

in *Critical Race Feminism: A Reader*, ed. Adrian
Katherine Wing, 2nd ed. 2003: NYU Press

35

Converging Stereotypes in Racialized Sexual Harassment

Where the Model Minority Meets Suzie Wong

Sumi K. Cho

I'll get right to the point, since the objective is to give you, in writing, a clear description of what I desire. . . . Shave between your legs, with an electric razor, and then a hand razor to ensure it is very smooth. . . .

I want to take you out to an underground nightclub . . . like this, to enjoy your presence, envious eyes, to touch you in public. . . . You will obey me and refuse me nothing. . . .

I believe these games are dangerous because they bring us closer together, yet at the same time I am going to be more honest about the past and present relationships I have. I don't want you to get any idea that I am devoting myself only to you—I want my freedom here. . . . The only positive thing I can say about this is I was dreaming of your possible Tokyo persona since I met you. I hope I can experience it now, the beauty and eroticism.¹

The above passage comes from a letter written by a white male professor to a Japanese female student at a major university. The more unsavory details referring to physical specifications and particularly demeaning and sadistic demands by the professor have been edited. In her complaint against him, the student stated that the faculty member "sought out Japanese women in particular" and "uses his position as a university professor to impress and seduce Japanese women." The professor had a history of targeting Japanese women because "he believes they are submissive and will obey any parameters he sets for the relationship," according to the student's complaint. "He said that he wants sex slaves, that he considers and treats women as disposable. . . . He rarely takes precautions in a sexual relationship."²

Another Japanese female student and former officer of a campus Japanese student organization submitted testimony in support of the student's complaint. She recalled that the same professor had approached her outside a 7-11 store near the campus and asked for her phone number, stating that he was interested in meeting Japanese

females. "I gave him my number because I was the vice-president [of the Japanese student organization] and felt I should be gracious." Through the course of their conversations, the professor told the woman that he "hangs around campus looking for Japanese girls" and asked "where [he] could meet them." By his own admission, "[he] stated that he was not popular in high school and college." However, "when he went to Japan he found out that he was popular" and was now "making up for lost time." The professor told the student that "[h]e liked Japanese females because they were easy to have sex with and because they were submissive."³

I have long been haunted by the unsuccessful resolution to this case due to the effective intimidation of the courageous student and those who sought redress.⁴ Victims of sexual harassment often fear coming forward because of precisely the type of administrative, legal, and community discouragement or intimidation that constituted the "secondary injury" in this case. Here, the secondary injury was inflicted by the university's affirmative action office, which claimed to find no evidence of an actionable claim worth investigating;⁵ the self-proclaimed "feminist law firm" in town that defended the predator-professor;⁶ and the university counsel that bolstered the intimidatory tactics of the professor's lawyer.⁷ The perverse racial and sexual stereotypes at work in such cases, the university's support for the accused faculty member, and the widening racial chasm among feminists are all too familiar to me. My own informed suspicion is that this case, rather than being an aberration, merely represents the tip of the iceberg. At almost every campus I have been on, both as a student and faculty member, I have encountered appalling cases of sexual harassment against Asian Pacific and Asian Pacific American women.⁸

What I hope to reveal in this article is how converging racial and gender stereotypes of Asian Pacific American women help constitute what I will refer to as "racialized sexual harassment." Racialized sexual harassment denotes a particular set of injuries resulting from the unique complex of power relations facing Asian Pacific American women and other women of color in the workplace. More specifically, this article explores how race and gender combine to alter conceptions of both the "primary injury" (the offending conduct legally recognized as sexual harassment) and the "secondary injury" (the actions of employers and institutions that ally with the harasser). In two cases that I discuss, stereotypes of Asian Pacific American female plaintiffs and the racial and gender politics of the plaintiffs' work environment are determining factors in the harms suffered and systemic responses thereto. The law's refusal to recognize and address the compoundedness of racialized sexual harassment lets flourish converging stereotypes and the oppressive structures that give rise to such injuries.

Converging Stereotypes: The Model Minority Meets Suzie Wong

Asian Pacific American women are at particular risk of being racially and sexually harassed because of the synergism that results when sexualized racial stereotypes combine with racialized gender stereotypes. The "model minority myth," a much

criticized racial stereotype, has been a misleading portrait of Asian Americans. In addition, the stereotyped images of popular culture, and many critical articles, perpetuate the stereotype, few have been women.⁹ Model minority is gendered through the popular culture.¹⁰ The nature feeds the stereotype, the objects of their

Similarly, the particular virulence of the stereotype diminishes perceptions of femininity that the material value of professional accomplishment is potential to be hindered due to racialized domination) that sustains national formations. In Tony Rivers rehearsal

Her face—round
ing, wide-spaced

When you con-
tence, removes yo-
... She's fun you
classes, insist on
gasm as a non-ne-

She's there with
handy victim of

As the passage reveals domination to perpetuate are particularly visible versions of liberated this sense, the object as Asian Pacific women and Pacific Americans in Americans.

The "ultimate" western perception in an international

criticized racial stereotype of Asian Pacific Americans, has been shown to paint a misleading portrait of groupwide economic, educational, and professional supersuccess. In addition, the mythical model minority is further overdetermined by associated images of political passivity and submissiveness to authority. But despite the many critical articles written by Asian Pacific Americans on the model minority stereotype, few have theorized specifically how it relates to Asian Pacific American women.⁹ Model minority traits of passivity and submissiveness are intensified and gendered through the stock portrayal of obedient and servile Asian Pacific women in popular culture.¹⁰ The repeated projection of a compliant and catering Asian feminine nature feeds harassers' belief that Asian Pacific American women will be receptive objects of their advances, will make good victims, and will not fight back.

Similarly, the process of objectification that affects women in general takes on a particular virulence with the overlay of race upon gender stereotypes. Generally, objectification diminishes the contributions of women, reducing their worth to male perceptions of female sexuality.¹¹ In the workplace, objectification comes to mean that the material valuation of women's contributions will be based not on their professional accomplishments or work performance but on men's perceptions of their potential to be harassed.¹² Asian Pacific women suffer greater harassment exposure due to racialized ascriptions (exotic, hyper-eroticized, masochistic, desirous of sexual domination) that set them up as ideal-typical gratifiers of western neocolonial libidinal formations. In a 1990 *Gentleman's Quarterly* article entitled "Oriental Girls," Tony Rivers rehearsed the racialized particulars of the "great western male fantasy":

Her face—round like a child's, . . . eyes almond-shaped for mystery, black for suffering, wide-spaced for innocence, high cheekbones swelling like bruises, cherry lips. . .

