Asian and Asian American Racialization through Legislative Language in the 2023 State Alien Land Bills

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ABSTRACT

This thesis analyzes how Asians and Asian Americans are racialized through the 2023 State Alien Land Bills. Previous scholarship has shown that Asians and Asian Americans are racialized through “yellow peril,” “model minority myth,” and “forever foreigner" tropes but little existing sociological research analyzes the usage of Asian and Asian American racial tropes in legislation and law on a national scale. The data for this thesis consists of 79 bills that were processed during the 2023 state legislative sessions which ban or restrict Chinese nationals from acquiring land, including those which were introduced in 2023 and pushed to the 2024 state legislative cycle. Through a content analysis of the bills, I found that Asians and Asian Americans are primarily racialized through the yellow peril trope of infiltration through expansion in the Alien Land Bills and colorblind racism through targets of exclusion. These methods of exclusion use historically grounded tropes of yellow peril while applying colorblind racism in contemporary anti-Asian and Asian American racial project based upon Sinophobia.

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GENERAL AUDIENCE ABSTRACT

This thesis analyzes how Asians and Asian Americans are racialized, the political process of creating race, through the 2023 State Alien Land Bills, bills which were introduced at the state level which ban or restrict Chinese nationals from acquiring land in the US. Previous research has shown Asians and Asian Americans are racialized thorough “yellow peril,” “model minority myth,” and “forever foreigner" tropes but little existing research in sociology has analyzed how Asian and Asian American racial tropes are used in legislation and law on a national scale. The data for this thesis consists of 79 bills that were introduced at the state level in 2023. Through a content analysis of the bills, I found that Asians and Asian Americans were primarily racialized through a politics of infiltration through expansion, defining Asians and Asian Americans as political invaders, and denied the ability to acquire land through colorblind racism. Historical land practices of excluding Asians and Asian Americans were built upon with the inclusion of colorblind racism to build a new anti-Asian and Asian American politics of race centered on Sinophobia.

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Abstract

This thesis analyzes how Asians and Asian Americans are racialized through the 2023 State Alien Land Bills. Previous scholarship has shown that Asians and Asian Americans are racialized through “yellow peril,” “model minority myth,” and “forever foreigner" tropes but little existing sociological research analyzes the usage of Asian and Asian American racial tropes in legislation and law on a national scale. The data for this thesis consists of 79 bills that were processed during the 2023 state legislative sessions which ban or restrict Chinese nationals from acquiring land, including those which were introduced in 2023 and pushed to the 2024 state legislative cycle. Through a content analysis of the bills, I found that Asians and Asian Americans are primarily racialized through the yellow peril trope of infiltration through expansion in the Alien Land Bills and colorblind racism through targets of exclusion. These methods of exclusion use historically grounded tropes of yellow peril while applying colorblind racism in contemporary anti-Asian and Asian American racial project based upon Sinophobia.

Introduction

The purpose of this study is to analyze the ways in which Asians and Asian Americans are racialized through the Alien Land Ban Bills introduced in 2023 across the United States. Anti-Asian sentiment has dramatically increased since the start of the COVID-19 pandemic, with Stop AAPI Hate, a San Francisco State University affiliated racial abuse tracking organization, recording over 11,000 instances of anti-Asian abuse since 2020 (Stop AAPI Hate 2023). The data is comprised of the 79 bills which were introduced in the 2023 state legislative sessions which ban or restrict Chinese nationals from buying or owning land in the US. This study used

qualitative content analysis, coding for patterns of racialization found across the texts of these pieces of legislation.

The Asian American experience is one historically constructed in relationship to exclusion, including a long history of exclusion through policy and law. Existing research has looked at the ways in which Asians and Asian Americans are racialized through racial tropes such as “yellow peril,” the “model minority myth,” and “forever foreigners," but leaves much to be desired in terms of analyzing the explicit policy initiatives which drive top-down racialization. The data consisted of the 79 bills introduced in 2023 restricting Chinese nationals from owning land. The data was analyzed through content analysis, qualitatively coding the bills. This thesis will engage with the following questions: 1) What patterns of racialization are found in these bills? and 2) How these are contextualized into a broader history of US racial projects centered upon Asians and Asian Americans?

Several key events have occurred affecting the prospects of Asian and Asian American racialization in the 21st century, including the attacks on 9/11, the SARS outbreak of 2002, the COVID-19 pandemic, and the rise of right-wing radicalization across western neoliberal democracies. This thesis examines whether the introduction of new US state level alien land laws to see if current articulations of Asian and Asian American racialization is a reemergence of prior forms of Asian and Asian American racialization. However, while there is a time ordered component to many sociological phenomena and historical construction is heavily implicated in racial formation, these new bills may serve as an example of rearticulated forms of racialization under contemporary racial and political conditions.

Research Questions

What patterns of racialization are found in these bills? How are the patterns of racialization contextualized into a broader history of US racial projects centered upon Asians and Asian Americans?

Literature Review

This literature review is divided into three sections of literature which are implicated in Asian and Asian American racialization. The first of these sections examines sociological paradigms of race. Here, I examine definitions of racial construction, racial formation, sociological paradigms of race, and the contexts from which race emerges (Bonilla-Silva 1997; Collins 1990; Fields and Fields, 2012; Omi and Winant 2015). The Asian and Asian American racialization section looks at racialization from an Asian American studies perspective. This section both examines how Asian and Asian American racialization is constructed and critiques the paradigms of the sociology of race and ethnicity (Kim 1999; Kim 2016; Li and Nicholson Jr. 2021; Wu 2002). The final section discusses Asian and Asian American legal histories. This section of the literature review historically grounds the process of Asian and Asian American racialization and provides contexts for understanding current exclusion and racial construction.

Race, Racial Construction, and Racialization.

This section will outline the concepts of race and racialization. Following the outline of race and racialization, this section will discuss the paradigms of racialization and racial formation amongst race, racialization, and racial formation sociologists. Here, I differentiate between race, racialization, and racial construction in sociology from interdisciplinary scholarship, Asian American studies scholarship, and humanities scholarship which looks

particularly at the Asian American experience in racialization. I then provide a variety of conceptions of different racialization paradigms and build an argument for race and racialization being an intersectional and relational process.

Race

To begin a discussion of race and racialization, it is necessary to define race. There is a consensus among social scientists that race is a socially constructed category of difference (Bonilla-Silva 2022; Omi and Winant 2015). Race is a non-essential, elastic social construct where the categories, basis for differentiation, and means of differentiation are subject to change over time (Bonilla-Silva 2022). Race-making has been defined as a process of "othering," or "making up people," and the delineation of "what goes with what and whom (sumptuary codes), how different people must deal with each other (rituals of deference and dominance), where human kinship begins and ends (blood), and how Americans look at themselves and each other (the gaze)" (Bonilla-Silva 1997; Collins 1990; Fields and Fields, 2012; Omi and Winant 2015).

Race reflects an essentialized corporeal distinction between people which "draw[s] upon an ensemble of symbolic meanings and associations" (Fanon 2008; Omi and Winant 2015). While race is a socially constructed entity, meaning that the symbols of race are embedded with social power whilst not holding biological basis, race is largely constructed around phenotypical and somatic differences (Banton 1977; Barot and Bird 2001; Fields and Fields 2012; Omi and Winant 2015). Race is also a sociohistorical structure, and many scholars point to European colonization as a site of the origin of perceived/ascribed racial difference (Banton 1977; Barot and Bird 2001). These categories were initially distinguished through corporeal means, where certain phenotypical features were ascribed notions of inferiority and superiority, dependent on the particular contexts of different racial and ethnic groups (Bird and Barot 2001).

While there is some consensus regarding what race is, the discipline differs regarding how, why, and when race and racial construction occurs. Eduardo Bonilla-Silva views social scientists forming three paradigms of race and racial construction discourse. The first of these paradigms' views race as a socially constructed category which is not "a fundamental category of analysis and praxis" (Bonilla-Silva 2022). This lens views race as not 'real' but is made real through the usage of social actors. His second paradigm views race as a socially constructed category but treats race as though race were an essentialized category where matters of difference are truly *racial*. This paradigm reinforces existing racial orders by uncritically engaging and accepting the categories, though they may present race as a non-essential category. The third paradigm views race akin to other social categories such as gender or class, socially constructed entities which produce social outcomes (Bonilla-Silva 2022).

Barot and Bird view paradigms of race and racialization through the relationship to the subjugated categories within race (Barot and Bird 2001). They view race as having two "nearly mutually exclusive" paradigms of thought, one coming from what they define as the center, White, global north scholars, and the periphery, scholars of color and the Global South, with Franz Fanon considered exemplary (Barot and Bird 2001). Scholarship from the center views race through a lens of culture and ideology, placing less emphasis on the violence and subjugation of racial groups in-favor of group recognition and "suggests the recognition of others and of the damage done to them as a sufficient solution" (Barot and Bird 2001). Peripheral scholarship places emphasis on corporeality, embodiment, and the violence and subjugation of bodies and minds (Barot and Bird 2001).

In a sentence, Omi and Winant define race as "a concept, a representation or signification of identity that refers to different types of human bodies, to the perceived corporeal and

phenotypic markers of difference and the meanings and social practices that are ascribed to these differences" (Omi and Winant 2015). Race is a process of identification with a socio-historically constructed group, constituting common life courses, experiences, discrimination, and boundaries (Collins 1990; Omi and Winant 2015). These categories are ever-changing sociohistorical constructions, differing depending on their particular contexts (Collins 1990; Fields and Fields 2012; Hall 2021; Omi and Winant 2015).

Race is fundamentally an intersectional social construct. Racial groups are formed through intersections with other master categories and racial groups (Kim 1999; Collins 1990; Ahmed 2007). Race does not exist in a vacuum and is interpreted differently based on situational contexts, these can be anywhere on the spectrum of micro to macro-level social behavior. Collins speaks to this through matrices of domination, stating that all forms of domination incorporate combining, intersecting oppressions where the nature of the different matrix of domination will determine how "oppression and activism will be organized" (1990). Bonilla-Silva presents a similar line of argumentation discussing the different racial structures amongst Cuba, Brazil, the US, and Puerto Rico, stating that interactions with class is one example of these changing matrixes of oppression Collins spoke to (1997). While many race and racialization scholars in sociology acknowledge the role of intersectionality in race and racial construction, the field of sociology of race and ethnicity leaves much to be desired in the application of this paradigm. Oftentimes racial distinctions are mapped on a single matrix which tends to equate to difference on the basis of inferiority and superiority (Omi and Winant 2015). Single axis mapping of racial hierarchy is fundamentally reductive and speaks little to the interaction of racial groups, which inform much of how racial groups are oppressed through racialization. Axes mapping as a paradigm is also reductive through its assumption of linear, almost mathematic, theorization.

Race, under this lens, is treated as a product of several variables rather than a flexible, relational construction of overlapping and underlapping contexts.

As previously mentioned, race is an everchanging, ever contested social construct (Collins 1990; Fields and Fields 2012; Hall 2021; Omi and Winant 2015). Some scholarship has critiqued race as being unreliable due to the consistent conflict over racial categories (Omi and Winant 2015). Much of the power of race as a political tool comes from its malleability however, where race is able to be reconstructed in such a way to dominate others, regardless of contexts. Changes in racial oppression have been viewed as advancements towards racial equality rather than a rearticulation of oppression (Bonilla-Silva 1997). Bonilla-Silva cites Park (1950) to present this change as "a natural process in a cycle" (1997). While the interactions between the state, society, the individual, and social categories in the context of race may change overtime, the end result remains consistent: Americans of color's life chances are lower than those of White Americans (Bonilla-Silva 1997). Changes in race and racialization reflect changes in demographics and how the state and society interact with those demographics. Ngai presents immigration law as a form of nation building which historically has reflected this practice (Ngai 2012).

