

HALF-FULL, HALF-EMPTY? ASIAN AMERICAN ELECTORAL “PRESENCE” IN 2008

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We stand past the cusp of a historic election. For the first time, a person of color has been elected to the highest office of a majority-white nation.¹ For the first time in United States history, an African American has been elected President.²

As we look back upon the events that led to this result, it gives us an opportunity to examine the politics of race. Despite all the talk of Obama running a post-racial campaign, there was a lot of race in this race.³ Our sense, though, is that race in the race, as remains typical in the United States, was discussed and understood mostly in black and white terms.⁴

In the midst of this, how do we talk meaningfully about political power as it relates to racial group affiliation?⁵ And more specifically, what does it mean to talk about Asian Americans and Asian American political power?

In some ways, it's odd to talk about group political power. After all, we might understand the right to vote as being held by qualified individuals, that political power resides in individuals who exercise this right as individuals and not as members of a group.⁶ These individual exer-

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1. Shelby Steele, Op-Ed., *Obama's Post-Racial Promise*, L.A. TIMES, Nov. 5, 2008, at A31.

2. *See id.*

3. We take the phrase from an event run before the election by UCLA's Critical Race Studies program called "Race in the Race."

4. For a development of the critique of the black/white racial paradigm in the legal literature, see Robert S. Chang, *Toward an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space*, 81 CAL. L. REV. 1241, 1267 (1993); Neil Gotanda, "Other Non-Whites" in *American Legal History: A Review of Justice at War*, 85 COLUM. L. REV. 1186, 1188 (1985) (book review); Juan F. Perea, *The Black/White Binary Paradigm of Race: The "Normal Science" of American Racial Thought*, 85 CAL. L. REV. 1213, 1219 (1997).

5. We include Latinas/os as part of the racial discourse despite the formal categorization by the U.S. Census of Hispanics not as a race but as an ethnicity. *See* Robert S. Chang & Keith Aoki, *Centering the Immigrant in the Inter/National Imagination*, 85 CAL. L. REV. 1395, 1447 (1997). On Latinas/os and the political process, see STEVEN W. BENDER, *ONE NIGHT IN AMERICA: ROBERT KENNEDY, CESAR CHAVEZ, AND THE DREAM OF DIGNITY* (2008); Steven Bender, Sylvia R. Lazos Vargas & Keith Aoki, *Race and the California Recall: A Top Ten List of Ironies*, 16 BERKELEY LA RAZA L.J. 11, 15-18 (2005); Steven W. Bender & Keith Aoki, *Seekin' the Cause: Social Justice Movements and LatCrit Community*, 81 OR. L. REV. 595, 618-24 (2002).

6. *But cf.* Davis v. Bandemer, 478 U.S. 109, 167 (1986) (Powell, J., dissenting) (suggesting that the experience of voting cannot be understood solely as an individual act, because "[t]he concept of 'representation' necessarily applies to groups: groups of voters elect representatives, individual

cises of power are then aggregated and interpreted through the prism of the Electoral College to produce a result that is understood to have been ratified by the electorate.⁷

Given the large number of individuals who hold this power, power is extremely diffuse, which might help us to understand low voter registration rates and low voter participation rates—numbers that indicate high levels of alienation, disenchantment, and disenfranchisement. In the middle of this, this small/great power is mediated through groups. Group affiliation is connected to the exercise of preferences. So how then are we to understand the role that Asian Americans played in this historic election?⁸

The 2008 U.S. Presidential Election was not that close,⁹ and therefore was somewhat inconsistent with presidential elections for the past two decades—in that the winning candidates in elections since 1988 received no more than 51% of the vote. One might justifiably wonder if these close margins represented racial and ethnic minority opportunities to press the Democratic and Republican parties on particular issues.¹⁰ Some pundits have expressed the opinion that George W. Bush was elected in 2000 and re-elected in 2004 due to his ability to draw ap-

voters do not”); Lani Guinier, *Groups, Representation, and Race-Conscious Districting: A Case of the Emperor's Clothes*, 71 TEX. L. REV. 1589, 1596-1601 (1993); Samuel Issacharoff, *Groups and the Right to Vote*, 44 EMORY L.J. 869, 883-84 (1995) (“In turn, the right to cast an effective ballot implied more than simply the equal weighting of all votes, as per the one-person, one-vote rule. To be effective, a voter’s ballot must stand a meaningful chance of effective aggregation with those of like-minded voters to claim a just share of electoral results. For this reason, any sophisticated right to genuinely meaningful electoral participation must be evaluated and measured as a group right, that of groups of voters seeking the outcomes promised to them through the electoral system.”).