When you come home from another hard day on the planet, she comes into existence, removes your clothes, bathes you and walks naked on your back to relax you. . . She's fun you see, and so uncomplicated. She doesn't go to assertiveness-training classes, insist on being treated like a person, fret about career moves, wield her orgasm as a non-negotiable demand. . .

She's there when you need shore leave from those angry feminist seas. She's a handy victim of love or a symbol of the rape of third world nations, a real trouper.¹³

As the passage reveals, colonial and military domination are interwoven with sexual domination to provide the "ultimate western male fantasy."¹⁴ Asian Pacific women are particularly valued in a sexist society because they provide the antidote to visions of liberated career women who challenge the objectification of women.¹⁵ In this sense, the objectified gender stereotype also assumes a model minority function as Asian Pacific women are deployed to "discipline" white women, just as Asian Pacific Americans in general are used against their "non-model" counterparts, African Americans.

The "ultimate western male fantasy," part of colonial sexual mythology based on western perceptions of women in Asia, is applied to Asian Pacific American women in an international transfer of stereotypes through mass media and popular culture.

Military involvement in Asia, colonial and neocolonial history, and the derivative Asian Pacific sex tourism industry establish power relations between Asia and the West, which in turn shape stereotypes of Asian Pacific women that apply to those in and outside of Asia.¹⁶ As his article continues, Rivers suggests that the celluloid prototype of the "Hong Kong hooker with a heart of gold" (from the 1960 film *The World of Suzie Wong*) may be available in one's own hometown: "Suzie Wong was the originator of the modern fantasy. . . . Perhaps even now, . . . on the edge of a small town, Suzie awaits a call."¹⁷ Internationalized stereotypes and the inability of U.S. Americans to discern between Asian Pacific foreigners and Asian Pacific Americans combine to form a globalized dimension in the social construction of Asian Pacific American women.

Given this cultural backdrop of converging racial and gender stereotypes in which the model minority meets Suzie Wong so to speak, Asian Pacific American women are especially susceptible to racialized sexual harassment. The university, despite its well-cultivated image as an enlightened, genteel environment of egalitarianism, unfortunately does not distinguish itself from other hostile work environments facing Asian Pacific American women. I now turn to two cases in which Asian Pacific American women faculty were subjected to *quid pro quo* and hostile environment forms of harassment.¹⁸ Although racialized sexual harassment experienced by professionals should not be assumed identical to that facing women of color employed in blue- and pink-collar jobs, the social construction of the victims across settings may represent an overarching commonality that allows for broadened theoretical linkages.

Quid Pro Quo: *The Rosalie Tung Case*

Rosalie Tung joined the University of Pennsylvania Wharton School of Business (hereinafter "Business School") in 1981 as an associate professor of management. In her early years at the Business School, she garnered praise for her performance.¹⁹ In the summer of 1983 a change in leadership brought a new dean and new department chair to the School. According to Tung, "shortly after taking office, the chairman of the management department began to make sexual advances toward me."²⁰ In June 1984 the chair awarded Professor Tung a 20 percent increase in salary and offered high praise for her achievements in the areas of research, teaching, and community service.

However, when Tung came up for tenure²¹ review in the fall of 1984, her chair's evaluation of her performance changed dramatically. "After I made it clear to the chairman that I wanted our relationship kept on a professional basis," she stated in her charge, "he embarked on a ferocious campaign to destroy and defame me. He solicited more than 30 letters of recommendation from external and internal reviewers when the usual practice was for five or six letters."²² Although a majority of her department faculty recommended tenure, the personnel committee denied Professor Tung's promotion. Contrary to the rules, the department chair deliberately withheld news of the decision for one week to deliver it to Tung on Chinese New Year's Day.

He offered no reason and well-placed men makers was that "tl Tung understood tl American, an Orier department, there v At the entire Busin tenured people of c

Tung filed a cor (EEOC) in Philade also filed a complai of thirteen faculty p over to the grievan that out of multipl cally to solicit nega had been written b only six months af an impressive list o one of the best and Prize laureate. Her tion to the board o ciation of over sev color ever elected grievance commiss spite a university matter chose to do played a role in sha

[T]he provost, al Asian, would be l tionally not foug because they are

Tung also noted tl paper article as "e pus." Her colleag likely person to ki

In light of the u Rosalie Tung purs naed her personne granted tenure aro vania refused to ti nia v. EEOC, even Among its claim

He offered no reason for her tenure denial. Tung later learned through a respected and well-placed member of the faculty that the justification given by the decision makers was that "the Wharton School is not interested in China-related research."²³ Tung understood this to mean that the Business School "did not want a Chinese American, an Oriental [on their faculty]." Of over sixty faculty in the management department, there were no tenured professors of color and only one tenured woman. At the entire Business School with over three hundred faculty, there were only two tenured people of color, both male.

