly half of the Asians Americans in the United States are not East Asian, there is a compelling demographic reason to redefine the “Asian” classification.

Table 2: Asian Population by Percent Distribution

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chinese</td>
<td>29.1</td>
</tr>
<tr>
<td>Filipino</td>
<td>22.4</td>
</tr>
<tr>
<td>Vietnamese</td>
<td>13.3</td>
</tr>
<tr>
<td>Korean</td>
<td>12.9</td>
</tr>
<tr>
<td>Japanese</td>
<td>9.5</td>
</tr>
<tr>
<td>Cambodian</td>
<td>2.2</td>
</tr>
<tr>
<td>Hmong</td>
<td>2.1</td>
</tr>
<tr>
<td>Laotian</td>
<td>2.0</td>
</tr>
<tr>
<td>Thai</td>
<td>1.3</td>
</tr>
<tr>
<td>Other Asian</td>
<td>5.8</td>
</tr>
</tbody>
</table>


20 Data is based on information from the 2000 census, taken from Reeves & Bennett, supra note 19. East Indians and Pakistanis are not included, but Pacific Islanders are included under the “Other Asian” category.
21 I assume that the “Other Asian” category is mainly comprised of Southeast Asians.
**Immigration Experience**

Part of understanding the development of an ethnic group’s history and experience in the United States involves studying the group’s immigration experience in its historical context. Asian Americans as a whole represent a diverse range of motivations and circumstances for their immigration to America. The immigration experience directly affected how ethnic groups were perceived by white America and how the ethnic groups established their communities in America.

In the modern era, the first Asians to arrive in large numbers to the United States were Chinese laborers. Most came after the Civil War, lured by work on the Transcontinental Railroad and the prospect of gold in the West. Along with the Chinese, the Japanese also began immigrating to the United States during this time searching for work. Although the Chinese mainly worked in low-paying jobs, the Long Depression in the 1870’s increased job competition with European Americans. As a result of this tension the Chinese Exclusion Act of 1882 was passed, which ended Chinese immigration for decades. The Immigration Act of 1924 further restricted immigration by banning immigrants from Japan as well. It wasn’t until 1965 that the Immigration and Nationality Act abolished immigration quotas, and immigration of all Asians increased significantly. Large numbers of Chinese immigrants from Taiwan and Hong Kong, many of whom were educated professionals, came into the United States during this time. Many Koreans also began immigrating into the United States during the late 1960’s and 1970’s. After 1979, when the Chinese Communist government decided

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22 DANA YING-HUI WU, COMING TO AMERICA, (Brookfield Millbrook Press 1993).
23 Between 1870 and 1900, approximately twelve million immigrants arrived.
to open the Chinese economy to the rest of the world, immigrants from mainland China began entering the United States in large numbers.\textsuperscript{24}

Filipino immigrants first entered the United States in the early 20\textsuperscript{th} century as agricultural workers in Hawaii and on the West Coast.\textsuperscript{25} These workers usually came because they were uneducated and poor and had trouble finding work in the Philippines. The second wave of Filipinos came after World War II and was mostly comprised of veterans of World War II. During this time, professionals began immigrating as well, but the United States did not recognize most of the foreign training, and so most of these immigrants were forced to work in menial unskilled positions.\textsuperscript{26} However, after 1965, the Immigration and Nationality Act began recognizing foreign training, and more skilled Filipinos entered the United States.

In contrast, large portions of the Southeast Asian population (including Cambodians, Laotians, and Hmong) in the United States are recent immigrants, coming to the United States as refugees escaping civil wars.\textsuperscript{27} As a result, most of the immigrants in this group entered the country with little education and no money. Compared to Chinese, Japanese, and Filipino Americans who have been in the United States for several generations, these recent Southeast Asian immigrants usually lack the same established communities, political power, societal progress, and opportunities to educate their children.\textsuperscript{28}

\begin{itemize}
\item \textsuperscript{26} Id. at 55.
\item \textsuperscript{27} U.S. Census Bureau, U.S. Dept' of Commerce. Racial and Ethnic Classifications Used in Census 2000 and Beyond (2000).
\item \textsuperscript{28} Reeves & Bennett, \textit{supra} note 19.
\end{itemize}
Socioeconomic Status

Table 3: Median Family Income

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>Median Family Income 2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>All families</td>
<td>$50,046</td>
</tr>
<tr>
<td>Asian</td>
<td>$59,324</td>
</tr>
<tr>
<td>Chinese</td>
<td>$60,058</td>
</tr>
<tr>
<td>Filipino</td>
<td>$65,189</td>
</tr>
<tr>
<td>Vietnamese</td>
<td>$47,103</td>
</tr>
<tr>
<td>Korean</td>
<td>$47,624</td>
</tr>
<tr>
<td>Japanese</td>
<td>$70,849</td>
</tr>
<tr>
<td>Cambodian</td>
<td>$35,621</td>
</tr>
<tr>
<td>Hmong</td>
<td>$32,384</td>
</tr>
<tr>
<td>Laotian</td>
<td>$43,542</td>
</tr>
<tr>
<td>Thai</td>
<td>$49,635</td>
</tr>
<tr>
<td>Other Asian</td>
<td>$50,733</td>
</tr>
</tbody>
</table>


Contrary to popular stereotypes and misconceptions about Asian Americans being the successful model minority, there are significant socioeconomic differences among the various Asian American groups. Although Asian American families collectively exceed the median family income of all families in the U.S. population, certain Asian ethnicities fail to achieve the same levels of performance as others. Table 3 shows that Southeast Asian ethnicities such as Laotians, Cambodians, and Hmong had some of the lowest median family incomes, especially when compared to East Asian groups in the U.S.\textsuperscript{30} In fact, the socioeconomic statistics for these Southeast Asian groups nearly mirror those of African Americans and Hispanics Americans\textsuperscript{31}.