7. See U.S. CONST. art. II, § 1, cl. 2 (creating the Electoral College where each state receives a number of votes equal to its number of representatives and senators wherein each state is free to appoint “in such Manner as the Legislature thereof may direct . . .”); see also JUDITH A. BEST, *THE CHOICE OF THE PEOPLE? DEBATING THE ELECTORAL COLLEGE* 17-30 (1996); ROBERT M. HARDAWAY, *THE ELECTORAL COLLEGE AND THE CONSTITUTION: THE CASE FOR PRESERVING FEDERALISM* 39-65 (1994); NEAL R. PIERCE & LAWRENCE D. LONGLEY, *THE PEOPLE’S PRESIDENT: THE ELECTORAL COLLEGE IN AMERICAN HISTORY AND THE DIRECT VOTE ALTERNATIVE* 10-30 (rev. ed. Yale Univ. Press 1981) (1968).

8. Leadership Education for Asian Pacifics, Inc. (LEAP) and Asian Pacific Americans Public Policy Institute, *THE STATE OF ASIAN AMERICA: TRAJECTORY OF CIVIC AND POLITICAL ENGAGEMENT: A PUBLIC POLICY REPORT* (Paul M. Ong ed. 2008), available at http://www.leap.org/inform_main.html [hereinafter STATE OF ASIAN AMERICA 2008].

9. CNN 2008 Presidential Election Results, <http://www.cnn.com/ELECTION/2008/results/president/> (last visited Jan. 19, 2009) (53% Obama, 46% McCain); CNN 2008 Presidential Election Exit Polls, <http://www.cnn.com/ELECTION/2008/results/polls/#USP00p1> (last visited Jan. 19, 2009) (showing a majority of African American, Asian Pacific Americans (“APA”), and Latino/a votes went for Obama, while a majority of white votes did not).

10. See 80-20 Initiative, <http://www.80-20initiative.net/> (last visited Jan. 19, 2009) (“80-20 is a national, nonpartisan, Political Action Committee dedicated to winning equal opportunity and justice for all Asian Americans through a SWING bloc vote, ideally directing 80% of our community’s votes and money to the presidential candidate endorsed by the 80-20, who better represents the interests of all APAs.”).

proximately 40% of the Latino/a vote, a claim mirrored by California Governor Arnold Schwarzenegger's election in 2006.¹¹

Unfortunately, this minority group "leverage" is more myth than reality because the U.S. Presidential Election is actually fifty separate state elections, *Bush v. Gore*¹² notwithstanding.¹³ In particular, geographic distribution of Asian Americans seems to inveigh against electoral leverage, which is why we use the term "presence" instead of "power." The crucial swing states such as Florida, Pennsylvania, Ohio, and Missouri do not contain substantial Asian American population centers. Rather, Asian Americans are concentrated in "blue" states like Hawaii, California,¹⁴ and New York.¹⁵ Additionally, while Asian Americans as a percentage of the voting population are up from 1.6% in 1996 to 2.2% in 2004, this increase does not reflect higher actual voting rates.¹⁶ Asian American registration rates are approximately 51%, of which only about 44% actually voted.¹⁷

11. See Observationalism: Selected Exit Poll Comparisons, 2000—2004—2008, <http://observationalism.com/2008/11/09/selected-exit-poll-comparisons-2000-2004-2008> (last visited Jan. 16, 2009) (showing Obama drew 67% of the national Latino/a vote).

12. 531 U.S. 98 (2000).