Tung filed a complaint with the Equal Employment Opportunity Commission (EEOC) in Philadelphia alleging race, sex, and national origin discrimination. She also filed a complaint with the university grievance commission. Tung's file and those of thirteen faculty previously granted tenure in a recent five-year period were turned over to the grievance commission. During this process, the peer review files revealed that out of multiple batches of mailings the department chair had arranged specifically to solicit negative letters, only three such letters were in her file—two of which had been written by the chair himself! One of the chair's negative letters was written only six months after his rave review in June 1984. Professor Tung's file constituted an impressive list of achievements with over thirty letters consistently praising her as one of the best and brightest young scholars in her field, including one from a Nobel Prize laureate. Her contributions had been acknowledged by her peers through election to the board of governors of the Academy of Management, a professional association of over seven thousand management faculty. Tung was the first person of color ever elected to the board. Following forty hours of hearings, the university grievance commission found that the university had discriminated against Tung. Despite a university administrative decision in her favor, the provost overseeing the matter chose to do nothing. Professor Tung suspects that race and gender stereotypes played a role in shaping the provost's inaction:

[T]he provost, along with others in the university administration, felt that I being an Asian, would be less likely to challenge the establishment, because Asians have traditionally not fought back. In other words, it was okay to discriminate against Asians, because they are passive; they take things quietly, and they will not fight back.²⁴

Tung also noted the comments of one of her colleagues, describing her in a newspaper article as "elegant, timid, and not one of those loud-mouthed women on campus." Her colleague continued, "[i]n other words, [Professor Tung was] the least likely person to kick over the tenure-review apple cart."²⁵

In light of the university's non-response to its own internal committee's findings, Rosalie Tung pursued her EEOC claim. In order to investigate, the EEOC subpoenaed her personnel file along with those of five male faculty members who had been granted tenure around the same time she had been denied. The University of Pennsylvania refused to turn over the files, and the case, known as *University of Pennsylvania v. EEOC*, eventually reached the Supreme Court.

Among its claims, the university asserted a First Amendment privilege of "academic

freedom" to fight the subpoena. It argued that one of the essential First Amendment freedoms that a university enjoys is the right to "determine for itself on academic grounds who may teach."²⁶ Insofar as the tenure system determines "who may teach," university attorneys argued that disclosing the personnel files and peer review evaluations would create a "chilling effect" on candid evaluations and result in the impairment of "the free interchange of ideas that is a hallmark of academic freedom."²⁷

Rejecting the university's claims, the Court took very lightly the university's assertion that compliance with the subpoena violated its First Amendment rights.

[T]he infringement the university complains of is extremely attenuated. To repeat, it argues that the First Amendment is infringed by disclosure of peer review materials because disclosure undermines the confidentiality which is central to the peer review process, and this in turn is central to the tenure process, which in turn is the means by which petitioner seeks to exercise its asserted academic freedom right of choosing who will teach. To verbalize the claim is to recognize how distant the burden is from the asserted right.²⁸

The unanimous decision in favor of Tung's EEOC investigation by a conservative Rehnquist Court set an important precedent in establishing baseline procedures for Title VII claims in academic employment. *University of Pennsylvania v. EEOC* represents the Court's willingness to alter, at least slightly, its long-standing tradition of absolute deference to higher education's decision-making process in the face of egregious discrimination and harassment. The Tung case exposed and rejected the "academic freedom trumps harassment and discrimination" rationale that served to hide the evidence of wrongdoing in tenure denials.²⁹

Hostile Environment: The Jean Jew Case

Dr. Jean Jew arrived at the University of Iowa in 1973 from Tulane University along with another physician and her mentor who had just been appointed chair of the anatomy department in the college of medicine. Almost immediately, rumors circulated about her alleged sexual relationship with her mentor. These rumors persisted for the next thirteen years. Despite the increased number of incidents of harassment and vilification Jew experienced after joining the anatomy department, she was recommended by the department for promotion to tenure in December 1978. Her promotion, however, did not quiet her detractors. In a drunken outburst in 1979, a senior member of the anatomy department referred to Jew as a "stupid slut," a "dumb bitch," and a "whore."³⁰ Jew and three other professors complained separately to the dean about the slurs.

Jean Jew's tenure promotion not only failed to quiet her critics, it apparently further fueled the rumor mill and provided colleagues with an opportunity to air personal grievances and exploit departmental politics. Jean Jew was the only woman in the anatomy department and one of a few Asian Pacific American women among

the University of Iowa. Jew experienced such an extent that she was the target of and racial slurs. Jew contended that he was making a joke.³¹ The model of academic insecurities and Jew's response to the sexualized ascriptions and racial overtones paid a heavy price. Jew traded on her sexual identity to play her relations:

If we act like the victim, we feel "she is [unworthy of] compliments and respect." Quite a few people are working with the idea of collaborative work, intellectual, with a strong supportive force, but not

This construction of Jew's credentials. One of the problems is that in physics, standing and performance are many incidents, that a favored status is in a sexual relationship. For example, [Jew and staff] are not what Jean can do. Thirty-three demonstrations discredit her professional

Other colleagues of Jew's doctor filed a grievance more than those of Jew's, an anonymous letter about a sexual relationship with the department chairman and a doctor who held a position outside his office. Drawings depicting Jew and the

the University of Iowa faculty. In this homogenous setting, stereotypes flourished to such an extent that the faculty did not even recognize the difference between jokes and racial slurs. One faculty member who referred to Dr. Jew as a "chink" contended that he was merely "using the word in a frivolous situation" and repeating a joke.³¹ The model minority stereotype of competence and achievement fed existing insecurities and jealousies in a department that was already deeply polarized.³² In responding to these insecurities, a traditional gender stereotype informed by racialized ascriptions acted to rebalance the power relations. Gender stereotypes with racial overtones painted Jew as an undeserving Asian Pacific American woman who traded on her sexuality to get to the top. To Jew, this stereotyping and her refusal to accede to it played a large role in the "no-win" configuration of departmental power relations:

If we act like the [passive] Singapore Girl, in the case of some professors, then they feel "she is [unequal to me]." If we don't act like the Singapore Girl,³³ then [our] accomplishments must have derived from "a relationship with the chair." There were quite a few people that felt that way to begin with. They thought because I was working with the chair, I was his handmaiden. Many faculty testified that in inter-collaborative work, I was doing work that led to publication but that he was the intellectual, with Jean Jew as his lackey. The term used was that I was the collaborative force, but not independent.³⁴

This construction of Dr. Jew is perhaps most evident in the continued attack on her credentials. One of her primary harassers, whose advanced degrees were not in anatomy but in physical education, may have felt the need to attack Jew's professional standing and personal character out of his own academic insecurities. Among the many incidents, this faculty member intimated to a lab technician that Dr. Jew held a favored status in the department, which he attributed to her willingness to engage in a sexual relationship with the chair in exchange for economic and professional gain. For example, he commented to the technician that "obviously [other faculty and staff] are not going to get a big raise because [they] can't do for Dr. Williams what Jean can do for Dr. Williams."³⁵ Overall, this faculty member made more than thirty-three demeaning and harassing statements about Jean Jew in an attempt to discredit her professional and personal reputation.³⁶