\textsuperscript{29} Reeves & Bennett, supra note 19. Families classed by race of householder.
\textsuperscript{30} Pratheep Sevanthinathan, Shifting from Race to Ethnicity in Higher Education, 9 SCHOLAR 1, 34 (2006).
\textsuperscript{31} Id. (stating the numbers for Laotians, Cambodians, and Hmong nearly mirror those for Blacks and Hispanics).
There are also drastic differences in Asian American poverty rates. The groups with the highest poverty rates were Hmong (38 percent), Cambodians (29 percent), Laotians (19 percent), and Vietnamese (16 percent).

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32 *Id.* Percent in poverty.

33 As the poverty rate data is shown by percentage rather than an absolute measurement (as with income), it seems to be a better reflection of the socioeconomic status of each ethnicity.
Table 5: Occupation

<table>
<thead>
<tr>
<th>Occupation</th>
<th>All workers</th>
<th>Asian</th>
<th>Chinese</th>
<th>Filipinos</th>
<th>Vietnamese</th>
<th>Korean</th>
<th>Japanese</th>
<th>Cambodian</th>
<th>Hmong</th>
<th>Laotian</th>
<th>Thai</th>
<th>Other Asian</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management, professional, and related</td>
<td>33.6</td>
<td>44.6</td>
<td>52.2</td>
<td>38.2</td>
<td>26.9</td>
<td>38.7</td>
<td>50.7</td>
<td>17.8</td>
<td>17.1</td>
<td>13.4</td>
<td>33.4</td>
<td>39.8</td>
</tr>
<tr>
<td>Service</td>
<td>14.9</td>
<td>14.1</td>
<td>13.9</td>
<td>17.5</td>
<td>19.3</td>
<td>14.8</td>
<td>11.9</td>
<td>15.9</td>
<td>15.6</td>
<td>14.5</td>
<td>25.9</td>
<td>15.6</td>
</tr>
<tr>
<td>Sales and office</td>
<td>26.7</td>
<td>24.0</td>
<td>20.8</td>
<td>28.1</td>
<td>18.6</td>
<td>30.2</td>
<td>26.9</td>
<td>23.5</td>
<td>20.6</td>
<td>19.1</td>
<td>22.6</td>
<td>27.7</td>
</tr>
<tr>
<td>Farming, fishing, and forestry</td>
<td>0.7</td>
<td>0.3</td>
<td>0.1</td>
<td>0.5</td>
<td>0.6</td>
<td>0.2</td>
<td>0.4</td>
<td>0.5</td>
<td>0.4</td>
<td>0.5</td>
<td>0.2</td>
<td>0.3</td>
</tr>
<tr>
<td>Construction, extraction, and maintenance</td>
<td>9.4</td>
<td>3.6</td>
<td>2.6</td>
<td>4.1</td>
<td>5.9</td>
<td>3.9</td>
<td>4.3</td>
<td>5.5</td>
<td>4.5</td>
<td>5.8</td>
<td>3.6</td>
<td>4.1</td>
</tr>
<tr>
<td>Production, transportation, and material moving</td>
<td>14.6</td>
<td>13.4</td>
<td>10.4</td>
<td>11.5</td>
<td>28.8</td>
<td>12.2</td>
<td>5.9</td>
<td>36.8</td>
<td>41.7</td>
<td>46.6</td>
<td>14.3</td>
<td>12.6</td>
</tr>
</tbody>
</table>


Occupational data also reveals similar differences in socioeconomic status among the Asian American groups. Table 5 shows that Chinese (52 percent), Filipinos (38 percent), Koreans (39 percent), and Japanese (51 percent) are most likely to hold managerial or professional jobs. The groups that are least likely to hold these managerial or professional jobs are Laotians (13 percent), Hmong (17 percent), and Cambodians (18 percent). These groups, however, are three to four times more likely to hold low-skilled positions in production, transportation, and material moving. The groups that were least likely to hold these lower-skilled positions are Japanese (6 percent), Chinese (10 percent), Filipinos (12 percent), and Koreans (12 percent).

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34 Reeves & Bennett, supra note 19. Percentage of population age 16 and older.
Table 6: Education Attainment

<table>
<thead>
<tr>
<th>25 and older</th>
<th>Less than high school graduate</th>
<th>High school graduate</th>
<th>Some college or associate's degree</th>
<th>Bachelor's degree or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total population</td>
<td>19.6</td>
<td>28.6</td>
<td>27.4</td>
<td>24.4</td>
</tr>
<tr>
<td>Asian</td>
<td>19.6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chinese</td>
<td>23.0</td>
<td>13.2</td>
<td>15.8</td>
<td>48.1</td>
</tr>
<tr>
<td>Filipino</td>
<td>12.7</td>
<td>14.9</td>
<td>28.6</td>
<td>43.8</td>
</tr>
<tr>
<td>Vietnamese</td>
<td>38.1</td>
<td>19.1</td>
<td>20.9</td>
<td>19.4</td>
</tr>
<tr>
<td>Korean</td>
<td>13.7</td>
<td>21.6</td>
<td>23.4</td>
<td>43.8</td>
</tr>
<tr>
<td>Japanese</td>
<td>8.9</td>
<td>22.2</td>
<td>27.1</td>
<td>41.9</td>
</tr>
<tr>
<td>Cambodian</td>
<td>53.3</td>
<td>18.8</td>
<td>18.6</td>
<td>9.2</td>
</tr>
<tr>
<td>Hmong</td>
<td>59.6</td>
<td>16.7</td>
<td>16.8</td>
<td>7.5</td>
</tr>
<tr>
<td>Laotian</td>
<td>49.6</td>
<td>24.4</td>
<td>18.3</td>
<td>7.7</td>
</tr>
<tr>
<td>Thai</td>
<td>20.9</td>
<td>17.5</td>
<td>23.1</td>
<td>38.6</td>
</tr>
<tr>
<td>Other Asian</td>
<td>19.1</td>
<td>16.3</td>
<td>23.2</td>
<td>41.4</td>
</tr>
</tbody>
</table>


Education attainment levels also demonstrate large differences among Asian American groups. Table 6 shows that 20 percent of the total US population and 20 percent of the Asian American population do not achieve a high school degree. In contrast, Vietnamese (38 percent), Cambodians (53 percent), Hmong (60 percent), and Laotians (50 percent) are substantially more likely to fail to obtain a high school degree. A similar pattern appears when looking at higher education. Over 40 percent of Chinese, Filipino, Korean, and Japanese Americans receive a bachelor’s degree or more. The higher percentages among these groups raise the average for all Asian Americans to 44 percent, compared to 24 percent for the general US population. In contrast, only 19 percent of Vietnamese, 9 percent of Cambodians, 8 percent of Hmong, and 8 percent of Laotians will receive at least a bachelor’s degree.