13. See *id.* at 100, 111 (upholding *Bush v. Palm Beach County Canvassing Bd.*, 531 U.S. 70 (2000) (per curiam)); Karthnick Ramakrishnan, *Asian Pacific Americans and the 2008 Presidential Election*, in UCLA ASIAN PACIFIC AMERICAN STUDIES CENTER AND ASIAN PACIFIC AMERICAN POLITICAL ALMANAC, 2007-2008 27 (13th ed. 2008) ("[A]s we already know, the presidential election is not a national contest but one that is carried out across 50 states."); see also McPherson v. Blacker, 146 U.S. 1, 24-36 (1892) (interpreting art. II's "independent legislature" doctrine); SAMUEL ISSACHAROFF, PAMELA S. KARLAN & RICHARD H. PILDES, *THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS* 1042 (rev. 3d ed. 2007) ("Art. II textually commits the manner of choosing presidential electors to the State legislatures."); Richard H. Pildes, *Democracy and Disorder*, 68 U. CHI. L. REV. 695, 714-15 (2001) (arguing that the *Bush v. Gore* Court was motivated by fears that chaos would ensue if democratic institutions were allowed to resolve the outcome of the 2000 presidential election); David A. Strauss, *Bush v. Gore: What Were They Thinking?*, 68 U. CHI. L. REV. 737, 739 (2001) (arguing that the Supreme Court in *Bush v. Gore* engaged in a "kind of morally justified civil disobedience"). Compare *Palm Beach County Canvassing Bd. v. Harris*, 772 So. 2d 1220, 1240 (Fla. 2000), *vacated*, *Bush*, 531 U.S. 70, (calling for a recount of votes in particular Florida counties), with *Bush*, 531 U.S. 70, 78 (vacating the Florida Supreme Court's decision and stopping the recount).

14. See Andrew L. Aoki, *Asian Pacific American Voters, Issues and the 2008 Election*, in UCLA ASIAN PACIFIC AMERICAN STUDIES CENTER AND ASIAN PACIFIC AMERICAN POLITICAL ALMANAC, 2007-2008, *supra* note 13, at 15 ("Asian Pacific Americans are approaching 13 percent of the population in California, which holds almost a fifth of the electoral votes needed to win the presidency."); see also *THE NEW FACE OF ASIAN PACIFIC AMERICA: NUMBERS, DIVERSITY & CHANGE IN THE 21ST CENTURY* 124 (Eric Lai & Dennis Aguelles eds., 2003) [hereinafter *NEW FACE OF APAMERICA*] ("With an APA population of 4,321,585, California, by far, has the largest Asian population of all 50 states. New York[] . . . follow[s] California as a distant second, and Hawai'i ranks third . . .").

15. *NEW FACE OF APAMERICA*, *supra* note 14, at 132 ("New York has the greatest number of APAs [in the Northeast] at 1,192,431 . . .").

16. Ramakrishnan, *supra* note 13, at 28 ("[T]he Asian Pacific American share of the voting population has increased by nearly 50% from 1.6% in 1996 to 2.2% in 2004. Much of this increase can be attributed to the growing share of Asian Pacific Americans in the adult citizen population (and not to higher voting numbers).")

17. See Christine Chen, *Apathetic and Apolitical? Asian Pacific Americans and the Next Steps for Building a Political Base*, in UCLA ASIAN PACIFIC AMERICAN STUDIES CENTER AND ASIAN PACIFIC AMERICAN POLITICAL ALMANAC, 2007-2008, *supra* note 13, at 17 ("In 2004, the Asian

However, this Asian American demographic clustering is changing, and states like Washington, New Jersey, Minnesota, and Oregon are home to increasing centers of Asian American population.¹⁸ States like North Carolina and Nevada contain Asian American population centers of more than 100,000.¹⁹ Virginia is a state in demographic (and political) flux, and one could look at the narrow defeat in 2006 of Republican Senator George Allen by less than 10,000 votes (out of more than two million votes cast) as a signal that recent Asian American voters may have played a pivotal role.²⁰

Still, the front-loading of the Iowa caucuses and the New Hampshire primary may not serve to spotlight Asian American issues, given that Iowa is 93% white and New Hampshire has an Asian American population of approximately 2%.²¹ While such a change in the election schedule is not likely, one might wonder what issues might be in the foreground if the nation's first primaries were in states like Hawaii or California.

Pacific Americans voter registration rate of 51.8%, was the lowest in comparison to Whites, Blacks and Hispanics and only 44.1% of Asians voted."); *see also* Ramakrishnan, *supra* note 13, at 28 ("55% of adult Asian Pacific Americans voted in 2004, compared to 55% of Latinos, 72% of blacks and 74% of whites."); Paul Ong & Megan Emiko Scott, *Asian American Civic and Political Engagement*, in *STATE OF ASIAN AMERICA 2008*, *supra* note 8, at 2 ("From 1990 to 2007, the number of Asian Americans increased from 7.3 million to 13.4 million, and from 2.9% of the total population to 4.4%. If we include those who are part Asian American, then the respective figures for 2007 are 15.2 million and 5.0%.")

18. *See* NEW FACE OF APAMERICA, *supra* note 14, at 140, 150, 170 (stating that, as of the 2000 Census, New Jersey had 398,404 APAs, Washington had 428,659 APAs, Oregon had 139,282 APAs, and Minnesota had 165,779 APAs).