Other colleagues also denigrated Jew. After he was denied tenure in 1991, one doctor filed a grievance with the university stating that his qualifications were better than those of Jew, who had been tenured. To support his case, the doctor submitted an anonymous letter to the dean, indicating that Jew's promotion was due to her sexual relationship with the chair. The letter stated, in fortune-cookie style, "[b]asic science chairman cannot use state money to . . . pay for Chinese pussy."³⁷ Another doctor who held administrative responsibilities in the department frequently posted outside his office where students congregated obscene *Playboy* magazine-type line drawings depicting a naked copulating couple with handwritten comments referring to Jew and the department chair.³⁸ On the very day that the senior departmental

lars in actual damages and thirty thousand dollars in punitive damages. Jew had won her second legal battle, but her adversarial relationship with the University of Iowa was not over.

One of the most disturbing aspects of the university's behavior in the *Jew* case is how the defense of academic freedom was employed to shield from legal liability slanderous faculty comments and university inaction. The university attempted to dismiss Jew's complaint on the basis that the statements later found to amount to sex discrimination and sexual harassment were merely legitimate criticism and "speech protected from regulation by the First Amendment."⁴² As such, the university argued that it was under no obligation to regulate speech privileged by the First Amendment's implied recognition of academic freedom. Of course, university lawyers had to downplay the fact that the statements in question were not made in conjunction with any formal proceedings about the candidate's performance.

The federal judge rejected out of hand the university's academic freedom argument. "There is no merit in defendants' contention that they cannot be held liable because [defendants'] comments were constitutionally protected free speech," Judge Viotor wrote. "Rights of free speech and academic freedom do not immunize professors from liability for slander or their universities from Title VII liability for a hostile work environment generated by sexual-based slander."⁴³ Despite the unsuccessful attempt to sanitize the harmful speech as academic freedom, the university stated that it would appeal the judge's decision on First Amendment grounds in October 1990. The Iowa Board of Regents governing the university provided the public rationale for the appeal, stating that Viotor's decision made the university responsible "for policing the statements and behavior of faculty members in ways that appear inconsistent with academic life and constitutional protections."⁴⁴ "In an academic community this is extremely disturbing," the statement continued. "The effect of chilling speech in a community dedicated to the free exchange of ideas and views—even unpleasant ones—requires that the board and the university pursue the matter further."⁴⁵ Jew's attorney, Carolyn Chalmers, interpreted the board's comments as a defense of the university's freedom to promote faculty members without judicial intervention even when it engages in sexual discrimination. As for the free speech claim, Chalmers observed that "[w]hat they're arguing is that academic freedom protects gutter talk."⁴⁶

Only when considerable community criticism surfaced did the university decide to cut its losses and accept the validity of the verdict. In an editorial criticizing the university's strategy for appeal, Professor Peter Shane of the University of Iowa College of Law wrote:

No proper concept of academic freedom . . . could immunize the public denigration of Dr. Jew as a "slut," a "chink," a "bitch" and a "whore"—all this by people actually permitted to vote on her qualifications for promotion! Neither should academic privilege protect the circulation of unfounded rumors about any person. . . . The only connection between academic freedom and Dr. Jew's experience is that university officials essentially ostracized her for insisting that promotions be evaluated in a

way that does not disadvantage women. That ostracism and the consequent chill on her sympathizers' expression surely did compromise academic freedom.⁴⁷

Similarly, a local editor asserted that "academic freedom is better served by a compassionate environment than a continuing lawsuit."⁴⁸ Faculty and staff supporting the federal judge's finding of sexual harassment brought added pressure against the university appeal effort by forming the Jean Jew Justice Committee and distributing the judge's order and findings of fact to the campus community.⁴⁹

The university's unwillingness to accept responsibility for the racialized sexual harassment of Jean Jew extends beyond the attempt to appeal the decision. That the University of Iowa paid for the legal expenses to defend the offending professor's defamation suit for over five years as well as the thirty-five-thousand-dollar judgment entered by the court in his guilty verdict reveals the depth of complicity between the university and the adjudged harasser. Clearly, the administration sided with the wrongdoer after its own internal investigative panel supported Dr. Jew's claims and even after a verdict was returned against him. The university's adversarial treatment of Jew, its inaction following the internal committee's findings, its futile appeal attempt, and its shouldering of the harasser's individual civil liability reflect a disturbing pattern whereby academic institutions circle the wagons to protect the harasser against the harassed. One wonders to what extent the university's persistent litigiousness in the face of adverse administrative and legal findings reflects the prevalence of racial and sexual stereotypes that led it to side with the harasser and formulate an aggressive legal strategy to "bully" a plaintiff perceived to be politically weak and passive. As Professor Martha Chamallas, former University of Iowa law professor and founding member of the Jean Jew Justice Committee, observed:

the rumor campaign against Jew was successful and persistent because it drew upon deep-seated and harmful stereotypes about professional women and about Asian academics in American universities. In contrast to the official fact-finders who were constrained to base their judgment solely on the evidence presented, many within the University community making less considered judgments may have allowed stereotypes to influence their views.⁵⁰

In light of the prevalent and converging racial and gender stereotypes of Asian Pacific American women as politically passive and sexually exotic and compliant, serious attention must be given to the problem of racialized sexual harassment revealed by the two cases discussed. On a theoretical level, new frameworks that integrate race and gender should be developed to take account of the multidimensional character of racialized sexual harassment that occurs and is challenged across races, social classes, and borders.⁵¹ The law's current dichotomous categorization of racial discrimination and sexual harassment as separate spheres of injury is inadequate to respond to racialized sexual harassment. On a doctrinal level, critical race feminists should be particularly concerned about the way in which "academic freedom" as a First Amendment defense is selectively deployed by universities and faculty organizations

as a legal strategy. On an advocacy level, it affirmatively addresses the vulnerable, confronting both the institutional level, insofar as it can protect women—even in education—derives its power relations, (especially in the context of critical race feminism) and sexual harassment not only in the United States but overseas.