The intersection of law and race is a foundational aspect of race, as racial difference has been formally and informally codified into law (Collins 1990; Ngai 2014; Omi and Winant 2015). Since the state plays a role in top-down racialization through providing formal definitions of racial groups, the state is a site of formal racial contestation and codification (Collins 1990; Omi and Winant 2015). Historically in the US, the primary site of this formal contestation is the US Census Bureau (Omi and Winant 2015). Race and racial distinctions are the product of

complex processes of racialization, cross-sections of a particular spatial and sociohistorical context.

Racialization

Racialization is another contested term within the sociology of race, with arguments about who constitutes a racialized people, how these forms of racialization occur, and how society interacts with and codifies the distinctions of racialization. A general definition of racialization is “the process of constructing racial identities and meanings” as defined by Barot and Bird when discussing the work of Winant (2001; Winant 1994). This "general" definition describes the broad process of racialization which is the ascription of race on to some corporeal entity, which can range from anything from bodies to objects to places, etc. Paradigmatic differences in the study of racialization are found through the interpretation of how these ascriptions are codified and embedded with meaning.

The theory of racial formation is one paradigm of racialization. This theory is laid out in Omi and Winant’s *Racial Formation in the United States.* Omi and Winant have a perspective of race which sees racial categories and distinctions through a lens of both contestation and ascription, viewing the construction of race as an interactive process where race is contested from both above and below. Here, race is contested across time and space and allows for multiple interpretations (Omi and Winant 2015). This perspective views a race as a two-fold process of identity creation, a top-down imposition of racial categories through dominant social groups and/or state institutions and a bottom-up act of resistance to subjugating forms of othering and a means of self-identification (Collins 1990; Omi and Winant 2015). Omi and Winant go further to state “no social category rises to the level of being understood as a fixed, objective,

social fact" and view the "prevailing meaning" as a product of interaction between "elite and street" definitions/meanings of race (Omi and Winant 2015). The theory of racial formation, grants greater agency to the role of constructing a racialized self, or internal processes of understanding identities shaping the individual psyche, relative to a theory of top-down racialization (Barot and Bird 2001; Omi and Winant 2015; Winant 1994).

Other scholars who may fall under "scholarship of the periphery" or the "third paradigm" as defined by Bonilla-Silva describe race with greater emphasis on the hierarchical nature of race and race as a constricting force. Fields and Fields' theory of "racecraft" accounts for the unequal nature of racialized groups and how racialization is a hierarchical process (2012). Fields and Fields view racecraft as producing both racialized bodies and a pseudo-racialized in-groups, in a process which is foundationally unequal which was described as "turning racism into race" (2012). This paradigm views race as gaining meaning through oppositionality, where racial groups are placed in conflict with one another such as the Black/White binary, where the othered group is granted a level of objectness to be controlled, in contrast to the personhood of whiteness (Collins 1990; Fields and Fields 2012).

The process of othering/race-making intersects with the state to codify these differences into law, where de jure racial inequality can form the basis for social interaction and/or the law reflects existing de facto social realities regarding the unequal status of othered groups (Ray 2023). Once symbolic meanings are ascribed and widely accepted, racialized meaning can overcome the corporeal requirement typically associated with notions of race/racialization (Fanon 1967; Fields and Fields 2012; Hall 2021; Omi and Winant 2015). Fields and Fields, referencing Tocqueville, called these the "sumptuary codes of race" which give racialization the ability to transcend visual distinctions (2012). These regulations can be codified into law or state

bureaucracy, with the example given in *Racecraft* being the exclusion of Black people from being received at the White House during Jim Crow (Fields and Fields 2012). These codes provide a lens through which a set of behaviors can be analyzed, shaping actions and opinions regarding race, and will differ based upon contexts (Fields and Fields 2012; Hall 2021; Omi and Winant 2015).

Race is necessarily a political project, a tool for social conflict (Mills 1997; Ngai 2014; Omi and Winant 2015; Winant 2004). Omi and Winant speak to this aspect of race, presenting it as an object which "signifies and symbolizes social conflicts and interests by referring to different types of human bodies" (2015). Attempts at "standardization" or having "generally understood racial categories" have been mixed. Omi and Winant take a pessimistic viewpoint, in the sense that these have been unsuccessful, and note the issue of the gap between self-identification and legal definitions. Legal or state definitions can differ from location to location and may be poorly defined within a particular region. Additionally, sociopolitical contexts are constantly changing and may result in groups wishing to differentiate themselves from previous groupings (Omi and Winant 2015). Omi and Winant specifically mention the self-identification of Taiwanese peoples as Taiwanese rather than ethnically Chinese and the self-identification of Hispanics as sites of conflict (2015).

Asian and Asian American Racialization

The following section analyzes literature relating to Asian and Asian American racialization. Initially, this section looks at the different paradigms of Asian and Asian American racialization and how paradigms differ amongst scholars. This section is then divided into central and peripheral views of Asian and Asian American racialization, the *different trajectories*

approach and the *racial hierarchies approach*, and then forms of othering which constitute *pseudo racialization* or forms of othering similar to racialization. I then follow with a discussion of the different racial tropes ascribed to Asians and Asian Americans. While some of these scholars may not be considered normative racialization and/or racial construction scholars, these authors were included due to the different constraints which Asian and Asian Americans are racialized under.

Asian and Asian Americans, similar to all racialized groups, are racialized both in their particular contexts and in relation to other racialized groups. As such, each racialized group will have different means of othering, though oftentimes related, from which they are differentiated from the White populous. Particularly important to the Asian American experience are those of immigration and citizenship, these social processes which subjugated and interacted with Asians and Asian Americans differently to other racial and ethnic groups (Ngai 2014). Peripheral racialization scholarship pertaining to Asians and Asian Americans often do not account for these experiences and favor single track conceptions of racialization based on a Black/White racial binary (Bonilla-Silva 1997). Race and racialization scholars speak to the roles of top-down racialization, what I will call ascription, and bottom-up racialization, commonly called contestation (Atkinson 2010; Bonilla-Silva 1997; Collins 1990; Omi and Winant 2014). Notably, this section, and the broader thesis, will place greater emphasis on the top-down forms of racialization as opposed to the bottom-up forms of racialization. This is not to diminish the importance of conceptions of a racialized self, but to more accurately account for the forms of racialization ascribed by the large bureaucracies featured in my data, specifically state governments and implicated interest groups. These forms of racialization occur through the

enactment of policies, legal proceedings, and enforcement of laws which differentiate particular ethno-racial groups from Whites and other racialized bodies.

Similarly to race and racialization scholarship within sociology, Asian and Asian American racialization scholarship can be divided into a variety of different paradigms. Two of these approaches are the *different trajectories approach* and the *racial hierarchy approach* (Kim 1999). The different trajectories approach "examines racialization as an open-ended, variable process that has played out differently for subordinated groups" (Kim 1999:105). Omi and Winant are emblematic of this approach claiming, "Native Americans faced genocide, blacks were subjected to slavery, Mexicans were invaded and colonized, and Asians faced exclusion" (Omi and Winant 1994). This paradigm of racialization sees a singular process of racism which is applied through different historical manifestations. David Theo Goldberg speaks to this approach saying it encompasses "the presumption of a single monolithic racism is being displaced by a mapping of the multifarious historical formations of racism" (Goldberg 1990; Kim 1999:105-106). The racial hierarchy approach encompasses theories which portray race as a single hierarchy of status and privilege where White people occupy the highest category, Black people occupy the lowest category, and non-Black/White groups occupy the space between. Examples of these theories include Gary Okihiro's argument of Asians and Asian Americans as an intermediary group and Mari Matsuda's argument claiming Asians and Asian Americans compose a racial bourgeoisie (Matsuda 1993; Okihiro 1994). The different trajectories approach and the racial hierarchy approach are not mutually exclusive (Kim 1999).

Another Asian and Asian American racialization paradigm is known as the assimilation thesis. Adherents to the assimilation thesis phrase this phenomenon in multiple ways such as "whitening," "honorary whitening," admittance to a "residual" group, and "aligning with whites

and Latinos as nonblacks" (Kim 2016:554). Proponents of the assimilation thesis argue that Asians and Asian Americans have access to the social powers of whiteness in some way. Matsuda (1993), for instance, refers to a risk of Asians and Asian Americans becoming a "racial bourgeoisie". The assimilation thesis views race on a singular hierarchy of inferiority/superiority where White Americans are at the top, Black Americans are at the bottom, and other racialized groups are somewhere in the middle (Bonilla-Silva 2004; Kim 2016; Matsuda 1993). Eduardo Bonilla-Silva gives five lines of argumentation for a new US racial order: a) the "rapid darkening of America" where Whites see a need to "(1) create an intermediate racial group to buffer racial conflict, (2) allow some newcomers into the white racial strata, and (3) incorporate most immigrants into the collective black strata"; b) the reorganization into a colorblind society; c) the globalization of "race relations"; d) conservative and multi-racial activists which aim to dilute or rid race as a category; and e) attacks on affirmative action which he sees as potentially signaling the end of race-based policy (Bonilla-Silva 2004:934). While these items could be evidence for a rearticulation in racialization, the assimilation thesis is necessarily reductive, assuming that Asians are a monolith, either implicitly or explicitly, and speak to the Asian American experience in terms of a singular agency, i.e. viewing actions of Asian Americans, Asian immigrants, and different Asian ethnicities as singular when they are the most diverse racial group. This occurs through a reduction of a variety of ethnicities to "Asian". While some Asian ethnic groups on average experience greater socioeconomic outcomes, such as prominent historical East Asian groups in the US such as Korean Americans, Japanese Americans, and Chinese Americans and South Asians like Indian Americans, it is reductive to apply similar logics to dissimilar ethnic groups who may vary across contexts of immigration, socioeconomic status, culture, phenotype, etc. Disaggregation of Asian and Asian American socioeconomic,

educational, and health data shows that Asians and Asian Americans drastically diverge in terms of life outcomes depending on ethnic background.

Scholars may explicitly state the that they view different Asian ethnicities as dissimilar in their new racialization theses but still treat 'Asian' as a monolith, for example Bonilla-Silva places some Southeast Asians in his "Collective Black" segment of a new racial triarchy but then gives anti-Black sentiments amongst East Asians as a rationale for their admittance into "Honorary Whites" (Bonilla-Silva 2004). This line of argumentation would necessitate some sort of proof of Lao, Vietnamese, and Thai Americans having differential anti-Black views to East Asian Americans. Bonilla-Silva notably excludes reference to skin tone in the racialization of Asian and Asian Americans while referring to skin tone for Latinos, which was also reductive of the many shades Latinos and Asians of different nationalities come in. Additionally, while this line of scholarship often speaks to the "loose" organization of the framing of these proposed hierarchies, the reduction is foundationally orientalist of the different histories of the localities. Sweeping generalizations of these nations is ignorant to local ethno-racial (and pseudo racial) differences and oftentimes ahistorical, for example in the case of Vietnam, treating it as a monoethnic nation despite its relatively recent history of national identity building post-French and American occupation and Chinese colonization and variability in terms of phenotypic difference.

Critics of the assimilation thesis argue that Asians and Asian Americans are subjugated through different means than Black Americans (Kim 2016). While Black Americans are denigrated as inferior, their "American-ness" does not come into question in similar processes to Asians and Asian Americans (Kim 1999; Kim 2016). Asians and Asian Americans are ascribed notions of unassimilability and foreignness, despite the historical presence of Asians for

generations in particular communities in the US (Kim 1999; Kim 2016; Li and Nicholson Jr. 2021; Wu 2002). Kim puts it best saying, "The question pursued here is this: how can a group racialized as foreigners bask in the full privilege of whiteness if a central privilege of being white is to be an authentic American—the American?" (Kim 2016:554). Adherence to the assimilation thesis upholds the Black/White racial binary, underrepresents anti-Asian discrimination, and lacks proper acknowledgement of the subjugation of Asians and Asian Americans through citizenship, exclusion, and other forms of structural discrimination (Kim 2016). The assimilation thesis provides a reductive form of racialization which assumes that the Black/White binary is the norm for US racialization, a practice which is ignorant to the roles of other non-Black and non-White racial groups. Rather than having an intersectional approach to racialization which accounts for the various forms of subjugation, domination, and exclusion experienced by all people of color throughout the history of the US, it applies a single variable of racialization based upon an axis of inferiority and superiority (Kim 1999). This lacks nuance regarding how and why these groups are labeled as inferior or superior and how these labels are implicated in life course outcomes.