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35 Id. Percentage of population age 25 and older.
36 Readers should note that the census data in Table 6 only shows whether a particular individual attained any degree; it does not differentiate between a degree at an elite school and a lower-tier school. Thus, certain groups such as Filipinos may appear to be on equal footing with Chinese, Japanese, and Koreans. I will discuss Asian representation in elite schools later in the paper.
Additional Differences

Asian ethnicities also tend to view each other as separate ethnicities and not as one large cohesive group. This is especially true when large groups of a single Asian ethnicity are grouped together. The different Asian ethnic groups may only feel like “Asians” when they are uniting against another completely different racial group or when there are only a few “Asians” within a larger community of non-Asians. This type of behavior tends to dispel assumptions by the general public regarding cooperation and assistance between Asian American groups. When large numbers of a specific Asian ethnicity identify solely with their own ethnicity, they usually do not help other Asian groups. Instead, they view these groups as separate entities.

There can also be intra-group differences, as certain subgroups may distinguish themselves based on social\(^37\), cultural\(^38\) and political\(^39\) differences. For example, Chinese Americans may tie their ethnic identity to the area of Asia their family came from, such as Chinese from mainland China, Chinese from Hong Kong, Cantonese from Hong Kong, Taiwanese, Chinese from Taiwan, or Chinese from other countries such as Singapore, Indonesia, and Korea. Each group considers themselves to be distinct and often vastly different from other Chinese American groups.\(^40\)

The Asian American population is demonstrably diverse in social, economic, occupational, and educational terms. Some Asian Americans have lived in the United

\(^{37}\) Some Chinese Americans view recent immigrants from China as being low class.
\(^{38}\) For example, Chinese Americans originating from China after the Cultural Revolution are quite different culturally from Chinese from Hong Kong or Taiwan.
\(^{39}\) Chinese Americans from China vehemently oppose Taiwanese Americans’ claims of Taiwanese independence. This political conflict is a primary reason why “Chinese from Taiwan” distinguish themselves from “Taiwanese”.
\(^{40}\) See e.g. China-Taiwan History, [http://www.pbs.org/newshour/bb/asia/china/china-taiwan.html](http://www.pbs.org/newshour/bb/asia/china/china-taiwan.html)
States for many generations, while others have recently come as immigrants or refugees. Asian Americans as a whole include individuals who are affluent, hold professional jobs, and are highly educated. But at the same time, the same group also includes a significant population of people who are illiterate, living in poverty, and possess few marketable skills. Because of the immense differences among Asian American groups, aggregate data can be dangerously misleading. Institutions using aggregate data collection techniques may not accurately assess the plight of certain Asian American groups. Furthermore, Southeast Asians are quite different from East Asians because they represent different backgrounds, cultures, and viewpoints, all of which need to be adequately represented in order to achieve the compelling interest of diversity.

IV. THE PERCEPTION AND DE-MINORITIZATION OF ASIAN AMERICANS

The general American population’s perception of Asian Americans as a single homogenous group is a major cause of the continued use of the collective “Asian” classification. Specifically, all Asians Americans are generally thought to be East Asians, originating from China, Japan, or Korea. At one point in U.S. history, this East Asian perception may have been accurate, as most Asian Americans were of Chinese or Japanese descent. However, Table 2 shows that non-East Asians constitute nearly half of the Asian American population in the United States. Despite this, Asians Americans

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41 Again, privacy concerns may limit the absolute disclosure of precise information for every single Asian ethnicity.
42 Almazan, supra note 25 at 47.
43 This was reflected in the individual treatment of specific ethnicities by the United States in the past. See e.g. Toyosaburo Korematsu v. U.S., 323 U.S. 214 (U.S. 1944), Yick Wo v. Hopkins, 118 U.S. 356 (U.S. 1886), and the Chinese Exclusion Act of 1882.
continue to be misperceived as exclusively East Asian because Chinese and Japanese Americans have traditionally dominated Asian American politics. This may be due to their prominence, history, and larger population.\textsuperscript{44} Asian American movements, often led by East Asians, may alienate certain groups of Southeast Asians by only focusing on those issues that affect East Asians.\textsuperscript{45}

Recent cases involving racial discrimination demonstrate this focus on individual rather than broader community concerns.\textsuperscript{46} In 1999, Wen Ho Lee, a Chinese American physicist working at the Los Alamos National Laboratory, was accused of stealing secret information for the Chinese government.\textsuperscript{47} In its amicus brief, the Asian Law Caucus\textsuperscript{48} (“ALC”) argued that Lee was entitled to government evidence that he was a victim of racial profiling based on his Chinese ancestry.\textsuperscript{49} In support of their argument, the ALC brief highlighted the history of discrimination against East Asians in the United States, citing \textit{Yick Wo} and \textit{Korematsu}. Although the case implicated issues of discrimination against all Asian Americans, the ALC brief only focused on discrimination against East Asians. This type of individual focus by Asian American movements can perpetuate the misperception of Asian Americans as exclusively East Asian and lead people to believe that groups such as Southeast Asians do not have any problems or issues. Based on these

\textsuperscript{44} Susan Taing, Lost in the Shuffle: The Failure of the Pan-Asian Coalition to Advance the Interests of Southeast Asian Americans, 16 BERKELEY LA RAZA L.J. 23, 46-47 (2005)
\textsuperscript{45} Id. at 43.
\textsuperscript{46} Id. at 47.
\textsuperscript{47} Prosecutors were ultimately unable to prove any of the accusations.
\textsuperscript{48} This brief was submitted on behalf of the Asian American Legal Defense fund, Chinese for Affirmative Action, Committee of 100, Japanese American Citizens League, the National Asian Pacific American Bar Association, the National Asian Pacific American Legal Consortium, the National Lawyers Guild, and the Organization of Chinese Americans.
\textsuperscript{49} Civil Rights Groups Support Dr. Wen Ho Lee Legal Defense; Seek Information on Anti-Asian Bias in Scientist’s Prosecution, http://www.aclunc.org/news/press_releases/civil_rights_groups_support_dr_wen_ho_lee_legal_defense_seek_information_on_anti-asian_bias_in_scientist%27sProsecution.shtml
assumptions, many conclude that, because the needs of East Asians have been met, the needs of all Asian Americans groups have also been met.