NOTES

This chapter is dedicated to Jean Jew, attorney (C) ized for justice for Asian Americans, Ronald Tak Ling-chi Wang, and plinary research and volume and chapter, attention to detail American Law Studies this article in April Yamamoto on an editorial Oberman, Morrissey Judith Reed, and Bl recent drafts. This re cific American women, Oregon, with

© 1997 by the Journal

1. Letter from w/ rials cited for this c sources related to th

2. Formal compl 2 (on file with authc

3. Transcript of (on file with author)

4. As in many su reluctant to come fo ated and ended rela him to campus offic

as a legal strategy to sanitize discriminatory acts and the circulation of stereotypes.⁵² On an advocacy level, women's and Asian Pacific American organizations should affirmatively address racialized sexual harassment and seek ways to counter the compounded vulnerability⁵³ that Asian Pacific and Asian Pacific American women face in confronting both the primary and secondary injuries. Finally, on an international level, insofar as the problem of racialized sexual harassment of Asian Pacific American women—even in elite employment sectors such as institutions of higher education—derives in part from internationalized stereotypes that feed upon unequal power relations, military history, and uneven economic development between Asia (especially in the Philippines and Thailand) and the United States, it is important for critical race feminists to commit to eradicating the sources of racialized sexual harassment not only in the United States, but also in the lives of sister counterparts overseas.

NOTES

This chapter is dedicated to the spirit of resistance displayed by Professor Rosalie Tung, Dr. Jean Jew, attorney Carolyn Chalmers, and the students at the unnamed university who organized for justice for Asian Pacific women fighting racialized sexual harassment. My dissertation advisor, Ronald Takaki, and graduate mentors in Ethnic Studies at U.C. Berkeley, Elaine Kim, Ling-chi Wang, and Michael Omi, provided invaluable training and support for this interdisciplinary research and writing. I am particularly indebted to Adrien Wing for editing this volume and chapter, Devon Carbado for his editorial assistance, and Beverly Heitt for her attention to detail in processing various revisions. I would like to thank the Asian Pacific American Law Students Association at the University of Michigan for inviting me to present this article in April 1996. I also benefited from generous comments by Harlon Dalton and Eric Yamamoto on an early version of this chapter. Finally, I would like to acknowledge Michelle Oberman, Morrison Torrey, Steve Landsman, Keith Aoki, Patty Gerstenblith, Alicia Alvarez, Judith Reed, and Bruce Ottley for their encouragement and constructive comments on more recent drafts. This research was also funded in part by a grant for a larger project on Asian Pacific American women in academia from the Center for the Study of Women in Society in Eugene, Oregon, with special thanks to Diana Sheridan and Ruth Johanna.

© 1997 by the Journal of Gender, Race & Justice; Sumi K. Cho.

1. Letter from white male professor to Japanese female student. This letter and other materials cited for this case are on file with author. I am not at liberty to disclose publicly the sources related to this case.

2. Formal complaint of Japanese female student to university Affirmative Action Office, at 2 (on file with author) (hereinafter "formal complaint").

3. Transcript of conversation with former vice-president of Japanese student organization (on file with author).

4. As in many such cases involving abuse of power in sexual relationships, the woman was reluctant to come forward to file a complaint. When she learned that the professor had initiated and ended relationships with at least two other Japanese students, she decided to report him to campus officials so that other women could be warned of his pattern of racial stalking.

Her requests were modest and would have preserved his anonymity. She merely suggested that the professor undergo counseling so that he no longer "acts in a predatory manner toward Japanese women, and no longer needs to subordinate women sexually." She also recommended that he undergo HIV counseling. Formal complaint, *supra* note 2, at 2.

5. The administrative body in charge of reviewing such complaints decided not to pursue the claim. In a letter to the complainant, the affirmative action officer concluded that the professor was not acting as an "agent" of the university and that such actions fell within the sphere of "private" behavior outside the reach of the university's administrative regulations. This defensive, liability-conscious response for pursuing an investigation as an internal administrative remedy reflects the unnecessarily legalistic interpretation of standards that must be met simply to investigate a complaint of wrongdoing. The denial of university liability as a basis for dismissing the complaint reflects the general conflict of interest of internal university administrative offices ostensibly created to hear such discrimination or harassment complaints but whose staff are paid by the university. This central conflict of interest poses a Catch-22 for a complainant: If a complaint establishes an agency relationship and resulting injury, then the office assumes an adversarial position against the grievant and is naturally unhelpful in providing a remedy. If a complaint cannot articulate the imposed nexus between the offender and the university, then no liability or responsibility to address the complaint exists. In this case, the conflict of interest between the purpose of the affirmative action office and the university's interest is further implicated through the removal of two previous African American officers for doing their job too effectively. Following the departure of the second African American, the current officer (who rejected the student's complaint) was hired for the job through an internal promotion, absent a search, itself a violation of the university's affirmative action policy that he was hired to safeguard. The current officer is white. Letter from affirmative action officer (on file with author).

6. Following the affirmative action office's decision not to investigate, frustrated and concerned Asian Pacific American and Japanese student organizations attempted to warn incoming students of the possible targeting of Japanese women by the professor. Even this small, cautionary effort would not be allowed. An attorney retained by the professor wrote the student organizations threatening them with legal action for defamation and invasion of privacy. The attorney claimed the relationship was consensual and that because the student was not in the faculty member's class, there was no harassment. The lawyer did not deny the relationship. "[Y]ou can be held liable for dissemination of 'true' facts as well as false ones in some instances." The irony of the legal intimidation is that the lawyer defending the sexual predator had recently formed a "feminist" law firm to address issues of discrimination against women. The lawyer closed her letter to the students advising them "to seek legal counsel immediately." "I expect a written apology, if appropriate," she continued, "and written confirmation of your intention to abide by the requirements of the law within ten days of the date of this letter." Letter from feminist lawyer (on file with author).

7. Within days of the attorney's letter, the university counsel also emphasized the "possible legal liability for invasion of privacy or defamation" should the organization alert their members. "Your own endeavors, if more narrowly focused, should have the benefit of careful legal review for your own protection." Letter from university counsel (on file with author).