Some assimilation thesis scholars acknowledge the ambiguity amongst non-Black and non-White racial distinctions, differentiating prospective outcomes based on ethnic identity, such as differentiating between East and Southeast Asians who differ on the basis of phenotype, diaspora, and culture, but reduce these diverse categories nonetheless (Bonilla-Silva 2004; Kim 2016). Some scholars who adhere to the assimilation thesis acknowledge the histories and exclusion of Asians and Asian Americans and speak to the weaponization of Asians and Asian Americans, but do little to build the bridge between weaponization and becoming White.

Matsuda, for example, speaks to the weaponization of Asians and Asian Americans upholding White supremacy:

> "The role of the racial middle is a critical one. It can reinforce white supremacy if the middle deludes itself into thinking it can be just like white if it tries hard enough. Conversely, the middle can dismantle white supremacy if it refuses to be the middle, if it refuses to buy into racial hierarchy, if it refuses to abandon communities of Black and Brown people, choosing instead to form alliances with them.... External to our communities, our successes are used to deny racism and to put down other groups. African-Americans and Latinos and poor whites are told, "look at those Asians - anyone can make it in this country if they really try."" (1993:79).

However, Matsuda goes on to speak of how the caricature of Asian and Asian American success is reductive within Asian and Asian American communities:

> "To use that success to discount the hardship facing poor and working people in this country today is a sacrilege to the memory of our ancestors. It is an insult to today's Asian-American immigrants, who work the double-triple shift, who know no leisure, who crowd two and three families to a home, who put children and old-folks alike to work at struggling family businesses or at home doing piece-work until midnight" (1993:80).

In the case of Asians and Asian Americans, the assimilation thesis would necessitate the acceptance of Asian and Asian Americans into authentic Americans, those who can benefit from "the full privilege of social citizenship to change from one race (Asian) to the dominant alternative (white)" (Kim 2016:555). The existence and prevalence of the "forever foreigner"

trope conflicts with the argumentation surrounding the assimilation thesis. Scholars also bring into question many of the supporting arguments surrounding the assimilation thesis including the assumption that Southeast European and Irish immigrants' acceptance into whiteness is a model applicable to Asians and Asian Americans and the strength of predictive analysis of future racial differentiation (Kim 2016).

Throughout the history of Asian and Asian American racialization, there have been a variety of racial tropes which have served as a lens of analysis/racialization from which to position Asians and Asian Americans and differentiate them from whiteness and other racial groups. One of the most historically prominent and influential today is that of “yellow peril.” Under the "yellow peril” trope, Asians and Asian Americans are othered, labeled as unsanitary objects who are a threat to public health due to notions of cultural and racial inferiority (Eichelberger 2007; Li and Nicholson Jr. 2021). “Yellow peril” places Asian and Asian American culture as a site of disease transmission and infection, where Asian and Asian American culture is compared vis-a-vis White and/or Western culture through a lens of modernity and purity (Eichelberger 2007). Linkages to a disease threat lend to anti-Asian and Asian American discrimination (Li and Nicholson Jr., 2021). "Yellow peril" also defines Asians and Asian Americans as culturally inferior and threatening to Whites (Li and Nicholson Jr. 2021). The term “yellow peril” was coined by novelist Jack London, who was a socialist writer who held White supremacy as paramount in his work (Wu 2002). "Yellow peril" in the US context was introduced in the context of labor competition which eventually led to the enactment of the Chinese Exclusion Act of 1882 (Choy 2022; Del Visco 2019; Wu 2002). "Yellow peril" has not been a static form of racialization but “has been used alternatively to label various East

Asian people as the ‘enemy’ of Western civilization and to signify ‘invasion and infection of civility by an inferior culture’” (Del Visco 2019).

“Yellow peril" is historically grounded and has remained relatively static in application throughout US history. Asian immigrants have continued to be denigrated as diseased invaders who are a threat to Whites and national security (Li and Nicholson Jr. 2021). This labeling is a form of systemic racism which is applied through a variety of institutions such as the government, the media, and even public health organizations (Li and Nicholson Jr. 2021). Following societal framing of the COVID-19 pandemic and the vilification of China and the Chinese people under "yellow peril," the trope has seen a resurgence. High profile contemporary examples of "yellow peril" in action include former President Donald Trump’s referral to the COVID-19 virus as the “kung-flu” and the “China virus” (Choy 2022; Kurtzman 2021; Orbey 2020 cited in Li and Nicholson Jr. 2021). Other instances of the former President engaging with the trope include conspiratorially undermining the work of the World Health Organization (WHO) and suggesting they are working with the Chinese government. President Trump when asked if he has seen any evidence the Wuhan Institute of Virology was origin of the pandemic Trump responded, "Yes, I have. Yes, I have... And I think the World Health Organization [WHO] should be ashamed of themselves because they're like the public relations agency for China” (BBC 2020). Other high ranking American government officials who have engaged in the behavior include former Secretary of State Mike Pompeo who referred to COVID-19 as the “Wuhan virus” (Li and Nicholson Jr. 2021). These messages were met with social approval, where greater than 50% of Americans agreed with former President Trump’s usage of “Chinese virus” (Li and Nicholson Jr. 2021). American government organizations have also taken part in the rising tides of "yellow peril," notably the May 2020 edition of Emerging Infectious Diseases

which is a publication put forth by the Centers for Disease Control and Prevention, the national public health agency of the US. The cover of the May 2020 edition features Chinese artwork, implicitly linking the nation and Asians abroad to the pandemic (Li and Nicholson Jr. 2021).

The "yellow peril" trope intersects with many of the other Asian and Asian American tropes, making it historically and contextually flexible. The most important of these intersections is its relationship with the "model minority" trope. The "yellow peril" and "model minority" tropes work in a dialectic to ostracize Asian and Asian Americans as unassimilable others, which is in part responsible for the lack of political power possessed by a group which otherwise averages higher socioeconomic outcomes relative to the average American (Li and Nicholson Jr. 2021; Kim 2016; Kim 1999; Okihiro 2014). The "model minority" trope places emphasis on Asians and Asian Americans as successful minorities due to being culturally alien (Lee and Kye 2016; Li and Nicholson 2021; Zhou 2004). The "model minority" trope valorizes Asian and Asian Americans over other minority groups on the basis of their socioeconomic success due to perceived cultural differences, either implicitly or explicitly state that other minority groups are culturally deficient and/or harmful which results in their lack of socioeconomic standing (Kim 1999; Li and Nicholson Jr. 2021). Asian and Asian Americans are perceived as having cultural values which emphasize “diligence, family solidarity, respect for education, and self-sufficiency" which lend to success in US society (Kim 1999:118). These characteristics are often compared to Black Americans who are racialized as culturally inferior, the assumed cause for their lack of socioeconomic status relative to the model minority. The perceived success of Asian and Asian Americans is described as due to the maintenance of their cultural differentiation, which is also seen as the rationale for the lack of social and political power had by Asian and Asian Americans who are ascribed notions of apoliticalness (Kim 1999). The "model minority" trope also reduces

all Asian ethnicities to a pan-Asian monolith, ignorant to the lack of socioeconomic success, prestige, and power had by certain Asian and Asian American groups (particularly Southeast and phenotypically darker Asians).

The "model minority" trope was first used in *The New York Times* in 1966 in an article titled “Success Story, Japanese-American Style” by William Peterson (Kim 1999). Peterson described Japanese Americans as successful relative to “problem minorities,” such as Black Americans, due to their “Tokugawa” values (diligence, frugality, achievement orientation) (Kim 1999:119; Peterson 1966). These arguments were used to challenge the notion that society should aid Black Americans through social programs. The power the model minority trope holds lies in its support for racist policy whilst projecting the aesthetics of non-racism. The model minority myth was crucial during two waves of change in race in the US, once during the mid-1960 to early 1970s and again in the early 1980s (Kim 1999). The first instance was a conservative embrace of colorblindness which worked to delegitimate the Black Power movement and stagnate race conscious social programs. The second wave encompassed attempts to roll back existing racially equitable policy, affirmative action, redistricting, etc (Kim 1999:119). By projecting a notion of apoliticalness, Asian and Asian Americans are hegemonically dissuaded from political activism while denigrating existing minoritarian political activism, which is commonly Black political movements (Kim 1999).

Kim builds upon this trope in her “The Racial Triangulation of Asian Americans” where she describes the racialization of Asian Americans through two processes of relative valorization and civic ostracism. Relative valorization is the process where a dominant group, in this case White Americans, valorize a subordinate group, Asians and Asian Americans, relative to another minority group, oftentimes Black Americans, to dominate and oppress both groups (Kim 1999).

Civic ostracism is defined as the process where the dominant group ascribes a subordinate as "immutably foreign and unassimilable with Whiteness" on the basis of culture and race to ostracize them from the political process and "civic membership" (Kim 1999:107).

Asian and American Legal Histories

As presented in *Asian American Histories of the United States,* Choi (2022) states "There is no singular origin story that begins in one time and one place and then progresses forward smooth like silk, linear like thread. Rather, the origins of Asian American history are multiple" (1). While there is no exact starting point for Asian and Asian American history, and as pointed out by Choi, Asian American as a term is typically constructed as Asian US, ignorant to the histories of Asian Americans in the Americas, this work attempts to provide historical contextualization of the Asian American experience in the US through policy and the courts (Choy 2022).

Policy

The first piece of legislation which set the boundaries of state entitlements regarding citizenship in the US on the basis of racial distinctions, along with setting the precedent for blood quantum as a social construct, was the Naturalization Act of 1790 (Ngai 2014). The act barred all those who were not White, western European immigrants who had lived in the US for at least two years from naturalization. The act also granted citizenship to children of US citizens born abroad.

The 1848 discovery of gold in California was crucial for Asian and Asian American entrance into the legal sphere. Chinese men and women were initially brought into the country as laborers, as well as scabs, valued for their cheap, reliable, and abundant labor (Atkinson 2010).

Chinese miners would later seek alternative forms of employment following increased competition, leading them to move throughout California. Increased and distributed Chinese presence was met with resistance from White laborers and the municipal, state, and federal government. The first manifestation of this backlash would be the Foreign Miners Tax Act of 1850 which required non-US citizen miners to pay $20 a month to access mines in California (Kanazawa 2005). These restrictions were primarily applied to racialized miners, who under the Naturalization Act of 1790 were ineligible for citizenship. Further legislative restrictions, including taxes on transportation, entry, and residency, would be placed on the miners in an attempt to restrict their movement (Atkinson 2010). Ultimately, such legislation limiting movement would lead to an outright ban of entry for Chinese and "Mongolians" (a catch-all term for Asians at the time) in Californian through "An Act to Prevent the Further Immigration of Chinese or Mongolians to This State" which would later be ruled unconstitutional (Kanazawa 2005). These legal measures were some of the first instances of racialized nation building through applying a discourse of deservingness for acceptance into the US state.

The next major policy initiatives impacting Asian American legal status would come in 1868 through the ratification of the 14th Amendment, which granted all US born people citizenship. However, Asian and Asian Americans would be denied such citizenship until the 1898 case *United States v. Wong Kim Ark*, where the Supreme Court would rule that Citizenship Clause of the 14th Amendment applied to all those born in the US, regardless of parental status (Ngai 2014). That same year, in 1868, the Burlingame Treaty was passed, which granted Most-Favored-Nation Status to China which permitted Chinese citizens to migrate to the US for free (Atkinson 2010). However, the treaty specifically stated that naturalization was not an option for the Chinese immigrants, reading "nothing herein contained shall be held to confer naturalization

upon citizens of the United States in China, or upon the subjects of China in the United States." (Atkinson 2010).