The East Asian perception of Asian Americans is intimately related to the model minority myth, which portrays Asian Americans as a monolithic group that is economically successful and accepted by society because of their hard work. Because of the belief that Asian Americans are economically and educationally successful, many conclude that Asian Americans are not discriminated against and thus, do not need affirmative action. Two major problems arise from this myth. First, the myth obfuscates the fact that Asian Americans represent an extremely diverse group of ethnicities, each with distinct histories, cultures, experiences, and unique issues. The model minority treatment thus further injures groups such as Southeast Asians by burying their issues and troubles within the elevated perception of Asian Americans generally. Secondly, the model minority myth is misused by opponents of affirmative action to show that affirmative action is not needed to help all minorities.50 In California, opponents of affirmative action have cited the increase in overall Asian American enrollment at public universities after Proposition 209 as justification for overturning affirmative action policies.51 However, in their arguments, opponents of affirmative action assume that East Asians’ apparent success is reflective of the success of all Asian Americans. These assumptions and arguments hurt Southeast Asian groups by failing to recognize their unique situation and ignoring their need for inclusion in affirmative action programs.

The homogenous perception and treatment of Asian Americans is best exemplified in education. Many schools continue the use of the aggregate “Asian”

51 Lee, supra note 14 at 137.
classification when collecting admissions data. For schools that do collect disaggregated information, the data is usually either not publicly available or limited. Academic scholarship focusing on the effects of affirmative action in schools also tends to treat Asian Americans as one homogenous group. Even articles specifically focusing on the effects of affirmative action on Asian Americans follow this trend. If and when the heterogeneity of Asians and marginalization of Southeast Asians in the debate is considered, it is usually briefly mentioned with a sentence or in a footnote. The lack of disaggregated data on Asian Americans, however, might explain the lack of analysis by academics.

Within the Asian American population, there has been resistance to the aggregate perception. In *Ho v. San Francisco Unified School District*[^55], a group of Chinese American community activists challenged Lowell High School’s race-based admissions policies. On the other side of the litigation, Asian Americans were also involved in defending the school’s race-based admissions. Although the case settled, some Filipino students publicly opposed the settlement[^56]. These students felt that the school’s Chinese-focused settlement did not sufficiently address the needs of other Asian American groups.

[^52]: For example, The University of California law schools (Boalt, UCLA, UC Davis, UC Hastings) only release aggregate information ([http://www.ucop.edu/acadadv/datamgmt/lawdata/](http://www.ucop.edu/acadadv/datamgmt/lawdata/)). The University of California Office the President (which collects full admissions data from the UC law schools) also only releases aggregate information. Additionally, The Official Guide to Law School, published by the ABA and LSAC, reports aggregate data only.


[^55]: *Ho v. San Francisco Unified School District*, 147 F.3d 854 (9th Cir. 1998); Ho, 59 F.Supp.2d 1021 (N.D.Cal. 1999) (approving settlement).

This case demonstrates the tension and friction that can exist among the various Asian American ethnic groups and further reveals that the interests represented by the various groups are often not coextensive, and can at times even be directly in conflict.

Asian Americans today find themselves uncertain of their status in debates about race, which usually involve Whites and Blacks. At times, Asian Americans were excluded and viewed as outsiders, like African Americans. In *Plessy v. Ferguson*, Justice Harlan’s dissent revealed his perception of Chinese Americans as complete outsiders: “There is a race so different from our own that we do not permit those belonging to it to become citizens of the United States. Persons belonging to it are, with few exceptions, absolutely excluded from our country. I allude to the Chinese race.” At other times, Asian Americans find themselves pitted against Blacks and other minorities in the affirmative action debate. In recent debates, Asians Americans are increasingly “de-minoritized”, by being grouped with Whites, and left out of the affirmative action debate. During the oral arguments in *Grutter v. Bollinger*, Kirk Kolbo, on behalf of petitioners, argued, “The University of Michigan sees this as a question of group rights. There are rights on the part of minorities. And there are… rights on the part of Whites and Asians.”

The de-minoritization of Asian Americans and their exclusion from affirmative action policies is well-established in the educational context. In *Bakke*, Justice Powell questioned the inclusion of Asian Americans in affirmative action programs: “For

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59 Allred, supra note 57.
60 Lee, supra note 14.
example, the University is unable to explain its selection of… Negroes, Mexican-Americans, American-Indians, and Asians for preferential treatment. The inclusion of the last group is especially curious in light of the substantial numbers of Asians admitted through the regular admissions process.” Additionally, in 1984, administrators at the University of California, Berkeley decided that Asian Americans were no longer eligible for special admissions consideration and that they should no longer be beneficiaries of minority outreach and support programs. Furthermore, Asian Americans were not included in the *Grutter* debate over affirmative action, as the University of Michigan law school’s affirmative action policies excluded Asians.

This de-minoritization of Asian Americans places them in a unique position within the affirmative action debate because they are the only minority group that has been singled out as the model minority that does not need protection. Despite this, Asian Americans still face many of the same challenges and issues as other minorities such as Blacks and Hispanics. While some groups such as East Asians have been able to overcome these barriers, other groups like Southeast Asians have achieved much lower levels of success. Yet, they are viewed the same as the more successful East Asians. In fact, when people assume there are no differences between them, Southeast Asians can be made worse off because their weaker performances may be misinterpreted as personal incompetency or laziness when directly compared to East Asians.