8. While this chapter addresses U.S.-based racialized sexual harassment against "Asian Pacific American" women as a point of departure, stereotypes of Asian Pacific American women involve an international transfer of stereotypes and the conflation of Asian Pacific women in Asia and in the United States. See *infra* note 17 and accompanying text. Because of this fluidity

of stereotypes that at times to Asian Pacific women to acknowledge the

9. Colleen Fong's *Exile and Embrace*. In her dissertation, Fong focuses specifically on the "Model Minority": 16-18 (1989) (unpublished).

10. I refer to this syndrome after the son in *The Courtship* by Kingston, a likely white woman or concerns other than portraying Mrs. Liv Asian woman in *My Mother's House* (1961). See Darrell's performance and the "Yellow Peril."

11. Catharine MacKinnon.

How many men in the world? Perhaps the sexuality—some of the stories may exert something but sexual assumption that, since we must define her role

Catharine MacKinnon Torrey, *We Get the Best of Both Worlds* (1992) (discussing how men, are disliked by women for lack of skill and talent to achieve

12. MacKinnon, "Feminist Theory and the Politics of the Body" (1987) (for which there is a job benefits).

13. Tony Rivers, *Western Male Fantasy* (1992) (Margaret Lin for her book against the article. See also Condé Nast Publications with author).

There is a boom in the stomach this research complete with the submasochistic and denigrating genre report titles of *Streetwalkers*, *Banzai Ass*, *Oriental Callgirls*, *C*

of stereotypes that affect Asian Pacific women across borders, this chapter consciously refers at times to Asian Pacific and/or Asian Pacific American women, though not interchangeably, to acknowledge the linked social construction.

9. Colleen Fong provides a notable exception to this usual blindspot in model minority literature. In her dissertation on model minority images of Chinese in popular magazines, she focuses specifically on Chinese women. Colleen Valerie Jin Fong, *Tracing the Origins of a "Model Minority": A Study of the Depictions of Chinese Americans in Popular Magazines 16-18* (1989) (unpublished Ph.D. dissertation, University of Oregon).

10. I refer to this popular servile depiction of Asian Pacific women as the "Mrs. Livingston syndrome" after the loyal, soft-spoken maid attending to the needs of the bachelor father and son in *The Courtship of Eddie's Father*, a television sitcom that ran from 1969-72. Mrs. Livingston, a likely war bride, never complained, and never appeared to have any social life or concerns other than dutifully and contentedly providing for her boss's needs. The actress portraying Mrs. Livingston, Miyoshi Umeki, epitomized the stereotypical passive, traditional Asian woman in major Hollywood films such as *Sayonara* (1957) and *Flower Drum Song* (1961). See Darrell Hamamoto, *Monitored Peril* 11-12 (1994); see also Gina Marchetti, *Romance and the "Yellow Peril"* 126 (1993).

11. Catharine MacKinnon discussed the psychological function of sexual harassment:

How many men find it unbearable that a woman out-qualifies them in an even competition? Perhaps they assuage their egos by propagating rumors that the woman used her sexuality—something presumptively unavailable to men—to outdistance them. These stories may exemplify a well-documented inability of both sexes to see women in anything but sexual terms. Willingness to believe the stories may illustrate the pervasive assumption that, since a career is so intrinsically inappropriate for a woman, her sexuality must define her role in this context, as well as in all others.

Catharine MacKinnon, *Sexual Harassment of Working Women* 39 (1979). See also Morrison Torrey, *We Get the Message: Pornography in the Workplace*, 22 S.W. U.L. Rev. 53, 75-77 (1992) (discussing how competent, attractive women, in contrast to competent, attractive men, are disliked by coworkers and "are often believed to have exploited reasons other than skill and talent to achieve their position").

12. MacKinnon, *supra* note 11, at 44 (discussing sexual harassment as a condition of work for which there is an economic connection between harassment "compliance" and material job benefits).

13. Tony Rivers, *Oriental Girls: Tony Rivers Examines the Enduring Appeal of the Great Western Male Fantasy*, *Gentleman's Quarterly* (British ed.), Oct. 1990, at 161, 163. I thank Margaret Lin for bringing this article to my attention and for her activism organizing protest against the article. See Letter from The Coalition Against Negative Media Portrayal of Women to Condé Nast Publications Re: "Oriental Girls: The Ultimate Accessory" (undated, on file with author).

There is a booming sub-genre in pornography of Asian Pacific women, but I was unable to stomach this research after one attempt to document some of the offerings. The sub-genre is replete with the submissive stereotype and frequently uses Asian Pacific women in particularly masochistic and demeaning forms of pornography. Researchers who have investigated this sub-genre report titles of videos such as *Asian Anal Girls*, *Asian Ass*, *Asian Slut*, *Asian Suck Mistress*, *Banzai Ass*, *China deSade*, *Oriental Encounters*, *Oriental Sexpress*, *Oriental Lust*, *Oriental Callgirls*, *Oriental Sexpot*, *Oriental Squeeze*, *Oriental Taboo*, and *Oriental Techniques*

racial love affairs between Japanese and Americans by using the "myth of the subservient Japanese woman to shore up a threatened masculinity in light of American women's growing independence during World War II").

16. For more information on these interconnected power relationships and their impact on the international transfer of stereotypes, see Meng, *supra* note 13, at 200-209 ("Gender and ethnic stereotypes of Asian Pacific women as submissive, exotic, and erotic run rampant in marketing materials which hawk Asian Pacific brides as sex partners who double as domestic servants"); Elaine Kim, *Sex Tourism in Asia*, 2 Critical Perspectives of Third World America 214 (1984) (volume on file at the Asian American Studies Library at U.C. Berkeley) (analyzing the links between colonial domination, U.S. military presence, and sex tourism in Asia); Elisa Lee, *Ordering Women*, Third Force, July/Aug. 1995, at 22 (Lee notes the link between the stereotype of Asian Pacific women as "submissive sexpots" and the history of U.S. militarization in Asian countries: "The Philippines and Thailand were often considered prime 'R & R' stops for American military men, and the prostitution industries that serviced the U.S. military exploded there during the Vietnam and Korean wars"). See generally Thanh-Dam Truong, Sex, Money and Morality: Prostitution and Tourism in Southeast Asia (1990) (exploring the vast sex tourism industry in Thailand); Elizabeth Uy Eviota, The Political Economy of Gender: Women and the Sexual Division of Labour in the Philippines (1992) (discussing the lucrative sex tourism industry in the Philippines); Sandra Pollock Sturdevant and Brenda Stolzhus, Let the Good Times Roll: Prostitution and the U.S. Military in Asia (1992) (examining the connection between U.S. military presence in Asia and the development of sex tourism industries).