19. *See id.* at 153, 155, 176 ("Nevada's APA population more than tripled to 124,116 by 2000. It was the fastest growing Asian Pacific American population in the country. . . . Nevada, at current growth rates could jump into the fourth place [for APA population in the West] by 2010, jumping ahead of Oregon Arizona and Colorado North Carolina has 142,727 APAs [as of the 2000 Census].").

20. On George Allen calling a Jim Webb campaign worker "Macaca," *see* Editorial, *George Allen's America: Whom It Includes and Whom It Doesn't*, WASH. POST, Aug. 15, 2006, at A12 ("Or perhaps the idea that bullying your opponent and calling them strange names—Mr. Allen twice referred to Mr. Sidarth as "Macaca"—is within the bounds of decency on the campaign trail?"). *See also* YouTube, *George Allen Introduces Macaca* (Aug. 11, 2006), <http://www.youtube.com/watch?v=r90zOPMnKwI>. On Virginia Senator Jim Webb's Vietnamese American wife, *see* Annie Gowen, *Webb's Wife Steps In to On Stage Role, Denouncing Criticism of Virginia Candidate*, WASH. POST, Nov. 3, 2006, at B05 (describing Jim Webb's wife Hong Le Webb as a "38-year-old securities lawyer" born in Vietnam). *See also* NEW FACE OF APAMERICA, *supra* note 14, at 176 ("[As of 2000] 311,424 Asian Pacific Americans call . . . Virginia home."); Okiyoshi (Oki) Takeda, *How Asian Pacific Americans are Made to Disappear in U.S. Presidential Politics*, in *UCLA ASIAN PACIFIC AMERICAN STUDIES CENTER AND ASIAN PACIFIC AMERICAN POLITICAL ALMANAC, 2007-2008*, *supra* note 13, at 29 ("[T]he 2006 Virginia race for U.S. Senate . . . was decided by less than 10,000 votes out of 2.3 million votes cast.")

21. Oki, *supra* note 20, at 29 ("Iowa and New Hampshire, where the first caucus and primary in the nation take place, are states in which Asian Pacific Americans constitute less than two percent of the state population. . . . Imagine how [that] would . . . change if the first primary of the nation was held in Hawai'i? . . . [W]hat if the first primary was held in California? . . . We often discuss the order of presidential primaries in the context of equality among the states, but we should also note that it is a matter of racial equality to the extent that it decides what issues are taken up by the candidates.").

Still, the lower rates of Asian American registration and voter turnout are troubling. Could fallout from the 1996 Golden Temple/DNC and John Huang fundraising scandals still have an effect of suppressing Asian American political participation?²² Or more recently, the 2008 campaign contributions from Norman Hsu to the Hillary Clinton campaign?²³

Could potential Asian American voters pick up signals from politicians that they are more "foreign"? After all, politicians in Southwestern and Western states have frequently used the Spanish language in their campaigns,²⁴ but how many politicians use Vietnamese, Tagalog, Hindi, or Mandarin?

Regarding an Asian American "electorate," the question "is there a 'there' there?" is relevant. For example in the 2004 presidential election, 55% of eligible Asian Americans voted, about the same percentage as Latina/os.²⁵ By contrast African American voting was 72% of eligible voters and white voting was 74% of eligible voters.²⁶ However, there seems to be a trend in Asian American voting of increasing identification with the Democratic Party. In 1992, 42% of Asian American voters

22. See NEW FACE OF APAMERICA, *supra* note 14, at 212-13 ("As the 1996 campaign approached, many politically active APAs had felt that the coming election might mark a watershed for APA political influence. Instead, however, they found themselves reeling after allegations surfaced late in the year that the Clinton campaign had accepted illegal contributions from Asian sources. The key player was John Huang, a Democratic National Committee fundraiser and former Commerce Department official, who served as a conduit for money from foreign sources forbidden from contributing to U.S. campaigns. Over the next year, the media was filled with stories about Asian contributors and Asian American intermediaries. . . . Although only a few Asian Americans were involved, reports began to surface that all APAs were being treated with suspicion, [singled] out for heightened scrutiny and asked if they were citizens. . . . Perhaps the most infamous portrayal was the March 24, 1997 *National Review* cover which featured a caricature of Bill and Hillary Clinton . . . drawn with stereotypical Asian features, implying that Asian connections were antithetical to American interests."); see also Frank H. Wu & Francey Lim Youngberg, *People From China Crossing the River: Asian American Political Empowerment and Foreign Influence*, in ASIAN AMERICAN AND POLITICS: PERSPECTIVES, EXPERIENCES, PROSPECTS 311-12 (Gordon H. Chang ed., 2001); Frank H. Wu & May L. Nicholson, "Have You No Decency?" *An Analysis of Racial Aspects of Media Coverage of the John Huang Matter*, 7 ASIAN AM. POL'Y J. 1 (1997).