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64 Gee, *supra* note 50 at 141.
V. DATA ANALYSIS: ASIAN REPRESENTATION IN SCHOOLS

Education is often the focus of affirmative action debates, and the discrepancy between East Asian and Southeast Asian representation is vividly illustrated by the available data on higher education enrollment. The following tables show Asian American undergraduate enrollment data for The University of California, Berkeley (“Berkeley”), The University of California, Los Angeles (“UCLA”), and the University of California, Riverside (“UCR”). Table 7, Table 9, and Table 11 show enrollment numbers by year from 1999-2008. Table 8, Table 10, and Table 12 compare each ethnicity’s percentage of the Asian student population at the school from 1999-2008 with that ethnicity’s percentage of the general Asian population of California in the year 2000.

Table 7: UC Berkeley Undergraduate Enrollment

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<thead>
<tr>
<th>Year</th>
<th>Filipino</th>
<th>Chinese</th>
<th>Japanese</th>
<th>Korean</th>
<th>Other</th>
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65 I chose to use undergraduate data because of the larger sample sizes. Also, most Asian undergraduate students are Asian Americans whereas a higher percentage of Asian graduate students are from other countries. Additionally, data from the graduate divisions of these schools shows similar trends.
66 Although data for all UC schools was available, I chose Berkeley and UCLA because of their first-tier ranking, and UCR as a lower-ranked school for comparison.
67 U.S. population data is only available for the year 2000, due to the U.S. Census.
68 Note: This does not include enrollment of East Indians and Pakistanis, but includes enrollment of Pacific Islanders; the data was not disaggregated for Pacific Islanders (included in the “Other Asian” category), so I was unable to remove them from the enrollment numbers.
Table 7 shows that, at Berkeley, Chinese Americans represent an extremely high percentage of total Asian American students. In fact, for every year reported, the number of Chinese students outnumbered all other Asian ethnicities combined. Additionally, the number of Chinese students has been slowly increasing through the years. In contrast, the other Asian ethnicities are represented in relatively smaller numbers and are not experiencing the same type of increase in enrollment as Chinese students. Looking at Table 7, it is easy to see why the overrepresentation of Chinese Americans at Berkeley and other elite universities can perpetuate the model minority myth. Administrators, other students, and the public see the large number of Chinese students, who become generalized as “Asians”, and assume that all Asian Americans have become successful and are adequately represented in higher education. However, this is misleading, as it masks the underrepresentation of less successful Asian ethnicities.

69 Available at: http://www.ucop.edu/ucophome/uwnews/stat/.
Table 8: UC Berkeley Undergraduate Population Comparison

At first glance, one might dismiss the high representation of Chinese American students in Table 7 by pointing out that Chinese Americans make up the greatest percentage of the Asian American population, and thus it only naturally follows that they would be proportionally represented in student enrollment. However, the comparisons in Table 8 clearly rebut this contention. Although Chinese Americans only comprised of 30 percent of the Asian American population of California in the year 2000, they represented an incredible 53 to 56 percent (54.5 percent average) of the Berkeley Asian American student population from 1999 to 2008. More shocking is the significant

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Note: Only US Asian population data for the year 2000 is shown because population data is not available for other years (The 2000 data is from the Census). This does not include enrollment of East Indians and Pakistanis, but includes enrollment of Pacific Islanders; the data was not disaggregated for Pacific Islanders (included in the “Other Asian” category), so I was unable to remove them from the enrollment numbers.

Available at: [http://www.ucop.edu/ucophome/uwnews/stat/](http://www.ucop.edu/ucophome/uwnews/stat/).

As most UC Berkeley students are in-state (89 percent), I will compare student data with California Asian American data.

I only compare the student data to the US Asian population from the year 2000, because that was the only year in which data was available (from the 2000 US Census).
underrepresentation of Filipinos at Berkeley. As the second most populous Asian ethnicity, Filipinos represented 28.1 percent of the Asian American population in California in 2000. Yet, they only comprise of 8 to 10 percent (9.2 percent average) of the Asian student population at Berkeley from 1999 to 2008. The “Other” Asian category, which includes groups such as Vietnamese, Cambodians, Laotians, and Hmong, also shows similar levels of underrepresentation. At Berkeley, Korean Americans are also overrepresented relative to their percentage in the overall Asian population, like Chinese Americans, although not to the same degree.


Surprisingly, Japanese Americans seem to be significantly underrepresented at Berkeley. However, a reason behind this phenomenon may be the higher median age among Japanese Americans. In the year 2000, the median age of the U.S. population was 35.4 years and the median age of the U.S. Asian population was 33. However, the median age among Japanese Americans was 42.6 years, which was almost 10 years older than that of all Asian Americans. Although there may be other contributing factors, the higher median age among Japanese Americans may reflect a lower number of Japanese American college applicants. Other factors may include a potentially lower fertility rate among Japanese Americans. Unfortunately, not much data on Japanese American fertility rates and other information could be found.

Note: This does not include enrollment of East Indians and Pakistanis, but includes enrollment of Pacific Islanders; the data was not disaggregated for Pacific Islanders (included in the “Other Asian” category), so I was unable to remove them from the enrollment numbers.

Available at: [http://www.ucop.edu/ucophome/uwnews/stat/](http://www.ucop.edu/ucophome/uwnews/stat/).
In Table 9, UCLA reflects similar group enrollment trends as Berkeley. At UCLA, Chinese student enrollment is slightly less than at Berkeley, but it still constitutes a very high percentage of the total Asian student population. Like Berkeley, UCLA also shows an increase in Chinese student enrollment through the years, while the other Asian groups show little change. In fact, Filipino student enrollment slightly declined from 1999 to 2008.

### Table 10: UCLA Undergraduate Population Comparison

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<th>Year</th>
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Table 10 shows the same types of disparities at UCLA which were seen in Berkeley. Although the underrepresentation of certain groups is slightly less severe at UCLA, it is still apparent for groups such as Filipinos and “Other” Asians. While

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Note: Only US Asian population data for the year 2000 is shown because population data is not available for other years (The 2000 data is from the Census). This does not include enrollment of East Indians and Pakistanis, but includes enrollment of Pacific Islanders; the data was not disaggregated for Pacific Islanders (included in the “Other Asian” category), so I was unable to remove them from the enrollment numbers.