17. Rivers, *supra* note 13, at 163. Suzie Wong is the Hollywood prototype of the masochistic eroticism of Asian Pacific American women. In *The World of Suzie Wong*, a classic for such stereotypes, Nancy Kwan portrays "Suzie Wong," a prostitute who falls in love with a struggling American artist self-exiled in Hong Kong, played by William Holden. The Hong Kong hooker invites Holden to beat her so she can show her injuries to her Chinese girlfriends as a measure of his affection. In the final "love scene," Suzie pledges to stay with her American man until he says, "Suzie, go away." *The World of Suzie Wong* (1960).

18. There are two legally recognized forms of sexual harassment. *Quid pro quo* involves harassment that is implicitly or explicitly linked to the conferral or denial of economic benefits as a condition of employment. See Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57 (1986); 29 C.F.R. § 1604.11(a)(1), (2) (1993). *Hostile environment* consists of harassment that is so intimidating or offensive that it unreasonably interferes with one's work performance. See Harris v. Forklift Systems, 114 S. Ct. 369 (1993); 29 C.F.R. § 1604.11(a)(3) (1993). See generally MacKinnon, *supra* note 11.

19. Out of three hundred faculty, for example, she was selected by her dean to represent the school at Harvard Business School's 75th anniversary in 1983. Speech by Rosalie Tung, "Asian Americans Fighting Back," University of California, Berkeley, California, April 1990 (hereinafter Tung Speech), reprinted in *Rosalie Tung Case Pries Open Secret Tenure Review*, The Berkeley Graduate, April 1991, at 12-13, 30-31 (copy and videotape of speech on file with author).

20. *Id.*

21. Tenure is the grant of lifetime employment for faculty at institutions of higher education. Once tenure is granted, one can be fired only for cause, financial crisis, or programmatic, institutional changes. Historically, tenure was offered to guarantee one's academic freedom to express even unpopular ideas without threat of dismissal. See B. N. Shaw, Academic Tenure in Higher Education (1971).

22. According to Tung, the thirty letters were collected in batches. After an initial attempt to procure negative letters in the first set of letters, he mailed a second set, and then a third. Tung Speech, *supra* note 19.

23. *University of Pennsylvania v. Equal Employment Opportunity Commission*, 493 U.S. 182, 185 (1990). Tung's research focused on bilateral U.S.-China and Pacific Rim trade relations.

24. Tung Speech, *supra* note 19. See also Maria Ontiveros, *Three Perspectives on Workplace Harassment of Women of Color*, 23 Golden Gate U. L. Rev. 817, 818 (1993) (observing that some women of color, particularly Asian Pacific American women and Latinas, are perceived to be "less powerful, less likely to complain, and the embodiment of particular notions of sexuality").

25. Tung Speech, *supra* note 19 (citing comments quoted in Jan. 26, 1990, issue of *Newsday*).

26. *University of Pennsylvania v. EEOC*, 493 U.S. 182 (1990).

27. *Id.* at 182.

28. *Id.* at 199-200.

29. At the same time, the Court suggested two loopholes for violators to exploit: the elimination of "smoking gun" evidence and the redaction of tenure files. "Although it is possible that some evaluators may become less candid as the possibility of disclosure increases, others may simply ground their evaluations in specific examples and illustrations in order to deflect potential claims of bias or unfairness." *Id.* at 200-201. Writing for the unanimous Court, Blackmun further emphasized that "[n]othing we say today should be understood as a retreat from [the Court's] principle of respect for legitimate academic decision making." *Id.* at 199. These passages can be interpreted as a telegraphing of a legally permissible way to discriminate. Gil Gott, *Court Limits Tenure Review Secrecy*, *The Berkeley Graduate*, Feb. 1990, at 5 (commenting that faculty may interpret the opinion to mean they can continue to discriminate as long as they "beef up their 'academic' arguments to better conceal their real motivations in order 'to deflect potential claims of bias or unfairness'"). The Court failed to discuss the issue of redaction, a process that removes attributions of comments from evaluations to preserve anonymity. Redactions can create a jigsaw puzzle that subverts the purpose of gaining access to peer review files in order to root out discrimination. See generally Tim Yeung, Comment, *Discovery of Confidential Peer Review Materials in Title VII Actions for Unlawful Denial of Tenure: A Case against Redaction*, 29 U.C. Davis L. Rev. 167 (1995).

30. Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment, at 20, *Jew v. University of Iowa et al.*, 749 F. Supp. 946 (S.D. Iowa 1990) (No. 86-169-D-2) (hereinafter Plaintiff's Memo) (on file with author).

31. *Jew v. University of Iowa*, 749 F. Supp. 946, 949 (S.D. Iowa 1990).

32. The federal trial record reveals the depth of this academic jealousy toward Jew. During her promotion deliberations, one faculty member voting against Dr. Jew commented that "women and blacks have it made." Another "no" vote stated that Dr. Jew had received many more advantages than he had received. Soon after deliberations, another opponent asserted that "women and blacks don't have any trouble getting jobs." *Id.* at 953.

33. According to Jew:

The image white men still have of Asian women is the Singapore Girl. In [Traveler] magazine, the top twenty travel items are listed. Singapore Airlines is again the number one airline. The most cited reason is the Singapore Girl. Despite the strides we've made in

overcoming sex
very much.

Interview with Dr. Struggle for Asian California, Berkeley Condé Nast's Travel top travel experience headline *The calming and contr ened*" U.S. travel decades of feminis image and allure beauty, attentiven do more than fifty at all." *The Singa*

34. Interview v Case: *Resisting Se* Chamallas agrees

The false narra ity. Jew was po relationship wi searcher. The stereotype that ence and if the color are prom ented or creati

35. Plaintiff's l

36. *Id.* at 19.