The bill would not come without challenge however, White Americans worried about the Chinese impact on local society and they would introduce two bills in 1870 attempting to restrict the Burlingame Treaty, both of which would die in committee (Atkinson 2010). That same year, the Naturalization Act of 1870 would be passed. This bill extended naturalization rights to Black Americans but continued to deny naturalization to Chinese and other Asians and Asian Americans. In addition to denial of citizenship rights, the act would bar the entry of wives of laborers, a provision which targeted Asian women who were labeled as sexually deviant (Act of 1870). Further exclusions on immigration and denial of state entitlements would come via the Page Act in 1875. This bill barred "undesirable" immigrants, Asian contract laborers, prostitutes, and those convicted of crimes in their home country, from entering the US. The bill specifically targeted Chinese, Japanese, and "Mongolian" immigrants and included penalties of up to a year in prison and a $2,000 fine for violation (Choy 2022; The Page Act of 1875).

With sweeping restrictions on Chinese and Asian immigration into the US the Burlingame Treaty would serve as one of the final obstacles for pursuers of Chinese Exclusion. The treaty would be renegotiated into the Angell Treaty in 1880, amended to allow for the US to "regulate, limit, or suspend" Chinese immigration in exchange for US support against European encroachment upon China (H. RES. 936 2023). This measure would set the stage for the Chinese Exclusion Act in 1882 which would suspend Chinese immigration to the US for a period of 10 years, which would be continuously extended until its expiration in 1943 (Choy 2022). The act would additionally bar US courts from admitting citizenship to anyone of Chinese ethnicity (Atkinson 2010). The bill was an explicit act of racialized nation building and racialized politics,

feeding off White working-class racial anxieties and providing "a painless way for politicians to ensnare working people's support without providing any genuine solution to their problems." (Atkinson 2010: 74). The measure would diminish Chinese immigration, reducing the Chinese American population by over 80,000 people in 10 years, though it would prove relatively porous as Chinese immigrates would continue to enter the US via the Canadian and Mexican borders. This exclusion would be coupled with violent racial terror with White mob attacks attempting to drive out Asian residents (Atkinson 2010). During the 1880s the issue of Chinese exclusion would also evolve into a broader front against Asiatic and Pacific exclusion. While Chinese exclusion was achieved relatively easily due to declining power of the Qing Dynasty, Japanese and Indian exclusion would prove more difficult. Japan was entering a period of rising regional power and vehemently lobbied for the protection of Japanese rights in the US whilst Indian subjects were granted some entitlements within the British Empire (Atkinson 2010). The end of the 19th century would see a continuation of restrictions on Chinese entry to the US. In 1885 the US would outlaw the importation of contract labor, a measure which would primarily target Chinese and Latino workers, through the Foran Act (The 1885 Alien Contract Labor Law). The Chinese Exclusion Act would be expanded upon through the Scott Act of 1888.

The 20th century would see the continuation of the late 19th century's exclusionary measures while moving towards denying entitlements to a Pan-Asian American populace. The first of these measures would be implemented in 1904 when Chinese Exclusion would be made indefinite in the Extension of Chinese Exclusion Act. Japanese immigration was next targeted through the Gentlemen's Agreement in 1907, which negotiated the voluntary restriction of Japanese passports to emigrating laborers. In further measures to target Japanese immigration,

President Theodore Roosevelt issued an executive order barring immigration from Hawai'i, Mexico, and Canada to the continental US (Ngai 2014).

The opening of Angel Island would be the next major policy initiative impacting Asian and Asian American immigration in 1910. Angel Island served as an immigration facility similar to Ellis Island and operated to enforce Asian exclusionary measures. The US federal government went on to pass sweeping restrictions on Asian immigration. The first of these measures would be the Immigration Act of 1917, prohibiting immigration of all non-Chinese Asians as Chinese Exclusion was already legislated by the Chinese Exclusion Act and instituting the "Asiatic barred zone," inclusive of the majority of Asia apart from the Philippines. However, this bill primarily targeted Japanese immigrants under the "aliens ineligible for citizenship" language. By excluding Japanese immigration through "aliens ineligible for citizenship," it provided a less aggressive means of exclusion than explicitly stating Japanese exclusion, an effort to maintain Japanese-US relations (Atkinson 2010). After a House Committee report on immigration was published in 1924 deeming the Gentleman's Agreement insufficient in reducing Japanese immigration to the US, Congress would pass the Johnson-Reed Act/National Origins Quota Act completely banning any "alien ineligible for citizenship" from immigrating to the US, ending all non-Filipino Asian immigration. The Johnson-Reed Act would serve as the US's first comprehensive exclusionary immigration law, establishing a numerical limit on immigration and a global favoritism of White immigrants (Ngai 2014). Filipino immigration was later excluded via the Tydings-McDuffie Act in 1934. The Tydings-McDuffie Act would promise independence to the Filipino people, though not achieved until 1946, whilst also declaring Filipinos non-American citizens, subjecting them to immigration exclusion as Asians. The Tydings-McDuffie

Act would be coupled with the Filipino Repatriation Act in 1935 in an attempt to displace existing Filipino Americans (Ngai 2014).

1942 would serve as a point of divergence in US exclusionary Asian and Asian American immigration politics as the following decades would shift from policy aimed at racial purity of a nation to a platform more explicitly engaging in geopolitics. The Japanese and US would enter into World War II following the bombing of Pearl Harbor in December 1941, shifting the focus of exclusionary and oppressive policy towards Japanese immigrants and Japanese Americans. President Roosevelt would sign Executive Order 9066 a couple months later, authorizing the internment of over 70,000 Japanese Americans, who were primarily US citizens, into internment camps (Ngai 2014). Entitlements for Chinese immigrants and Chinese Americans would change following WWII. The Magnuson Act would pass in 1943, repealing The Chinese Exclusion Act, allowing for some Chinese refugees to enter the US and allowing some Chinese Americans to naturalize for the first time in US history. However, the Magnuson Act would limit Chinese immigration to a quota of 105 people per year, establishing a quota on the basis of Chinese identity rather than country of origin (Ngai 2014).

The late 1940s, 50s, and 60s would mark another shift in US-Asian immigration policy, with major points of change in the eyes of US nation-building relative to Asians and Asian Americans. The first of these markers being the enactment of the McCarran-Walter Act in 1952, lifting the ban on Korean and Japanese Immigration and permittance to naturalize, granting Chinese women equal immigration rights to Chinese men, and allowing all Asians and Asian Americans naturalization rights. The Immigration and Nationality Act of 1965 would later be passed, rescinding the National Origins Formula for immigration quotas and de facto discrimination against Asian immigrants (Ngai 2014). The US would also perform one of its few

instances of acknowledgement of wrongdoing and reparations, though insultingly miniscule, through the Civil Liberties Act of 1987. The bill would be passed and enacted the following year granting $20,000 in restitution to Japanese Americans placed in internment camps, specifically citing "racial prejudice, wartime hysteria, and a lack of political leadership" for internment (Choy 2022; Civil Liberties Act of 1987).

Courts

Court rulings have been used side by side with legislation as a means of Asian and Asian American racialization. These measures were first seen in the 19th century in a society overtly structured around racial distinctions, which were defined as biological. Asian and Asian Americans were denigrated as foreign, threats to existing local culture, and perceived as labor competition. The 19th century can be characterized through its exclusionary measures, here the legal groundwork was laid for large scale bans on Asian immigration, the denial of citizenship rights, and second-class legal status which would set the precedent for the next century's sweeping restrictions on Asian and Asian American entitlements.

The first instance of court restrictions of Chinese rights would come following the landmark case of *People v. George Hall* in 1854. The California Supreme Court overturned a murder conviction ruling that the evidence was not admissible due to the witness being Chinese. Chief Justice Murray wrote the opinion stating Chinese people were "a race of people whom nature has marked as inferior, and who are incapable of progress or intellectual development beyond a certain point" and argued that "negroes" meant all non-White persons (Kim 1999: 113). Murray would argue that "Black" as a racial category was not limited to those of African descent but all non-Whites. The *Hall* case would be used to justify a variety of anti-Chinese legislative measures, culminating in the 1882 Chinese Exclusion Bill (Kim 1999). Two decades

later the circuit court in California would rule Chinese immigrants ineligible for naturalization due to being non-Caucasians and "of the Mongolian race" (In re Ah Yup 1878). The court would go on to cite common knowledge as their rationale for denial of naturalization rights saying, "But these words in this country, at least, have undoubtedly acquired a well-settled meaning in common popular speech, and they are constantly used in the sense so acquired in the literature of the country, as well as in common parlance. As ordinarily used everywhere in the United States, one would scarcely fail to understand that the party employing the words "white person" would intend a person of the Caucasian race" (In re Ah Yup 1878; Lopez 2006).

The late 19th century would see similar measures of exclusion in the *Chae Chan Ping v. United States* (1889) and a major victory in the *United States v. Wong Kim Ark* (1889) cases. The former would uphold the constitutionality of Chinese exclusion. *Chae Chan Ping v. United States* (1889) would challenge the Scott Act, arguing that the act violated the provisions of the Burlingame Treaty which allowed for Chinese laborers to immigrate to the US. The Supreme Court would rule unanimously in favor of the lower court's ruling, upholding exclusion (Chae Chan Ping v. United States, 1889). *Wong Kim Ark* (1889) would rule that children born in the US would be eligible for citizenship, regardless of parental eligibility, under the 14th Amendment. Wong Kim Ark was thus granted citizenship status despite the courts continued denial of naturalization rights to Asian immigrants (Ngai 2014).

Any legal victories would be short lived however, with the turn of the century ushering in a new wave of cases continuing to relegate Asians and Asian Americans to second class legal status. The first instance of these restrictions would be *Takao Ozawa v. United States* (1922). Ozawa was a Japanese American who had been living in the US for 20 years and attempted to obtain naturalized citizenship under the Naturalization Act of 1906, which allowed for

naturalization for White and Black Americans. The Supreme Court would eventually take the case which ruled unanimously against Ozawa, arguing that he was ineligible for citizenship as he was not a member of the Caucasian race (Choy 2022; Kim 1999; Lopez 2006; Ngai 2014). This case would be important for another landmark Supreme Court case the following year, *United States v. Bhagat Singh Thind* (1923). Thind applied for naturalized citizenship under the Naturalization Act of 1906, arguing that he was eligible for citizenship as his South Asian heritage was classified as Caucasian by anthropologists at the time. The Supreme Court would rule unanimously against Thind, arguing that there was not consensus regarding the racial status of Indian Americans. Additionally, the court would claim that despite the claim to Caucasian identity, the common understanding of race was that Whites and South Asians were not of the same racial category (Choy 2022; Kim 1999; Lopez 2006; Ngai 2014). Asians and Asian Americans have also been racialized through politics of threat in the courts, seen in the *Yasui v. United States*, *Hirabayashi v. United States,* and *Korematsu v. United States* cases. Each case involved the explicit inequitable treatment of Japanese Americans under anti-Japanese provisions, challenging curfew and removal mandates enforced by the US government. The *Yasui v. United States* and *Hirabayashi v. United States* cases challenged the constitutionality of curfew and removal measures, arguing that they were owed equitable treatment under the 14th Amendment. Similarly, *Korematsu v. United States* applied the same rationale to racialized internment of Japanese (and other Asian) Americans. The Supreme Court ruled in favor of the US in all three cases, and notably in *Korematsu* ruled that "classification and discrimination based on race is subject to "strict scrutiny" by the Court" but that discrimination was justifiable when in the national military interest (Choy 2022; Ngai 2014:176). This was an explicit moment

of racialization through the courts, where the state is ruling national interest, i.e. White interest, takes precedent over the equality of racialized groups.

Methods

Data for this thesis consists of the 79 state level bills which ban or restrict Chinese nationals from buying or owning land in the US. The data was initially compiled by an advocacy organization, APA Justice, and then cross-referenced through LegiScan and LexisNexis State Net. Early read throughs of the data resulted in the removal of three unrelated bills from the APA Justice original 82 bill list.