Available at: [http://www.ucop.edu/ucophome/uwnews/stat/](http://www.ucop.edu/ucophome/uwnews/stat/)
Filipinos represented 29.1 percent of the Asian American population of California\textsuperscript{79} in 2000\textsuperscript{80}, they only made up 11 to 13 percent (11.5 percent average) of the Asian student population at UCLA from 1999 to 2008. At UCLA, there is less of a disparity in enrollment for “Other Asians”, compared to Berkeley. However, it is difficult to draw any meaningful conclusions about this group’s situation at UCLA without disaggregated data.

For comparison purposes, it is useful to look at the same types of data at UCR, which was ranked slightly lower among the nation’s colleges compared to Berkeley and

\begin{table}[h]
\centering
\caption{UC Riverside Undergraduate Enrollment\textsuperscript{81}}
\begin{tabular}{|c|c|c|c|c|c|c|c|c|c|c|}
\hline
Year & Filipino & Chinese & Japanese & Korean & Other \\
\hline
1999 & 500 & 1000 & 1500 & 2000 & 2500 \\
2000 & 600 & 1300 & 1700 & 2200 & 2700 \\
2001 & 700 & 1400 & 1800 & 2300 & 2800 \\
2002 & 800 & 1500 & 1900 & 2400 & 2900 \\
2003 & 900 & 1600 & 2000 & 2500 & 3000 \\
2004 & 1000 & 1700 & 2100 & 2600 & 3100 \\
2005 & 1100 & 1800 & 2200 & 2700 & 3200 \\
2006 & 1200 & 1900 & 2300 & 2800 & 3300 \\
2007 & 1300 & 2000 & 2400 & 2900 & 3400 \\
2008 & 1400 & 2100 & 2500 & 3000 & 3500 \\
\hline
\end{tabular}
\end{table}

Source: The University of California, Statistical Summary of Students and Staff: 2000-2008\textsuperscript{82}.

\textsuperscript{79} As most UCLA students are in-state (93 percent), I will compare student data with California Asian American data.
\textsuperscript{80} I only compare the student data to the US Asian population from the year 2000, because that was the only year in which data was available (from the 2000 US Census).
\textsuperscript{81} Note: This does not include enrollment of East Indians and Pakistanis, but includes enrollment of Pacific Islanders; the data was not disaggregated for Pacific Islanders (included in the “Other Asian” category), so I was unable to remove them from the enrollment numbers.
\textsuperscript{82} Available at: \url{http://www.ucop.edu/ucophome/uwnews/stat/}. 
Although there are other contributing factors, the lower average GPA and SAT scores of applicants may be reflective of the traditional challenges minorities face, including lower levels of parental education, poorer economic class, and a general lack of opportunities. Table 11 shows enrollment data for UCR, which differs significantly from data for UCLA and Berkeley. While Chinese are still represented by the highest numbers at UCR, groups such as Filipinos and “Other” Asians are represented in higher numbers when compared to Berkeley and UCLA. Despite this, we still see the same increase in Chinese students over the years as we saw at Berkeley and UCLA. As a result, a larger gap develops between Chinese students and other Asian American students.

According to the US News and World Report annual rankings, UCR was ranked 89th, Berkeley was ranked 21st, and UCLA was ranked 25th. See National Universities Rankings – Best Colleges 2009, http://colleges.usnews.rankingsandreviews.com/college/national.

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83 According to the US News and World Report annual rankings, UCR was ranked 89th, Berkeley was ranked 21st, and UCLA was ranked 25th. See National Universities Rankings – Best Colleges 2009, http://colleges.usnews.rankingsandreviews.com/college/national.
Table 12 shows the representation of Asian American students at UCR. It is clear that certain Asian minorities are underrepresented at elite schools such as Berkeley and UCLA. However, even at a lower-ranked school like UCR, these same groups remain underrepresented, although to a lesser degree. For Chinese students, they now represent an average of 34 percent of the Asian population at UCR from 1999 to 2008; at Berkeley, they represented 55 percent and at UCLA, they represented 45 percent. There is also less of a difference between Filipinos’ representation at UCR and within the Asian American

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84 Note: Only US Asian population data for the year 2000 is shown because population data is not available for other years (The 2000 data is from the Census). This does not include enrollment of East Indians and Pakistanis, but includes enrollment of Pacific Islanders; the data was not disaggregated for Pacific Islanders (included in the “Other Asian” category), so I was unable to remove them from the enrollment numbers.

85 Available at: http://www.ucop.edu/ucophome/uwnews/stat/.

86 Berkeley and UCLA were both ranked in the top 25 national universities in 2009, according to U.S. News and World Report. (report available at: http://colleges.usnews.rankingsandreviews.com/college/national )

87 The higher enrollment numbers of Southeast Asian groups at lower-ranked schools may help explain the high Filipino education numbers found in Table 6. It is likely that Filipinos are receiving degrees at lower ranked schools but are still having difficulty accessing more elite schools.
population of California in 2000. From 1999 to 2008, Filipinos represented an average of 17 percent of the Asian population at UCR, whereas they only represented 9.2 percent of Asian students at Berkeley and 11.5 percent of Asian students at UCLA. Despite this, we see the same underrepresentation of Filipinos in second-tier schools as we did in the higher ranked schools.

After Proposition 209 was passed in 1996, eliminating affirmative action in California’s public schools, most of the focus at UC Berkeley’s Boalt Hall was on the low representation of Black students in the 1997 entering class. However, few noticed that the entering classes in 1997 and 1999 had no Filipino students.88 Before Proposition 209, Filipino applicants, as well as some other Asian subgroups, were given special consideration under Boalt’s affirmative action policies. Other schools have experienced similar declines in Southeast Asian student enrollment after affirmative action policies were ended. The University of Washington Law School, which had given a plus factor to Filipino applicants, ended its policies after Initiative 200 was passed in 1998. The number of enrolled Filipinos students, which averaged 5.7 per year from 1993-1998, dropped to an average of 2.1 from 1999-2005.89 The UCLA School of Law also saw a decline in Filipino students after Proposition 209. An average of 7 Filipino students were enrolled from 1995-1996, when affirmative action policies were still in place, but that number fell to an average of only 3.25 from 1997-2001.90 In fact, there was only one Filipino student enrolled in 1998 at UCLA’s law school.