37. *Id.*, and at

38. Jew, 749 F

39. Plaintiff's l

40. Chris Osh 1990.

41. Andy Brov The Daily Iowan.

42. Jew, 749 at 21).

43. *Id.* at 961.

44. Linda Hai Oct. 13, 1990.

45. Andy Bro 15, 1990.

46. *Id.*

47. Peter Shai at 8A.

overcoming sex stereotypes, even the most enlightened of travelers admit they enjoy this very much.

Interview with Dr. Jean Jew, in Berkeley, California (Oct. 15, 1991), *cited in* Sumi Cho, *The Struggle for Asian American Civil Rights*, at 41 (1992) (unpublished dissertation, University of California, Berkeley). The article Dr. Jew is referring to appeared in the October 1991 issue of Condé Nast's *Traveler* magazine reporting the Readers' Choice Awards for the one hundred top travel experiences. Under "Top 10 Airlines," Singapore Airlines finished first under the article headline *The Singapore Girls Aim to Please—and Always Do*. The article recognized the calming and contradictory nature of the Asian Pacific female stereotype for allegedly "enlightened" U.S. travelers: "Yet how curious that the American traveler, having absorbed two decades of feminism, feels so sanguine about an airline that trades without hesitation on the image and allure of the 'Singapore Girl.' This young and lissome creature, a vision of Asian beauty, attentiveness, and grace in a sarong kebaya . . . earn[s] just \$1,200 a month and can't do more than fifteen years of basic cabin service. But this clearly bothers their passengers not at all." *The Singapore Girls Aim to Please—and Always Do*, *Traveler*, Oct. 1991, at 223.

34. Interview with Dr. Jean Jew, *supra* note 33. See also Martha Chamallas, *Jean Jew's Case: Resisting Sexual Harassment in the Academy*, 6 *Yale J.L. and Feminism* 71, 84 (1994). Chamallas agrees that stereotypes played a key role in shaping the primary injury:

The false narrative constructed about Jew was believable in part because of its familiarity. Jew was portrayed as a cold, conniving woman whose success was due to her sexual relationship with a man in power rather than her achievements as a teacher and researcher. The narrative drew on both sexual and racial stereotypes. It supported the stereotype that women sleep their way to the top; that women are not really good at science and if they achieve in that area, it must be due to the talent of men; that women of color are promiscuous; and that Asians overachieve in their jobs, but are not truly talented or creative.

35. Plaintiff's Memo, *supra* note 30, at 5 of Timeline addendum.

36. *Id.* at 19.

37. *Id.*, and at 6 of Timeline addendum.

38. Jew, 749 F. Supp. at 949.

39. Plaintiff's Memo, *supra* note 30, at 7 of Timeline addendum.

40. Chris Osher, *U of I to Promote Professor in Bias Case*, *Des Moines Register*, Aug. 29, 1990.

41. Andy Brownstein and Diana Wallace, *UI, Regents Liable in Sexual Harassment Case*, *The Daily Iowan*, Aug. 29, 1990.

42. Jew, 749 F. Supp. at 946 (citing Defendants' Memorandum for Summary Judgment at 21).

43. *Id.* at 961.

44. Linda Hartmann, *UI Faculty Say Appeal Sends Bad Message*, *Iowa City Press-Citizen*, Oct. 13, 1990.

45. Andy Brownstein, *Regents: First Amendment behind Appeal*, *The Daily Iowan*, Oct. 15, 1990.

46. *Id.*

47. Peter Shane, *Harassment Is Not Privileged Speech*, *The Daily Iowan*, Sept. 28, 1990, at 8A.

48. David Crawford, *Harmful Appeal*, The Daily Iowan, Aug. 31, 1990. See also Charles Bullard, *U of I Urged Not to Appeal Bias Ruling*, Des Moines Register, Sept. 15, 1990.

49. Chamallas, *supra* note 34, at 81-90 (providing a detailed description of the Jean Jew Justice Committee's successful organizing efforts to convince the university not to appeal the case to the Eighth Circuit Court of Appeals).

50. *Id.* at 84.

51. Catharine MacKinnon laid the groundwork for a legal definition and theory of sexual harassment. Critical race feminists must continue to build upon this work to theorize more comprehensively the racial, ethnic, and class dimensions of sexual harassment. See, e.g., Elvia Arriola, "What's the Big Deal?" *Women in the New York City Construction Industry and Sexual Harassment Law, 1970-1985*, 22 Col. Hum. Rts. L. Rev. 21, 59-60 (1991) (contending that the "swift merging of racial and sexual harassment" is a functional aspect of defending traditional working conditions and exclusionary practices that perpetuate the dominant white male [power] structure); Ontiveros, *supra* note 24, at 818 (suggesting a complex understanding of the interwoven racial and sexual harassment injuries in the workplace as well as a method for analyzing differential risk that subgroups of women of color encounter in experiencing and redressing what she refers to as "workplace harassment"); Kimberlé Crenshaw, *Race, Gender, and Sexual Harassment*, 65 S. Cal. L. Rev. 1467, 1473 (1992) (arguing that the organized women's movement must "go beyond the usual practice of incorporating only those aspects of women's lives that appear to be familiar as 'gender' while marginalizing those issues that seem to relate solely to class or to race").

52. The critique of "free speech" and First Amendment to sanction discrimination has been initiated by critical scholars analyzing law. See generally *Words That Wound* (Mari Matsuda et al., eds., 1993) and *The Price We Pay* (Laura Lederer and Richard Delgado, eds., 1995).

53. For a related concept, see Crenshaw, *supra* note 51, at 1467-68 (referring to the dynamics of racism and sexism in the workplace as the "dual vulnerability" confronting women of color).

36

To understand t
Thomas hearing
things, race and
torted in that su
existing racial a
does not commi
ests in some wa
by a woman of
something to g
charges are frec
ration of the ev
sexual miscondi
nity support. As

Reckoning wi

In the Hill-Thc
pute are both l
tance. For Clar
conservatives r
cial and politic

Thomas was
to assert boldly
foundly contra