23. See Scott Helman, *Hsu raised big money for Clinton supporters: Candidates she courted benefit*, BOSTON GLOBE, Sept. 26, 2007, at 1A ("Disgraced fund-raiser Norma Hsu did a lot more than just pump \$875,000 into Hillary Clinton's campaign bank account: He also raised hundreds of thousands of dollars for local, state, and federal candidates who have endorsed Clinton or whose support she courted."). But see S. Karthick Ramakrishnan, *Political Participation and Civic Volunteerism*, in STATE OF ASIAN AMERICA 2008, *supra* note 8, at 35 ("Whites are the most likely to give to political causes and candidates (26%), followed by Blacks (20%), Asian Americans (17%), and Latinos (10%).").

24. See, e.g., Gregory Rodriguez, *The GOP's Hispanic High Hopes: George W. Bush's Symbolic Gestures to the Texas Latino Community Have Gone a Long Way. But Will the Approval Work in a State Like California?*, SALON, Dec. 7, 1999, <http://www.salon.com/news/feature/1999/12/07/tejanos> ("Bush faces a much more difficult road in California. . . . Unlike Texas, the Democratic Party controls the Governor's mansion, both state houses and both U.S. Senate seats It is also a state in which Latinos, galvanized by ethnic scapegoating [by former Republican Governor Pete Wilson and the passage of Proposition 187], have been registering and voting overwhelmingly Democrat over the past five years.").

25. Ramakrishnan, *supra* note 13, at 28.

26. *Id.*

identified with the Democrats, whereas in 2004, that number was up to 60%.²⁷ However, this raises the question for Asian American voters: is it “better” in terms of partisan leverage to be a “swing” rather than a “safe” voting bloc?

At the very least, there is no “Asian America” waiting to be “discovered,” but rather, an “Asian America” must be created through political struggle. An Asian American electorate is made, not found.²⁸

So what does the idea that “Asian America” is made, not found, actually mean? It means that Asian American influence on the level of national politics may not play a large role in the next few presidential election cycles. Asian Americans were burned in some high-publicity campaign financing scandals in 1996 with John Huang and the Clinton-Gore Campaign and in 2008 with Norman Hsu and Hillary Clinton.²⁹ If national political influence is not imminent, then where might the action for Asian Americans be?

Some answers seem to be emerging on the level of local and state politics in states like California. However, this emergence may not be in large urban centers like San Francisco, Los Angeles, or San Diego.³⁰ Since 2000, Asian American politicians have been having remarkable success in small- and medium-size Northern California cities such as Cupertino, Milpitas, Palo Alto, and San Jose in Santa Clara County or Oakland, Alameda, Fremont, and Union City in Alameda County.³¹ In

27. *Id.* (“[T]he Pilot National Asian Pacific American Politics Survey (PNAPAPS) from 2001, indicates high Democratic party identification among those who believe that discrimination is a problem affecting Asian Pacific Americans as much as other groups in the [U.S.]. This finding, combined with the findings from AALDEF [Asian American Legal Defense Fund] that the proportion of registered Democrats has increased steadily from 1992 (40% in 1992, 58% in 2000, 58% in 2000, 60% in 2004) means that Asian Pacific Americans will increasingly tip the scales in favor of Democrat candidates as they slowly grow to account for a larger share of the American electorate.”).

28. See ROBERT S. CHANG, *DISORIENTED: ASIAN AMERICANS, LAW AND THE NATION-STATE* 86-89 (1999). Frank H. Wu makes a similar claim in *YELLOW: RACE IN AMERICA BEYOND BLACK AND WHITE* 302-07, 314 (2002). Cf. Angela P. Harris, *Foreword: The Jurisprudence of Reconstruction*, 82 CAL. L. REV. 741, 784 (1994) (“There are no ‘people of color’ waiting to be found; we must give up our romance with racial community.”).