89 Kidder, supra note 54 at 623.
The phenomenon of negative action may further exacerbate the condition of underrepresented Asian American subgroups because they are placed in direct competition with the more established East Asian groups.\textsuperscript{91} Under negative action, once race is accepted as a consideration in achieving diversity, it can be manipulated to restrict entry by members of certain groups. For example, if a high proportion of Asian Americans would gain admission solely through a competitive admissions process, a school may limit the number of Asian American students under the guise of pursuing a more diverse student body.\textsuperscript{92} Negative action uniquely affects Asian Americans but no other minorities because of the success and higher levels of representation experienced by East Asian groups. Thus, negative action can hurt Asian Americans as a whole by lowering their chances of admission compared to Whites because of the competitive application characteristics generally found among East Asians.\textsuperscript{93} Consequently, this leads to increased competition among all Asian American groups for a limited number of spots. For underrepresented Asian American minorities, who are not recognized as needing special consideration in affirmative action programs, this poses an additional challenge to overcome. As such, it may be even more difficult for students such as Vietnamese and Cambodians to be admitted because they are considered under the broad classification of “Asian”, and they must now compete against East Asian students for limited spots.

\textsuperscript{91} Kidder, \textit{supra} note 54.
To illustrate this point, imagine a school that applies negative action policies towards Asian Americans students.\textsuperscript{94} To achieve the school’s set standard of diversity, the administration has decided to limit the maximum enrollment of any one ethnicity to 25 percent of the student body. The school receives an extremely high number of applications from qualified Asian Americans, so the school “limits” the number of Asian Americans to seven students out of a class of twenty eight students. Fifteen Asian American students apply for the school: seven Chinese students with high test scores, two Chinese students with medium test scores, one Filipino student with a medium test score, and five Filipino students with low test scores. Under a strictly competitive admissions policy, the school would admit anyone with at least a medium test score.\textsuperscript{95} However, since this practice would allow the percentage of Asian American students to exceed 25 percent, the school decides to only admit the seven Asian Americans with high test scores (seven Chinese students) and reject the three Asian Americans with medium test scores (two Chinese students and one Filipino student). The rejected Filipino student with the medium test score is injured by the negative action because he would have been admitted if he were not Asian American\textsuperscript{96} and because he was considered in the aggregate with all other Asian American applicants. If this Filipino student had been recognized specifically by affirmative action programs as part of an underrepresented minority group, or if he had not been treated as an “Asian American” generally for the purposes of negative action, he would have likely been accepted by the school based on his qualifications. Thus, negative action policies can present additional problems for Asian

\textsuperscript{94} I have highly simplified the admissions procedures for this hypothetical. I realize that a real system may not be as explicit or straightforward.

\textsuperscript{95} For this hypothetical, I will assume that all students who are admitted end up enrolling.

\textsuperscript{96} For this hypothetical, I assume that there is no negative action or danger of reaching the 25 percent limit for other ethnicities.
American groups that are already underrepresented, further exacerbating the challenges they face.

VI. EFFORTS TO DISAGGREGATE DATA ON ASIAN AMERICANS

In February 2007, State Assemblyman Ted Lieu (D-Los Angeles) introduced Assembly Bill No. 295 to the California Legislature to compel state agencies to disaggregate data on Asian Americans.\(^97\) Bill No. 295 called for state agencies to expand their data collection policies to include categories for additional Asian American groups, as it was “critical for enhancing our state’s understanding of the needs and experiences of these different communities.”\(^98\) Although the bill passed the California Legislature, it was ultimately vetoed by Governor Schwarzenegger. The Governor cited the additional costs imposed by the bill but recognized the “need to sort data based on ethnicity”\(^99\) and suggested that current laws allowed state agencies to expand upon current demographic categories if necessary.

From 2006 to 2007, a similar effort was made to disaggregate undergraduate admissions data at the University of California. At the time, the UC system already included an expanded set of categories for Asian Americans which included Chinese, East Indians/Pakistanis, Filipinos, Japanese, Koreans, Vietnamese, and Other Asians.\(^100\) However, the “Count Me In” campaign compelled the UC system to further disaggregate the “Other Asian” category to include additional Asian American groups and to

\(^98\) Section 1(f), Assembly Bill No. 295 introduced February 9, 2007.
\(^99\) Memo to the Members of the California State Assembly from Arnold Schwarzenegger, Governor of the State of California on Oct. 11, 2007.
financially support outreach programs targeted at disadvantaged Asian American
groups.\textsuperscript{101} After a year-long campaign, UCLA’s Asian Pacific Coalition and supporters
successfully convinced the UC system to begin more accurately assessing Asian
American applicants by expanding the categories from 8 to 23 different ethnic groups.\textsuperscript{102}

The Asian Pacific Islander Law Student Association (“APILSA”) at UCLA
School of Law has also made efforts to address the underrepresentation of certain Asian
American groups. In 2004, APILSA asked the Dean to include underrepresented Asian
Americans in UCLA Law’s Welcome Reception Weekend, an outreach event aimed at
welcoming and attracting admitted underrepresented minority students to the school.\textsuperscript{103}

Up until 2003, the school had only invited African American, Latino, and Native
American students to participate; Asian Americans were left out because of their large
numbers at the school. Referring to Asian minority enrollment data at the law school,
APILSA identified the serious underrepresentation of groups such as Filipinos, Southeast
Asians, and Pacific Islanders in the law school. APILSA urged the law school to
recognize the challenges these groups faced by including them in the school’s outreach
programs. As a result of APILSA’s efforts, the administration at the law school began to
include Filipinos, Southeast Asians, and Pacific Islanders in the Welcome Reception
Weekend.\textsuperscript{104}