APA Justice's tracked factors relating to the Alien Land Bills in the 2023 legislative sessions including: state; bill number; link to referenced bill in LegiScan; number of sponsors by party affiliation; last known action date for the bill; last known action taken for the bill; end of the state legislative session in 2023. APA Justice also compared and integrated this legislation list to include data from APA Justice independent research, Advancing Justice, the National Agricultural Law Center, Project South, "Media reports," and "Crowdsourcing, referring to the practice of obtaining information or input by enlisting people and organizations via groups or the Internet" (APA Justice 2023).

I also cross-referenced and updated this list through comparison with LexisNexis State Net, a legislation tracking software. Searches for the relevant bills included the existing criteria listed in the APA Justice Methodology and keyword searches such as: China, Chinese, land, ban, restriction, real property, ownership, Chinese Communist Party, CCP, military, agriculture, acres, etc. I also expanded the sample frame to include bills which were introduced during the 2023 state legislative sessions but were interacted with in the 2024 state legislation sessions. A list of all the pieces of legislation can be found in Table 1. Three bills were removed from the

initial list provided by APA Justice for lack of relevance. These bills were Florida S 294, which proposes the requirement of teaching Asian American History; Georgia S 264, which relates to health care; and Georgia S 132, which proposed restrictions on dragline mining for heavy mineral sands. I also analyzed some of the current contexts of the bills. I first looked at the sponsors of the legislation, which can be found in Appendix A. I then examined the Asian and Asian American populations of each of the states where a bill was introduced. Estimates of the 2023 state Asian populations, which includes census estimates of multiracial and monoracial Asians and Asian Americans, and percentages can be found in Appendix D. Finally, I analyzed the legislature compositions from which the bills were introduced. The partisan legislature compositions can be found in Appendix E.

I analyzed the data through qualitative content analysis. For my analysis, I first examined the data to determine "sensitizing concepts," which constitute "interpretive devices that provide those background ideas that inform the overall research problem" (Blumer 1969; Charmaz 2003 cited in Del Visco 2019: 631). My inductive coding provided insight regarding how the legislation was excluding the specified parties in the bills and on what terms they were excluded. Some items which were found in the inductive coding process where language differences between the state legislatures, the scope of the exclusions, punitive measures of the bills, state reorganization, definitions of property and people in relation to the exclusions, and groupings of excluded parties.

I then refined the inductive coding schema through comparison to literature on Critical Race Theory, race and racialization, Asian American studies, and anti-Asian discrimination historical research to determine where the pieces of legislation fit into the broader pictures of Asian and Asian American racialization and Asian exclusion (Del Visco 2019). This coding

schema focused on racialized themes and racial tropes relevant to the Asian American experience, specifically the yellow peril trope.

Finally,, I developed a coding schema from the inductive and deductive analysis of the data and coded the bills (Altheide and Schneider 2013; Del Visco 2019). After removing irrelevant material from my source data, the Alien Land bill sample (Appendix A) consisted of 79 bills banning or restricting land acquisition in some capacity. I coded the bills through notions of "yellow peril," how they employ a politics of threat, including references and associations with US geopolitical adversaries, linkages to foreign governments, legislative barriers from spatial points of interest, and how the bills interact the infiltration through expansion trope of yellow peril, this can be seen in Table 1. The primary implementation of the yellow peril trope came through the usage of the infiltration through expansion trope. This trope ascribes a notion of violence and threat on to Asians and Asian Americans which originated in response to conquests of Genghis Khan (Del Visco 2017; Marchetti 1994). This trope views Asians and Asian Americans through a lens of violent expansion in relation to White, western global dominance. This trope is often met with exclusion and "extermination" in an attempt to maintain White western dominance and to quell fears of yellow and red invasion (Del Visco 2017; Lee 2007). Another frame of the deductive coding scheme was colorblind racism. While this frame isn't explicitly a form of yellow peril, yellow peril is heavily implicated throughout its usage in the data. The targets of exclusion in the bills pertain to various forms of threat. The most general of these forms of threat is seen in nativist restrictions on all foreign entities, while other bills are more targeted. The targeted pieces of legislation restrict Chinese bodies and entities outright or do so through a colorblind list broadly relating to national security, where a variety of nationalities and foreign entities may be excluded but functionally, China is targeted. I will

expand upon how these restrictions are colorblind in a discussion regarding land ownership in the conclusion. The full coding scheme of the Infiltration through Expansion theme, including the states, bill numbers, and how they were coded, can be found in Appendix B. Appendix C features the targets of exclusion coding scheme.

Table 1. Deductive Coding

Frame	Theme		Frequency	Percentage
Yellow Peril				
	Infiltration through Expansion			
		Critical and Military Infrastructure	15	19.0%
		Agricultural and Natural Resource	44	55.7%
		Real and Immoveable Property	32	40.5%
Colorblind Racism				
	Targets of Exclusion			
		Foreign Bodies, Entities, Gov'ts	30	38.0%
		Foreign Threats	39	49.4%
		China, CCP, and Entities	25	31.6%

Note: N=79 bills, percentage numbers rounded to the nearest decimal.

IRB

The Institutional Review Board (IRB) application was approved on October 23, 2024, following the literature and methods above. The project was approved under the category "Not Human Subjects Research."

Findings

During my read through of the data, I found three core themes pertaining to modes of exclusion, exclusion via critical infrastructure and military facilities, exclusion via agricultural and natural resources, and exclusion via real property. These patterns of exclusion are reflective of the yellow peril trope *infiltration through expansion* (Del Visco 2017; Lyman 2000). The yellow peril theme of infiltration through expansion is expressed through these three modes of exclusion, which attempt to restrict foreign ownership of US lands. Another core theme of my inductive coding is the targeting of exclusion. The core targets of exclusion were divided into categories of All Foreign Bodies, Foreign Threats, and China, CCP, and Entities.

Infiltration through Expansion

The primary core theme of yellow peril found in the 2023 Alien Land Bills pertains to methods of infiltration. This aspect of yellow peril is centered around ascribing a notion of global domination and militance upon Asians and Asian Americans (Del Visco 2017; Lyman 2000). Methods of infiltration can be divided into two modes of infiltration, infiltration through ideology and infiltration through expansion. US political movements explicitly outline an expansive threat from which the US must protect itself from in Project 2025, noting that a "successful" Department of Homeland Security under the (prospective, at the time of drafting Project 2025) second Trump administration would "Secure the cyber domain and collaborate with critical infrastructure sectors to maintain their security" and "Secure our coasts and economic zones" (Cuccinelli 2023).

Critical and Military Infrastructure

The critical and military infrastructure category is composed of bills which ban or restrict land acquisition in relation to critical infrastructure and/or military property. While definitions of critical infrastructure varied by state legislature, the Department of Homeland Security defines critical infrastructure as infrastructure "necessary to maintain normalcy in daily life" (Department of Homeland Security 2025). Critical infrastructure at the federal level is broken into 16 sectors of chemical; commercial facilities; communications; critical manufacturing; dams; defense industrial base; emergency services; energy; financial services; food and agriculture; government services and facilities; healthcare and public health; information technology; nuclear reactors, materials, and waste; transportation systems; and water and wastewater. One example of a critical infrastructure definition can be found in AL H 379:

(2) CRITICAL INFRASTRUCTURE FACILITY. Any of the following:

a. A chemical manufacturing facility.

b. A refinery.

c. A plant or facility producing electric energy no matter how generated or produced.

d. A water treatment facility or wastewater treatment plant. e. A liquid natural gas terminal.

f. A telecommunications central switching office.

g. A gas processing plant, including any plant used in the processing, treatment, or fractionation of natural gas.

h. A seaport facility as defined in Section 40-13-1, Code of Alabama 1975.

i. Aerospace or spaceport infrastructure.

j. An airport as defined in Section 23-1-411, Code of Alabama 1975. (2023:2)

While at the federal level, defense industrial bases encapsulate the military facilities featured in my critical and military infrastructure category, military facilities and infrastructure are differentiated within the state legislation. LA S 91 is exemplary of this and restricts land acquisition within 50mi of a military installation or a facility operated by the military, including any weather station operated by the armed forces of the United States or any facility operated by the Civil Air Patrol, but does not include a general clause related to other critical infrastructure.

These bans and restrictions typically pertained to proximity to facilities, rather than ownership or direct or indirect control of critical infrastructure. FL H 1355 restricts foreign principal land acquisition in relation to military instillations and critical infrastructure facilities in the following fashion:

> (1) A foreign principal may not directly or indirectly own or acquire by purchase, grant, devise, or descent any interest in real property within 20 miles of any military installation or critical infrastructure facility in the state. This prohibition does not apply to a foreign principal that acquires real property for a diplomatic purpose that is recognized, acknowledged, or allowed by the Federal Government.
>
> (2) A foreign principal that directly or indirectly owns or acquires any interest in real property within 20 miles of any military installation or critical infrastructure facility in the state before July 1, 2023, may continue to own or hold such real property, but may not purchase or otherwise acquire by grant, devise, or descent any additional real property within 20 miles of any military installation or critical infrastructure facility in the state. (2023: 9-10)

Some bills outright ban critical infrastructure access such as Indiana S 477 which bans contracting involving remote access to critical infrastructure or cybersecurity systems of critical infrastructure and the company is headquartered in, owned, majority owned, or controlled by citizens, companies, or entities (defined as "(1) A business corporation, a nonprofit corporation, a general partnership, a limited partnership, a limited liability company, an estate, a trust, an association, a joint venture, or any other legal or commercial entity.") of China, Iran, North Korea, Russia, or a country which is designated by the governor of Indiana as a threat to critical infrastructure (IN S 477 2023). Critical and military infrastructure bans and restrictions are found in 15 of the 79 cases, constituting 19.0% of the data.

Agricultural and Natural Resource Property

The Agricultural and Natural Resource category constitutes legislation which placed a ban or restriction on the ability to acquire agricultural land or natural resource land. These labels included items such as agricultural land, grazing land, mining land, etc. CO H 1152 features an agricultural and natural resource property restriction, reading as follows:

> (b) "AGRICULTURAL OR NATURAL RESOURCE PROPERTY INTEREST" OR "PROPERTY INTEREST" MEANS A PROPERTY INTEREST OR ANY PORTION OF A PROPERTY INTEREST IN ANY:
>
> (I) REAL PROPERTY USED FOR THE PURPOSES OF AGRICULTURE;
>
> (II) RIGHT TO MINE MINERALS OR EXTRACT OIL AND GAS; OR
>
> (III) WATER RIGHT. (2023:3)

The numeric totals of this form of restriction are notably deflated due to the existence of the real property section, as the broad restriction of all real property acquisition overlaps with

this category which looks at agricultural and natural resource specific restrictions. 44 of the 79 cases or 55.7% of the Alien Land Bills included an agricultural and/or natural resource restriction in isolation. However, accounting for bills which ban or restrict all real property acquisition, 76 of the 79 cases or 96.2% of the bills ban or restrict agricultural or natural resource land acquisition.

Real and Immoveable Property

The real and immoveable property section constitutes any ban on real and/or immoveable property acquisition. These pieces of legislation outright ban acquisition of real property, land and the structures upon that land, for some party. Real and immoveable property constitutes the overarching category of all immoveable property, and thus restricts the acquisition of agricultural property, natural resource property, all property related to military facilities or critical infrastructure, and all other categories of nonpersonal property. Real and immovable property restrictions and bans are found in 32 of the 79 bills, constituting 40.5% of the data.

Real and immovable property definitions are oftentimes not included within the bills themselves, but reference other pieces of legislation such as in LA H 537 which features immoveable property language stating, “§ 2717.1. Prohibition of acquisition of immovable property by a foreign adversary or a person connected with a foreign adversary” (LA H 537 2023:2).

When defined, real and immoveable property definitions are fairly static and while some states refer to these forms of nonpersonal property as different terms, real versus immoveable property, they are similarly defined. FL S 264 defines real property as “(6) "Real property" means land, buildings, fixtures, and all other improvements to land.” (2023:7). One example of an immoveable property definition in Louisiana is “(2) "Real estate" or "immovable property"

means and includes not only land, city, town and village lots, but all things thereunto pertaining, and all structures and other appurtenances thereto, as pass to the vendee by the conveyance of the land or lot" (RS 47:1702 2025).