29. Arguably both the John Huang and the Golden Temple campaign fundraising scandals arose in part because certain factions within the Asian American community were seeking to influence the national Democratic Party prematurely. By prematurely, we mean that, these factions were seeking influence without having done the necessary coalition and organization building from the grass-roots up. See L. Ling-Chi Wang, *Race, Class, Citizenship and Extraterritoriality: Asian Pacific Americans and the 1996 Campaign Finance Scandal*, 24 AMERASIA J. 1, 1-3, 7, 12 (1998); see also NEW FACE OF APAMERICA, *supra* note 14; Wu & Youngberg, *supra* note 22, at 338-39; Wu & Nicholson, *supra* note 22.

30. Although one should note that the November 2008 elections in San Francisco resulted in the election of three Chinese Americans to the San Francisco Board of Supervisors, with David Chiu being elected President of the Board of Supervisors. Juliana Barbassa, *S.F. Leads way as Asians score political wins*, SACRAMENTO BEE, Jan. 19, 2009, at A4.

31. James S. Lai & Kim Geron, *When Asian Americans Run: The Suburban and Urban Dimensions of Asian American Candidates in California Local Politics*, in UCLA ASIAN PACIFIC AMERICAN STUDIES CENTER AND ASIAN PACIFIC AMERICAN POLITICAL ALMANAC, 2007-2008 *supra* note 13, at 31-32 (“The inability to place Asian American elected officials in California statewide positions does not necessarily apply at the city level, particularly in small- to medium-sized

Southern California, cities like Monterey Park,³² Gardena, Cerritos, and Arcadia have generated an Asian American political "go-mass."³³

However, these gains in representation in small- and medium-size cities in California raise the question of "voice"—is there a uniquely Asian American political voice that is emerging? One of the elements in Asian American political success at this level seems to be the presence of strong community-based organizations in these cities.³⁴ There also is a history of community leadership with the Asian American community that leads to and supports the construction of durable political networks (and financial support) within and without the Asian American communities within these cities. More as a function of size, there is also less competition for seats, with growing Asian American representation on elective bodies such as local school boards serving as a stool for climbing the political ladder.³⁵

While the growing number of Asian American elected officials on the local level is interesting, there still seem to be barriers to Asian American political incorporation, such as lumpy, uneven levels of development of political networks and acculturation exhibited by the contrast between Japanese Americans in a city such as Gardena and recent for-

suburban and urban cities. Within such cities, Asian Americans have not only been able to be elected once, but they have been able to achieve sustainability in their representation by electing a second and third generation of elected officials.”).

32. See Robert S. Chang & Keith Aoki, *Centering the Immigrant in the Inter/National Imagination*, 85 CAL. L. REV. 1395, 1423-26 (1997); see also TIMOTHY P. FONG, *THE FIRST SUBURBAN CHINATOWN: THE REMAKING OF MONTEREY PARK, CALIFORNIA* (1994); Leland T. Saito, *Asian Americans and Latinos in San Gabriel Valley, California: Ethnic Political Cooperation and Redistricting*, in 19 AMERASIA J. 55, 55-59 (1993).

33. Lai & Geron, *supra* note 31, at 34-35:

[I]n a growing number of California cities, particularly in the local context of medium- and smaller-sized suburban cities, Asian Americans are achieving medium political incorporation by demonstrating the ability to attain and sustain descriptive representation in citywide positions from the city council to the school board, which has allowed them to influence local policies through key city commission appointments. . . . [This is] due to the following factors: the presence of a significant Asian American population base, less competition for limited seats, the existence of strong community based organization networks, a history of strong leadership and ideological unity within the community, and a strong reliance on cross-racial alliances. Many of these factors . . . are often missing in larger cities and make the task of political incorporation for Asian Americans more difficult.

34. *Id.* at 42 (“For example, the presence of strong community based organization existed in Gardena in the 1970s and were ‘not primarily what you would call Japanese-American clubs. From an economic and business standpoint, it was good to belong [to groups like the Lions, Kiwanis and the Nisei Veterans Club] [I]f you are active, then you can contribute . . . to the community. . . . [and] you are pushed up the ladder, so to say.’”) (quoting former Gardena city council member Paul Bannai). Paul Bannai was the second Japanese American elected to the Gardena city council in 1972. He was followed by Masani Fukai in 1974, Vince Okamoto in 1978, and Paul Tsukahara in 1980. Paul Tanaka is currently mayor of Gardena. *Id.*