\textsuperscript{101} Id.
\textsuperscript{102} ‘Count Me In’ Campaign victory at UC Campuses – Asian and Pacific Islander Students Counter the
\textsuperscript{103} Letter from Asian Pacific Islander Law Student Association to Norman Abrams, Dean of the UCLA
School of Law, 1 (March 1, 2004), on file with author [hereinafter APILSA Letter].
\textsuperscript{104} Interview with Robert Schwartz, Asst. Dean for Admissions at the UCLA School of Law, in L.A., Cal.
(Dec. 22, 2008).
VII. **WHERE TO GO FROM HERE**

Current racial classifications for Asian Americans work against the goal of diversity in education because they provide schools with misleading data about the identity and characteristics of different Asian American groups. Aggregate data can mask the needs of individual groups and may lead administrators to believe that Asian Americans no longer need to be included in affirmative action policies. At a minimum, schools need to disaggregate the “Asian” category by expanding the number of available ethnicity categories for applicants. “We don’t know what we don’t know… If we have more information, students, faculty, and administrators all win,” said William Kidder, a senior policy analyst for the University of California who has studied the effects of affirmative action policies on Asian American students.

Once the disaggregated information is collected, it is crucial to make the information public. Unfortunately, the data is seldom made available even when schools do collect disaggregated data. In conducting research for this paper, I contacted several law schools which were known to collect some form of disaggregated data on Asian Americans, but I discovered that most had recently changed their policies regarding the disclosure of the disaggregated data. Despite the fact that UCLA’s law school, like others, had actually released this information in the past, it now cited federal privacy issues as well as other reasons for limiting the disclosure of disaggregated data. Most UC schools directed me to the University of California Office of the President (UCOP).

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107 Again, schools may have changed their policies to comply with federal privacy laws.
However, when I contacted the UCOP, they also refused to disclose the information and directed me instead to a webpage containing only aggregate data on Asian Americans. 109

The publication of disaggregated data not only keeps schools and their affirmative action policies accountable, but it can be used by underrepresented groups as proof of the disparity among the different Asian American groups. Once evidence of underrepresentation is available, these groups can use the data to help advance their interests through outreach programs or other initiatives. 110 For example, APILSA was able to use such data to compel the UCLA School of Law to include certain underrepresented groups in its outreach programs. This victory may not have been possible without the data they presented on underrepresented Asian American groups in the law school. 111 The publication of disaggregated data may also motivate Southeast Asian American groups such as Filipinos and Vietnamese to form their own alliances to represent their unique positions in the affirmative action debate, rather than relying on the efforts of traditional Asian American umbrella coalitions.

Disaggregated data on Asian Americans may also form the basis of a compelling argument for the inclusion of Asian Americans in affirmative action policies. All too often, Asian American coalitions overlook this point and treat the Asian population as a

110 See e.g. Carolyn Goossen, School Matters: Not All Asians are at the Top of Their Class, New America Media, Feb 20, 2007, available at: http://news.newamericamedia.org/news/view_article.html?article_id=7592da14b491bab5622b614fdee51fa d (discussing the troubles MaiKa Yang, a young Hmong woman from Fresno, CA, faced in trying to obtain funding to start programs for her community because of the lack of data to prove the problems her community faces).
111 APILSA Letter, supra note 103.
single homogenous entity.\textsuperscript{112} In \textit{Bakke}, the Asian American Bar Association of the Bay Area filed an amicus brief articulating several reasons for why Asian Americans should be included in affirmative action policies.\textsuperscript{113} The brief noted the dearth of Asian American professionals as well as the importance of a diverse class of lawyers to address the language needs within the Asian American community.\textsuperscript{114} However, the brief never mentioned the underrepresentation of certain Asian American groups within higher education to support their arguments; the brief consistently referred to Asian Americans as a single entity. Several decades later in the \textit{Grutter} and \textit{Gratz} debate, the National Asian Pacific American Legal Consortium (NAPALC), along with 27 other Asian American legal and civil rights organizations, filed an amicus brief, in part to refute the claim that Asian Americans would benefit from the elimination of race-conscious admissions policies.\textsuperscript{115} The brief argued that Asian Americans, like all students, would benefit from a diverse student body, and that the end of affirmative action programs in California did not result in the expected increase in Asian American student enrollment. Again, at no point did the brief mention the underrepresentation of certain Asian American groups or argue for the inclusion of Asian Americans in the University of Michigan’s affirmative action policies.\textsuperscript{116} I believe that these are significant oversights by Asian American coalitions. Arguments based on the underrepresentation of certain groups can be raised in future debates over race conscious remedies in all contexts,

\textsuperscript{113} Harvey Gee, \textit{supra} note 7, at 147.
\textsuperscript{114} AABA Amicus Brief, \textit{supra} note 11, at 16.
\textsuperscript{116} To be fair, the decisions to ignore this argument may have been political or strategic.
including education and contracting. When disaggregated data is made available, it will strengthen these types of arguments for the inclusion of Asian Americans in affirmative action policies.

VIII. CONCLUSION

Modern debates over affirmative action increasingly cite empirical data as evidence in support of or against the inclusion of certain groups. Although Asian Americans have consistently been involved in these debates, the empirical observations concerning them are usually rooted in inaccurate assumptions that skew the positions of Asian Americans as a whole. Ironically, opponents as well as proponents of affirmative action have both used Asian American data in the aggregate, treating the group as a single monolithic entity. Because of this, many assume that all Asian Americans should be treated equally, and it becomes difficult to accurately situate underrepresented Asian American groups in the discussion. As long as the use of aggregate data persists, certain Asian American groups become lost within the aggregate identity and continue to be underrepresented. To remedy the situation, institutions must disaggregate data on Asian Americans in order to present a more detailed look at the successes and challenges that each Asian American group faces. Eliminating the aggregate treatment of Asian Americans can help change perceptions and hopefully allow the needs of underrepresented and disadvantaged Asian American groups to be addressed.