Targets of Exclusion

The targets of the bans and restrictions present in the Alien Land bills were another core theme of my deductive coding. These bills employ different racial strategies towards a White supremacist racial project, inclusive of yellow peril. These bills served as early state level initiatives which culminated in the Project 2025 political platform in use by the current Trump administration. While various groups and bodies were named throughout the categories, exclusion of the Chinese government, Chinese affiliated entities, and Chinese citizens was consistently present throughout the data.

Foreign Bodies, Entities, and Governments

The foreign bodies, entities, and governments category is inclusive of all bills which featured language which bans or restricts foreign bodies, entities (loosely comprising businesses, corporations, firms, organizations, etc), governments, and any other group based on their nonresident foreignness. These bans are the most general of the targets of exclusion categories. NJ A 5120 features a ban on all foreign governments and persons on agricultural land in such fashion:

> 2. a. Notwithstanding any law, rule, or regulation to the contrary, no foreign government or foreign person shall acquire, purchase, or otherwise obtain a legal, beneficial, or other interest in any agricultural land in the State on or after the effective date of this act. (2023:2)

Bans or restrictions on all nonresident foreign individuals or groups are present in 30 of the 79 cases, comprising 38.0% of the data.

Foreign Threats

The largest form of exclusionary practice within the data was the targeting of foreign threats. Foreign threat exclusionary bills were found in 39 of the 79 cases, constituting 49.4% of the data. This category features all bills which include a ban or restriction of some isolated group conceived through a notion of threat. Sanctioned groups mentioned in the data consist of state and federally curated lists including the foreign advisory list, the foreign countries of concern list, sanctioned nations under the International Traffic in Arms Regulations, state sponsored terrorism, countries hostile to US interests or known violators of human rights, nations banning or restricting US citizens from acquiring land, foreign assets control sanctioned nations, the annual threat assessment list, and hostile foreign influence. State curated lists can be seen throughout the data such as in FL H 1355: “(3) "Foreign country of concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern.” (2023:7).

While the lists vary slightly, the restrictions seen in the bills are characterized by some notion of national security and feature restrictions on China, Russia, North Korea, and Iran. For example, the foreign adversary list is made up of nations the Secretary of Commerce has labeled engaging in “long-term” practices “adverse to the national security” of the US and its people. The list has remained static from 2023 until 2025 with the following nations and regimes listed: “The People's Republic of China, including the Hong Kong Special Administrative Region and

the Macau Special Administrative Region (China), Republic of Cuba (Cuba), Islamic Republic of Iran (Iran), Democratic People's Republic of Korea (North Korea), Russian Federation (Russia), and Venezuelan politician Nicolás Maduro (Maduro Regime)" (15 CFR 791.4 2025).

In addition to the restrictions placed upon nations determined at the federal level, foreign threat-based restrictions were also seen through expansion of state executive functions. Texas H 2788 provides for the governor of Texas to curate a list of sanctioned nations in conjunction with the Department of Homeland Security:

> (a) The governor, after consultation with the public safety director of the Department of Public Safety, may designate a country of which a governmental entity, company or other entity, or citizen shall be subject to this subchapter. (2023: 3).

Other states proposed bans and restrictions based upon a federal restriction list which could then be expanded by the state. MO SJR 41 features a real property ban on the following related to the "People's Republic of China (PRC), the Islamic Republic of Iran (Iran), the Democratic People's Republic of Korea (North Korea), or the Russian Federation (Russia): governmental entities; companies or legal entities headquartered in, directly or indirectly controlled by, owned by or majority stock ownership, or "other ownership interest,"; and/or any nonresident citizen of the previously stated countries (2023). The bill also outlines the creation of a state joint committee to oversee future manipulation of the prohibited list.

Targets of restrictions and bans were not necessarily state specific, such as the Kansas bills. Kansas introduced four pieces of legislation, KS S 100, KS H 2069, KS H 2397, and KS S 283. Three of these bills, KS H 2069, KS H 2397, and KS S 283, featured bans on nations which

are on the foreign advisory listed nations, while KS S 100 featured a general ban on all foreign nationals and foreign business entities from purchasing real property in the state.

China, CCP, and Entities

The China, the Chinese Communist Party (CCP), and Entities category is limited to legislation which specifically name social bodies and/or identities affiliated with China such as the government; companies, corporations, and entities which are based, controlled, or headquartered in China; and nonresident citizens of China. The China, CCP, and Entities exclusionary clauses were found in 25 cases or 31.6% of the data. This category overlaps with the foreign threats category and the foreign bodies, entities, and governments category as some states independently curated lists of foreign threats and include bans and restrictions for multiple parties. This would involve a list that named China or some Chinese bodies in addition to naming other nations. Overlaps in the two categories were found in 14 of the cases (17.7%) while a ban on all foreign bodies, entities, and governments overlapped with this category on one occasion.

This category can vary in scope, ranging from bans on military affiliated entities to bans on Chinese citizen ownership. WV H 3436 is one of the strictest, proposing full bans on land acquisition for Chinese businesses, citizens, and the government:

> (1) "Foreign business" means a corporation incorporated under the laws of a foreign government or a business entity, whether or not incorporated, in which a majority interest is owned or controlled directly or indirectly by foreign persons or by a foreign government. Legal entities including trusts, holding companies, multiple corporations or other entities with other business arrangements shall not affect the determination of ownership or control of a foreign business;

(2) "Foreign government" means a government of:

(A) Russia;

(B) China;

(C) Any country that has been designated as a state sponsor of terrorism under federal law.

(3) "Foreign person" means a person who is a citizen of:

(A) Russia;

(B) China;

(C) A country that has been designated as a state sponsor of terrorism under federal law.

(4) "Land" means real property or real estate and any surface, subsurface, airspace or mineral interest in the State of West Virginia.

(b) No foreign government, foreign business or foreign person, or any agent, trustee, or fiduciary thereof, shall purchase or otherwise acquire land in the State of West Virginia. A foreign government, foreign business or foreign person, or any agent, trustee, or fiduciary thereof, that owns or holds land in the State of West Virginia on July 1, 2023, shall divest of all right, title, and interest in the land not later than one year after July 1, 2023. (2023:2-3).

<u>“Plain Language” Sections</u>

The “plain language sections were found in 6 cases within the data, and therefore deemed not a primary coding scheme, but provide insight for understanding the data as a whole. What I call “plain language” aspects of the bills, sections of legislation which are written in plain

English, full sentences, and provide more context or rationale for why a particular bill was constructed, give some insight for why the bills were introduced in the interest of particular parties. Here I say "particular parties" due to the US legislative system having both backstage (bill construction, discussions around sponsorship, lobbying, fundraising, etc; which the public is not privy to and thus we, as the public, have little access to and makes constructing theory or arguments about intent difficult) and frontstage (floor debates, hearings, voting, enactment, etc) components, which can make it difficult to pinpoint what specific parties are driving certain political movements.

Hawaii H 929 provides a particularly insightful instance of a colorblind bill. It restricts "foreign entities" but does not name China specifically in its restrictions, featuring a military or critical infrastructure restriction while also including a plain language section. HI H 929 reads:

> SECTION 1. The legislature finds that the national security of the United States of America and the security of the state of Hawaii are inextricably linked. In the year 2022, the world watched as the national sovereignty of Ukraine was violated by Russia, and for years People's Republic of China has been declaring that Taiwan is in fact not a separate sovereign country. With many areas of the world on heightened alert due to geopolitical aggression of foreign nations, it is imperative that the United States take stock of what influence foreign entities are having within its borders.
>
> The legislature further finds that companies linked to the Chinese Communist Party has been actively purchasing real estate within the United States. In 2022, it was reported that the Chinese manufacturing company Fufeng Group was seeking to purchase land near an air force base in North Dakota. This

action prompted fifty-one Republican members of Congress to send a letter to three of President Biden's Cabinet secretaries concerning the national security threat posed by this development.

The legislature also finds that foreign investments in agriculture abroad by China is not a new or recent development. The United States Department of Agriculture in 2018 reported that China's overseas investments in agriculture, forestry, and fishing has increased over tenfold between 2009 and 2016. This exponential increase shows no signs of slowing, and as global tensions grow, it is critical that the United States and Hawaii maintain their national security by limiting the amount of foreign influence within their own borders.

The legislature additionally finds that countries banning foreign citizens from purchasing or holding land within their borders is not an unfamiliar concept. Many countries in Southeast Asia do not allow foreign nationals to purchase and hold land within their borders. Similarly, the People's Republic of China, and other countries based on a socialist-style system of government do not allow the private ownership of real estate. The purpose of this Act is to prohibit the purchase or receipt of real estate by foreign entities, governments, or individuals, when that land sits near federal land or land deemed critical to either infrastructure or national security, and in certain other situations. (2023:1-2)

HI H 929 opens with a discussion of geopolitical threat in reference to Russia's invasion of Ukraine and the CCP's lack of recognition of Taiwanese sovereignty and closes the first paragraph with a call to police foreign interests within US borders. These parts of the bill construct this bill, and the dataset as a whole, through a lens of geopolitical threat and policing of

a foreign body. This is expanded upon through the inclusion of the "tenfold" increase in Chinese based "agriculture, forestry, and fishing" land acquisition from 2009 to 2016. Notably, while "agriculture, forestry, and fishing" land acquisition increases are cited as a rationale for introducing HI H 929, the bill includes no limitations on foreign acquisition of this category of real property and only restricts foreign real estate acquisition in relation to proximity to federally owned land, critical infrastructure, and "national security" (HI H 929 2023). This suggests that this language is included in the context of political and racial projects rather than addressing a perceived national threat, as the bill authors would seemingly introduce a more holistically restrictive bill otherwise. This excerpt of the bill also addresses the party politics component of the racial project seen across the bills, referencing the 51 North Dakota Republicans. These bills were primarily backed by Republican state elected officials, though the measures were somewhat bipartisan.

Conclusion

This thesis analyzed the ways in which Asians and Asian Americans are racialized through the 2023 state Alien Land bills. In the 2023 legislative cycle, 79 bills were introduced which ban or restrict Chinese nationals from acquiring land in the US in some capacity. Patterns in racialization were found through inductive coding for sensitizing topics within the legislation. These sensitizing topics were then used to create a deductive coding scheme. The deductive coding scheme consisted of core themes of the yellow peril trope, infiltration through expansion, and modes of exclusion. These bills serve as another example of how Asians and Asian Americans are racialized in manners different to other racial groups, one mode of this being through exclusion.

The infiltration through expansion was then divided into three subcategories, Critical and Military Infrastructure; Agricultural and Natural Resource property; and Real and Immoveable Property; and the modes of exclusion category consisted of three subcategories, Foreign Bodies, Entities, Governments; Foreign Threats; and China, CCP, and Entities. Agricultural and natural resource property restrictions were the most prevalent of the exclusionary measures targeting infiltration through expansion. Agricultural and natural resource property bans and restrictions were found in 44 of the 79 cases, constituting 55.7% of the data. The true number of bills limiting agricultural and natural resource property acquisition is notably deflated due to real and immovable property bans and restrictions overlapping with this category in terms of scope, as 76 cases of the 79 or 96.2% of the data providing for some sort of agricultural or natural resource property restriction. Real and immovable property limits constituted the second most prevalent theme within the data, found in 32 of the cases or 40.5%. Property limits on and in proximity to critical and military infrastructure constituted 20 cases of the 79 (25.3% of the data). These were the most targeted of the categories.

Targets of exclusion were the second core theme found within the data. Foreign threats were the most common targets of exclusion, found in 39 of the 79 cases (49.4%). Foreign threat lists were composed of state or federally curated lists which were broadly associated with a politics of threat to the state and/or national security. Foreign bodies, entities, and governments were the next most common. These limits were found in 30 of the 79 cases, constituting 38.0% of the data. This category of restriction varied the most from state to state, as some states curated their own lists or introduced language to allow for expansion of the list by state committees or the executive while other states took their sanctioned list from federally provided lists of exclusion. Some examples of the lists the states used for their exclusionary measures include the

foreign adversary list or and the annual threat assessment list. China, the CCP, and Entities, was the least common of the categories, found in 25 of the 79 bills (31.6%). This category contains all bills which specifically referenced China or Chinese entities and bodies in some fashion. This category overlaps with 14 of the foreign threats cases and one foreign bodies due to states including multiple forms of restrictions in the bills and some states specifically naming China in their curated lists.