35. *Id.* at 49 (“The importance of the education field as a training ground for past and current Asian American city council members will also contribute to future electoral success. Current examples such as Kris Wang (Cupertino) and Jean Quan (Oakland) whose respective experiences on school boards have allowed them to pursue other elective positions.”).

eign born Chinese immigrants in cities such as Cupertino or Oakland.³⁶ Additionally, in recent immigrant Asian American communities, there may be an inability (temporary, but real) with other long-organized special interests seeking influence.³⁷ However, this may necessitate that recent immigrant communities enter into and support dominant local political coalitions.³⁸

Another avenue of enhancing Asian American political power at the local governmental level has been suggested by Dan Tokaji³⁹ and Phil Tajitsu Nash⁴⁰ who advocate the adoption of alternate voting systems such as cumulative voting or instant runoff voting (also known as preference transfer voting) as a lens to focus Asian American political power on the local level.⁴¹

36. *See id.* at 49-50:

In Gardena, the Japanese American community is the most established and acculturated, having flourished since the post World War II period, which allowed for the emergence of mainstream second-generation Japanese American candidates . . . [that] served as important role models for the current group of Japanese American city council members [By] contrast, the Chinese and Taiwanese American communities in Cupertino and Oakland reflect the contemporary trajectory of Asian American politics, one that is predominantly recent and foreign-born. As a result, the Cupertino and Oakland Asian American communities have experienced neither the same length of political success nor the same degree of political acculturation as the Japanese American community in Gardena.

37. *See id.* at 50 (“[A]s a result of this uneven political development, [the] lack of organized economic and political acculturation within more recent Asian American communities has limited their ability to compete with other special interests that form the dominant coalitions in the economic arena.”).

38. *Id.*; *see also* Pei-te Lien, *Political and Civic Engagement of Immigrants*, in STATE OF ASIAN AMERICA 2008, *supra* note 8, at 47-48 (“First, foreign-born Asian Americans not only show strong inclination to become politically incorporated through the acquisition of U.S. citizenship but would become registered and vote once eligible—often at equal or higher rates than their U.S.-born counterparts. Second, Asian immigrants’ relative disadvantages in participation resources due to language and socialization barriers . . . may be compensated by their concern over immigrant minority status in the hostland Third, the rapid and consistent waves of new migration from Asia . . . have helped put Asian Americans on top of the growth chart in terms of the share and size of the U.S. voting-age population . . . [and] citizens . . . since 1990. Fourth, first generation immigrants from Asia not only have become voters but also candidates and elected officials . . . [which is more] than immigrants in any other major racial and ethnic groups. Fifth, in part driven by concerns over . . . immigration[,] . . . Asian Americans are growing in their ability to be seen as a politically cohesive and consequential group of voters.”).

39. *See* DANIEL TOKAJI, C.V. 6, 8, http://moritzlaw.osu.edu/faculty/cv/tokaji_daniel.pdf (last visited Jan. 20, 2009) (listing talks such as Asian American Voting Rights and Political Participation, at Yale Law School, May 1, 2008, and The Voting Rights of Asian Americans, talk at the Conference of Asian Pacific American Law Faculty, William Mitchell Law School, April 27-28, 2007, suggesting Alternate Voting Systems as a way to focus geographically dispersed Asian American electoral power).

40. *See* Phil Tajitsu Nash, *Asian Americans Election 2000*, ASIANWEEK, Oct. 6, 2000 (“Ultimately, being a swing vote and a political wild card could allow Asian Americans to play an important role in the dialogue to truly widen the democratic process beyond control of the two major parties and the limiting winner-take-all system in place in most parts of the country. Most of the world’s democracies . . . take place using the tools of proportional representation.”); *see also* <http://www.fairvote.com>.

41. *See* Keith Aoki, *A Tale of Three Cities: Thoughts on Asian American Electoral and Political Power After 2000*, 8 ASIAN PAC. AM. L.J. 1, 47-52 (2002); Kathay Feng, Keith Aoki & Brian Ikegami, *Voting Matters: APIAs, Latina/os and Post-2000 Redistricting in California*, 81 OR. L.

What about the aforementioned fact that Asian Americans seem to cluster in blue states, resulting in a sort of marginalization of their electoral influence? There have been some notable Asian American politicians that have achieved electoral success in states without Asian American population centers. Republican Louisiana Governor Bobby Jindal comes to mind,⁴² as does former Democratic Washington State Governor Gary Locke.⁴³ On December 6, 2008, Anh "Joseph" Quang Cao, a Republican, defeated Democrat William Jefferson for Louisiana's Second Congressional District.⁴⁴ Democrat David Wu has been elected and re-elected in Oregon's First Congressional District. However, Republican California Treasurer Matt Fong (1995-1999) was defeated in a statewide campaign for U.S. Senate,⁴⁵ and L.A. City Council Member (1985-1993) and urban planner Michael Woo was defeated in his run for Mayor of Los Angeles in 1992.⁴⁶ In Minnesota, State Senator Satveer Chaudhary has had remarkable success in a largely white district.⁴⁷

A closer look reveals that what might be described as Asian American successes and failures, in the political realm and elsewhere, are always far more complex than simplistic tales of how we've arrived or not.

We probably would not be writing this way about the possibility of Asian American political power if Obama had lost. But we also want to be careful about being swept up in the optimism or exuberance of this moment. Notwithstanding the claim that Obama is our first Asian American president, made half in jest but half seriously,⁴⁸ we argue here that much work remains to be done before we can talk meaningfully about an

REV. 849, 902-05 (2002); Steven J. Mulroy, *Alternative Ways Out: A Remedial Roadmap for the Use of Alternative Voting Systems as Voting Rights Act Remedies*, 77 N.C. L. REV. 1867, 1890-1906 (1999); Steven J. Mulroy, *The Way Out: A Legal Standard for Imposing Alternate Electoral Systems as Voting Rights Remedies*, 33 HARV. C.R.-C.L. L. REV. 333, 349-51 (1998). See generally KATHLEEN L. BARBER, *A RIGHT TO REPRESENTATION: PROPORTIONAL ELECTION SYSTEMS FOR THE TWENTY-FIRST CENTURY* (2000); LANI GUINIER, *THE TYRANNY OF THE MAJORITY: FUNDAMENTAL FAIRNESS IN REPRESENTATIVE DEMOCRACY* (1994).

42. Biography of Governor Bobby Jindal, <http://www.gov.state.la.us/index.cfm?md=pagebuilder&tmp=home&navID=38&cpID=1&catID=0> (last visited Jan. 20, 2009).

43. Gary Locke was Washington Governor from 1997 to 2005. <http://people.forbes.com/profile/gary-f-locke/47209> (last visited Jan. 20, 2009).

44. Yian Q. Mui, *After the Storm, Mr. Cao Goes to Washington*, WASH. POST, Dec. 14, 2008, at B02.

45. *Bush to Nominate Matt Fong as Army Undersecretary*, L.A. TIMES, May 5, 2001, at A-15.

46. Dean Kupiers, *Michael Woo: The 1993 Candidate for Mayor on Jobs, Race, the Candidates, and the Coming Crisis in L.A. Traffic*, L.A. CITY BEAT, Mar. 3, 2005, http://www.lacitybeat.com/cms/story/detail/michael_woo/1754/.

47. See Satveer Chaudhary, *How a Chaudhary Beat a Carlson*, 8 ASIAN PAC. AM. L.J. 166, 168 (2002).

48. During a presentation at the Obama Phenomena symposium in Denver, Professor Reginald Oh suggested that Barack Obama could be understood as an Asian American: Obama was born and raised in Hawaii; he spent part of his early years in Indonesia; and his father was not a United States citizen. However, Oh argued that Obama "chose" to construct himself as African American by working as a community organizer on the South Side of Chicago, attending an African American church, and immersing himself in African American Chicago and Illinois politics. *But cf.* Robert S. Chang, *Asian Americans and the Road to the White House: Musings on Being Invisible*, 16 ASIAN AM. L.J. (forthcoming 2009).

Asian American political identity. It's one thing to talk about Asian American identity.⁴⁹ It's another to posit the kind of groupness that justifies minority vote dilution claims on the basis of shared political identity as Asian Americans. Being able to make this kind of claim to a shared political identity is central to exercising the power to vote in a way that is mindful of the group-oriented way that electoral power is experienced and exercised in the United States. Being able to make this claim will mean that there is a "there" when we talk about Asian American political power.

With regard to Asian American political power, watchful patience and guarded optimism should be watchwords. Asian American political activists are well-advised to build their power from the grassroots up rather than from the top down. "We" can start from where "we" are, in our communities, on school boards, in small and medium sized cities, and in states like California. It is only in this way that a coherent national Asian American electorate can really be imagined and constructed.

49. See generally ASIAN AMERICAN STUDIES: A READER (Jean Yu-Wen Shen Wu & Min Song eds. 2000)