While the targeted nations differed across the pieces of legislation, China was a constant member nation on all sanction lists. The exclusions serve as relatively colorblind attempts to restrict Chinese land ownership. The bills provided insight on how politics of threat were being applied through a gradient of real and immovable property (the most extreme of the measures) to more targeted forms of exclusion in the critical and military infrastructure and agricultural and natural land resource property categories. Examining the infiltration through expansion trope, the critical and military infrastructure category serves as the most explicit and targeted form of yellow peril application in terms of a politics of threat. These bans are specifically tied to property items which are implicated in natural security interests. Items such as airports, seaports, military facilities, and telecommunications were explicitly outlined to prevent a perceived threat from acquiring land from which they could be a greater risk to national security.

Throughout US history, Asians and Asian Americans have been constructed through an ascription of threat, foreignness, primacy, and opposition. This process of racialization is divergent from processes for other racial groups and thus requires a different understanding of the race-making process. The 2023 Alien Land Bills harp on previous notions of Asians and Asian Americans as a racial threat yet are not positivist and determined through the context which they are curated in. While the contemporary Alien Land Bills are reminiscent of previous

measures of Asian and Asian American exclusion, they differ in terms of the sociopolitical context from which they arise. Constructed during a period of US history where colorblind racism is the dominant racial paradigm, these bills reflect contemporary racial politics. While many of the bills do outline China as the target of exclusion, they do so through labeling China as a threat. This threat label deflects from what seemingly is a desire from US conservatives to ban China and Chinese citizens from land ownership. This can be seen through the different federally curated lists used in the exclusionary language of the bills or the state curated lists which feature nations such as Iran and Russia, both of which have relatively little land ownership data suggesting this particular foreign ownership being a grave issue of national security. These bills also were introduced and enacted during a period of colorblind racism where anti-Asian and Asian American violence and bigotry is somewhat normalized following open discrimination during the COVID-19 pandemic, 9-11, and the early 2000s SARS epidemic (Eichelberger 2007; Kurtzman 2021; Li and Nicholson Jr. 2021).

This is further emboldened in the plain language sections of the bills. In this Hawaii case, geopolitical and domestic notions of threat are laid out as reasons for the introduction of the alien land law. This bill highlights Chinese imperial land declarations such as Taiwan, international conflicts in Russia's invasion of Ukraine, and "geopolitical aggressions of foreign nations" verbatim as rationale for the introduction of this bill. The bill authors go on to mention "land deemed critical to either infrastructure or national security" as a specific reason for the introduction of HI H 929. These are explicit linkages to foreign conceptions of threat being applied to China, Chinese-based entities, and Chinese individuals. While this bill does imply its attempt to restrict Chinese expansion by the state, referencing geopolitical tensions and Chinese state measures of land ownership (though this is a mischaracterization, as China allows for

nonresident foreign ownership of real estate for personal use but bars nonresident foreign ownership for commercial use), the bill lumps the Chinese state, Chinese persons, and Chinese affiliated entities into a single restriction.

This bill, along with others which restrict property acquisition through a relationship to US citizens' ability to purchase real property, outlines a potential expansion for future alien land laws. Other Southeast Asian nations, such as Vietnam or Cambodia, similarly outlaw ownership of real property for foreigners in some way. Other states have introduced less restrictive bans which specifically target the state and Chinese military entities, companies considered to be military controlled either directly or indirectly, such as Utah in UT H 186 which targets "Chinese military" entities as defined in Section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283. Hawaii's scope of all Chinese organizations and persons says the quiet part out loud as this bill projects a notion of national security risk on the part of the Chinese state while applying a ban to all things and people Chinese as a form of contemporary exclusion.

This Hawaii example and other bills blurring the line of who is defined as Chinese further complicate how focused these bills are on China. While many of the bills define their exclusions through some link to China or CCP membership, no bill outlined how it is that someone is defined as a CCP political party member verbatim. Additionally, one AL H 379 further blurs the meaning of Chinese. A section defining who is restriction from land acquisition in AL H 379 reads as follows:

> (3) FOREIGN COUNTRY OF CONCERN. China, Iran, North Korea, and Russia. This term shall not include Taiwan.

(4) FOREIGN PRINCIPAL. Any of the following:

a. The government or any official of the government of a foreign country of concern.

b. A political party or member of a political party or any subdivision of a political party in a foreign country of concern.

c. A country or government identified on any sanctions list of the United States Department of the Treasury's Office of Foreign Assets Control. (2023: 2)

This bill goes on to ban foreign principals from land acquisition. This bill defines foreign principal labeling through a relationship to the state, either being a government official of China or a political party member of a Chinese party. The Taiwan clause here seemingly has no need for inclusion since the relationship to the state is the determining factor in exclusion from property acquisition. Additionally, 30 bills target Chinese citizens regardless of their legal residency status, suggesting this is less about an issue of threat and protection and more about policing racialized bodies.

While some may point to increasing geopolitical tensions between China and the US as the source of these property bans and restrictions or view this as a rise of American nativism in property ownership, as featured in the HA H 929 example, these conclusions alone do not seem to be backed up by the data. In 2023, the USDA reported on foreign agricultural and non-agricultural land holdings in the US. Canadian land ownership was the greatest with 15.3 million acres, or 33% of all foreign ownership, while the Netherlands (11%), Italy (6%), the United Kingdom (6%), and Germany (5%) followed (USDA 2024). Chinese ownership accounted for less than 1% of all foreign land ownership in the US (and when combined with the other most

common foreign threat list, China, Russia, Iran, and North Korea, their combined landownership still constituted less than 1% of all foreign land ownership). While the USDA does report that these national land ownership numbers are likely minimums, since multi-national ownership is labeled as "no predominant country," only five states make up 93% of the acreage associated with Chinese filings, Texas (123,708 acres), North Carolina (44,263 acres), Missouri (42,905 acres), Utah (33,035 acres), and Florida (12,798 acres) (USDA 2024). The two largest land holding Chinese firms, Brazos Highland Properties and Murphy Brown LLC (Smithfield Foods), accounted for roughly 62% of all Chinese landholdings and the top five (Murphy Brown of Missouri [Smithfield Foods/WH Holdings]; Harvest Texas, LLC; U.S. AgriChemicals Corp) comprised roughly 94% of all Chinese land holdings. Notably, no Chinese land holdings were affiliated directly with the Chinese government or Chinese Communist Party (USDA 2023).

Limitations

While the data used in this thesis comprises all the 2023 state level alien land bills, the data which I was able to use in my coding scheme for racialization was relatively bare compared to other mediums of qualitative coding. Since legislative language is largely colorblind and the writing is itself is formulaic and tends to not include much context regarding why the bill was written, for whom it is intended, or what the aims are of the legislation, there is not as much data to work with to analyze in terms of racialization as I had wished when I started the project. Despite this, I believe this work offers insight for the discipline and helps advance legislative language proper as a source of data for future sociological and race centric research.

Another limitation of this data is lack of backstage knowledge of the legislative process pertaining to these bills. While Statenet by LexisNexis does provide some information about the bills such as sponsors and vote tracking, little is known regarding who curated these bills and

who's insight made the final cut regarding bill construction. The Louisiana examples provide some insight on who was involved in initial drafting of the bills as it names two lawyers on page 6:

> The original instrument was prepared by Tyler Mc Cloud. The following digest, which does not constitute a part of the legislative instrument, was prepared by Alan Miller. (2023)

However, much of the knowledge of backstage pertaining to issues of lobby interests, special interest group input, and discussions between elected officials is unavailable for a project of this scope.

The flatness of the data served as an additional limitation of this project. Relative to data sources such as interviews, ethnography, surverys, etc, Alien Land legislation is a much less rich site of data for analysis. The bills featured within this dataset feature little contextual information regarding rational of introduction, the interest groups involved in curation, and the means of enforcement. While certain forms of law are likely to be more rich than others, this seems to be a characteristic of law/legislation generally as a primary data source. To combat these limitations, I included a relatively large sample size but due to the lack of uniformity in terms of bill content (at the margins) there was additional data which I was unable to process for this project including data relating to divesture, forfeiture, escheatment; criminal punishment; and expansion of state powers. Analysis regarding the different penalties was the most common form of this extra data found within my sample. Future research on these items in addition to racial and political composition of states and legislatures could prove useful for understanding political and racial projects implicated in the data.

However, due to law and legislation data being "flat" relative to other data sources in sociological research it has become an understudied field in sociology. Law and legislation as a unit of analysis occupies an important role in public sociological research as it has profound social impact across institutions. Sociological perspectives allow for a better structural interpretation of outcomes of the law at a micro, meso, and macro level, ranging from the policing of land acquisition of an individual to the dictation of a national identity within my data. Additionally, sociologists of law and legislation sit at a unique intersection of the study of identities, politics, and social interaction which would allow for a better understanding of the relationship between the backstage and frontstage of legal processes. This serves as an understudied and invisible site of legal interaction to the public which has great social effects.

Implications

The implications of this thesis suggest the US is entering a new age of anti-Asian and Asian American exclusion, one centered around Sinophobia, along with a new era of racist and nativist policy reform. Each of the bills present different means of pursuing Asian and Asian American exclusion through a colorblind approach. While these bills range from bans and restriction on all foreign entities, foreign threats, and directly naming China, Chinese exclusion is the constant throughout the bills. China was specifically named in 14 of the 39 instances (35.6%) of "foreign threat" exclusions in addition to the naming of China explicitly in one case of the excluding all foreign bodies, entities, and governments category. Throughout the bills, the exclusionary measures on property acquisition show that Asians and Asian Americans, through China as a proxy, are being constructed through the yellow peril trope in the current US racial project. Negative outcomes of Asian and Asian racialization are neither reliant on intent of bill

writers nor limited in scope to what the bills or political projects entail. While some of these bills do not explicitly lay out specific procedures to enforce prospective law abidance, many bills such as LA H 125, include language which allows for investigatory action by the state. Attorney general proceedings then may lead to fines, misdemeanor and felony charges, jail or prison time, and forced divesture or seizure. This expansion of state power allows for the investigation of land ownership under probable cause, which would disproportionately target Asian and Asian American landowners. Additionally, while these legislative initiatives are directed at China, 29 of the cases ban exclude all foreign acquisition of property in some aspect. These measures harm Asians and Asian Americans who are either attempting to obtain legal resident status or wish to remain nonresidents through policing, encouraging discriminatory selling and leasing activities through punishments on the part of the non-acquiring party, or through social deterrence. Most notably however, these Alien Land laws serve as the entry to a much larger racial and political project built on a foundation of White supremacy and nativism within the US.

The findings of this study indicate several directions for future research. The following legislative cycle in 2024 saw additional legislation which attempts to restrict business practices by foreign and Chinese firms. All these measures, along with other exclusionary practices, will likely increase under the second Trump administration which has taken a strong nativist stance on business, property, and immigration practices. While this project provides little discussion of the partisan nature of this political movement to exclude foreign and Asian and Asian American interests, this is a notable finding for future research. As shown in Appendix A, the vast majority of the bills are sponsored by Republicans. Future research which considers legislature composition and racial demographics of the state may prove to be important variables in understanding the exclusionary practices seen in these bills and similar policy initiatives.

While this project is limited in its time considerations, future research comparing this data set (2023 Alien Land Bills) to the subsequent anti-Asian and Asian American restrictions would provide for a better understanding of the current US racial project(s) and how Asian and Asian American racialization may change in the coming years. The usage and limitations regarding "alien" may prove to be an important point of comparison. 31 of the bills in this data set include the mention of "alien" at least once, and all but one bill used the term more than twice. In addition to "alien" being a historically important term in the context of Asian and Asian American history, the way the term was applied varied throughout the legislation. While some of the bills included clauses which protected non-resident foreigners from the exclusionary practices laid out in the bills, "alien" served as a catch all for all non-citizens facing exclusion. As I predict more exclusionary legislative movements and policy will occur in the near future, this is an important development to monitor in future research.

Additionally, important peripheral themes and data for this thesis were not included due to time constraints, project scope, and changing political landscapes. Punitive measures of the 2023 bills and expansions of state executive functions are two sites of additional data that may provide important insight to understanding the full context of contemporary alien land laws. For this research project, these items were found in my inductive coding but not prevalent enough to be included in the core themes for coding. Expansion of executive functions, in particular, is an important site of inquiry given the expansion of the executive office at the federal level in the US, in both the domestic and international context, over the course of producing this thesis. The implementation of Project 2025 also serves as a more explicit form of racialized politics, with attacks on DEI in academia, the removal of federal projects on racial discrimination for federal higher practices, and future reductions of racial equity protections likely in the coming months to

years. More work must be done to analyze how yellow peril, Asian and Asian American exclusion, and property rights may be used as both a means of political warfare and racialized exclusion in the coming years.

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Appendix

Appendix A. 2023-2024 State Alien Land Bills

State	Bill	Sponsor			Passed
		Democrat	Republican	Other	
Alabama					
	H379		1		Y
Arizona					
	S1115		2		N
	S1112		6		N
	H2376		10		N
Arkansas					
	S383		25		N
	H1479		34		N
	H1255		18		N
California					
	S224	5	5		N
Colorado					
	H1152		1		N
Florida					
	S264	BP	BP		Y
	S294	1			N
	H1355	12	20		N
Georgia					
	H452		6		N

Appendix A. (Continued)

State	Bill	Sponsor			Passed
		Democrat	Republican	Other	
Hawai'i					
	H505		1		N
	H929		4		N
Idaho					
	H173	1	15		Y
Illinois					
	H1267		4		N
Indiana					
	S477		15		Y
Iowa					
	H211		1		N
	H542		2		N
Kansas					
	S100			Committee	N
	S283			Committee	N
	H2397			Committee	N
	H2069			Committee	N
Louisiana					
	S91		2		N
	H125		3		N
	H537		17		Y
Maryland					
	H968		20		N

Appendix A. (Continued)

State	Bill	Sponsor			Passed
		Democrat	Republican	Other	
Michigan					
	H4134		1		N
	H4283		1		N
Mississippi					N
	S2089		1		N
	S2092		1		N
	S2632		1		N
	S2828		1		N
	H984		1		N
	H1236		4		N
	H1275	1			N
Missouri					
	S9		1		N
	S55		1		N
	S332		1		N
	H707	1			N
	H832	1			N
	H903		1		N
	SJR38		1		N
	SJR41		1		N
Montana					
	S256		1		N
	S203		1		Y

Appendix A. (Continued)

State	Bill	Sponsor			Passed
		Democrat	Republican	Other	
New Jersey					
	S3534		6		N
	A5120		3		N
New York					
	S6583	1			N
	A6444	6			N
North Carolina					
	H463	23	35		N
North Dakota					
	H1135		7		Y
Oklahoma					
	S212		12		Y
	S464		1		N
Ohio					
	H212		35		N
South Carolina					
	S392		4		N
	H3566		25		N
	S576	1	15		N
South Dakota					
	S185		10		N
Tennessee					
	S122		9		N
	H40	1	27		Y

Appendix A. (Continued)

State	Bill	Sponsor			Passed
		Democrat	Republican	Other	
Texas					
	S147	1	6		N
	S552		2		N
	S711		2		N
	S1441		1		N
	H1264		2		N
	H3470		1		N
	H1075	2	12		N
	H2788		3		N
Utah					
	H218		2		N
	H186		2		Y
Virginia					
	S1438		6		Y
Washington					
	S5754		3		N
	H1412	2			N
West Virginia					
	H3493		2		N
	H3436		2		N
Wyoming					
	H116		14		N
	H88		7		N

Source: APA JUSTICE. "Alien Land Bills." *APA JUSTICE*. Retrieved October 10, 2024 (https://www.apajustice.org/alien-land-bills.html).

Note: “A” refers to Assembly bills; “H” refers to House bills; “S” refers to Senate bills.

Appendix B. Alien Land Bill Bans and Restrictions

State	Bill #	Agriculture and Natural resource	Real and Immovable Property	Military and Critical Infrastructure
Alabama	H379	1		1
Arizona	S1115	1		
Arizona	S1112		1	
Arizona	H2376	1		
Arkansas	S383	1		
Arkansas	H1479	1		
Arkansas	H1255		1	
California	S224	1		
Colorado	H1152	1		
Florida	S264	1		1
Florida	H1355	1		1
Georgia	H452	1		1
Hawai'i	H505		1	
Hawai'i	H929		1	1
Idaho	H173	1		
Illinois	H1267			
Indiana	S477			1
Iowa	H211	1	1	
Iowa	H542	1	1	
Kansas	S100		1	
Kansas	S283		1	
Kansas	H2397		1	
Kansas	H2069		1	
Louisiana	S91			1
Louisiana	H125		1	
Louisiana	H537		1	
Maryland	H968	1		
Michigan	H4134	1		
Michigan	H4283	1		
Mississippi	S2089	1	1	
Mississippi	S2092	1	1	
Mississippi	S2632			1
Mississippi	S2828			
Mississippi	H984		1	
Mississippi	H1236		1	

Appendix B. (Continued)

State	Bill #	Agriculture and Natural resource	Real and Immovable Property	Military and Critical Infrastructure
Mississippi	H1275		1	
Missouri	S9		1	
Missouri	S55	1		1
Missouri	S332	1		
Missouri	H707	1		
Missouri	H832	1		
Missouri	H903	1		
Missouri	SJR38	1		
Missouri	SJR41		1	
Montana	S256		1	
Montana	S203	1	1	1
New Jersey	S3534	1		
New Jersey	A5120	1		
New York	S6583	1		
New York	A(H)6444	1		
North Carolina	H463	1		1
North Dakota	H1135	1		
Oklahoma	S212		1	
Oklahoma	S464		1	
Ohio	H212		1	
South Carolina	S392			
South Carolina	H3566		1	
South Carolina	S576		1	
South Dakota	S185	1		
Tennessee	S122		1	
Tennessee	H40		1	
Texas	S51	1		
Texas	H124	1		
Texas	S147	1		
Texas	S552	1		1
Texas	S711	1		1
Texas	S1441			1
Texas	H3470			1
Texas	H1075	1		

Appendix B. (Continued)

State	Bill #	Agriculture and Natural resource	Real and Immovable Property	Military and Critical Infrastructure
Texas	H2788		1	
Utah	H218		1	
Utah	H186		1	
Virginia	S1438	1		
Washington	S5754	1		
Washington	H1412	1		
West Virginia	H3493	1		
West Virginia	H3436		1	
Wyoming	H116	1		
Wyoming	H88	1		
Totals:		44	32	15

Appendix C. Targets of Exclusion

State	Bill #	Foreign Bodies, Entities, Gov'ts	Foreign Threats	China, CCP, and Entities
Alabama	H379		1	1
Arizona	S1115		1	1
Arizona	S1112			1
Arizona	H2376		1	1
Arkansas	S383		1	
Arkansas	H1479			1
Arkansas	H1255		1	1
California	S224	1		
Colorado	H1152		1	1
Florida	S264		1	1
Florida	H1355		1	1
Georgia	H452		1	
Hawai'i	H505		1	1
Hawai'i	H929	1		
Idaho	H173	1		
Illinois	H1267	1		
Indiana	S477		1	1
Iowa	H211			1
Iowa	H542			1
Kansas	S100	1		
Kansas	S283		1	
Kansas	H2397		1	
Kansas	H2069		1	
Louisiana	S91		1	
Louisiana	H125		1	1
Louisiana	H537		1	
Maryland	H968			1
Michigan	H4134	1		
Michigan	H4283	1		
Mississippi	S2089		1	
Mississippi	S2092		1	
Mississippi	S2632		1	
Mississippi	S2828			1
Mississippi	H984	1		1

Appendix C. (Continued)

State	Bill #	Foreign Bodies, Entities, Gov'ts	Foreign Threats	China, CCP, and Entities
Mississippi	H1236	1		
Mississippi	H1275	1		
Missouri	S9	1		
Missouri	S55	1		
Missouri	S332	1		
Missouri	H707	1		
Missouri	H832	1		
Missouri	H903	1		
Missouri	SJR38	1		
Missouri	SJR41		1	1
Montana	S256		1	1
Montana	S203		1	
New Jersey	S3534	1		
New Jersey	A5120	1		
New York	S6583		1	
New York	A(H)6444		1	
North Carolina	H463		1	
North Dakota	H1135	1		
Oklahoma	S212	1		
Oklahoma	S464	1		
Ohio	H212		1	
South Carolina	S392	1		
South Carolina	H3566			1
South Carolina	S576		1	
South Dakota	S185	1		
Tennessee	S122		1	
Tennessee	H40		1	
Texas	S51		1	
Texas	H124		1	
Texas	S147		1	
Texas	S552		1	1
Texas	S711		1	
Texas	S1441	1		
Texas	H3470	1		

Appendix C. (Continued)

State	Bill #	Foreign Bodies, Entities, Gov'ts	Foreign Threats	China, CCP, and Entities
Texas	H1075	1		
Texas	H2788		1	
Utah	H218	1		
Utah	H186		1	
Virginia	S1438		1	
Washington	S5754			1
Washington	H1412	1		
West Virginia	H3493			1
West Virginia	H3436		1	1
Wyoming	H116			1
Wyoming	H88	1		
Totals:		30	39	25

Appendix D. 2023 State Asian Population

State	2023 Estimated Asian Population (%)	2023 Estimated Population
Alabama	105,416 (2.06%)	5,108,468
Arizona	367,834 (4.95%)	7,431,344
Arkansas	73,454 (2.93%)	3,067,732
California	7,352,921 (18.9%)	38,965,193
Colorado	302,433 (5.15%)	5,877,610
Florida	919,297 (4.07%)	22,610,726
Georgia	620,055 (5.62%)	11,029,227
Hawai'i	825,204 (57.50%)	1,435,138
Idaho	54,983 (2.80%)	1,964,726
Illinois	898,291 (7.16%)	12,549,689
Indiana	236,114 (3.44%)	6,862,199
Iowa	105,947 (3.30%)	3,207,004
Kansas	117,202 (3.99%)	2,940,546
Louisiana	110,938 (2.43%)	4,573,749
Maryland	510,008 (8.28%)	6,180,253
Michigan	432,836 (4.31%)	10,037,261
Mississippi	46,196 (1.57%)	2,939,690
Missouri	185,637 (3.00%)	6,196,156
Montana	20,103 (1.77%)	1,132,812
New Jersey	1,072,717 (11.55%)	9,290,841
New York	2,098,966 (10.72%)	19,571,216
North Carolina	474,744 (4.38%)	10,835,491
North Dakota	18,736 (2.39%)	783,926
Ohio	400,802 (3.40%)	11,785,935
Oklahoma	141,011 (3.48%)	4,053,824

Appendix D. (Continued)

State	2023 Estimated Asian Population (%)	2023 Estimated Population
South Carolina	140,588 (2.62%)	5,373,555
South Dakota	21,519 (2.34%)	919,318
Tennessee	191,090 (2.68%)	7,126,489
Texas	2,071,891 (6.79%)	30,503,301
Utah	140,682 (4.12%)	3,417,734
Virginia	771,989 (8.86%)	8,715,698
Washington	1,035,183 (13.25%)	7,812,880
West Virginia	22,948 (1.30%)	1,770,071
Wyoming	10,498 (1.80%)	584,057

Source: U.S. Census Bureau, Population Division. 2024. "Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin: April 1, 2020 t July 1, 2023 (SC-EST2023-SR11H)." *United States Census Bureau.*

Note: Estimated Asian Populations include both monoracial Asians and Asians "in combination" or multiracial Asians.

Appendix E. State Legislature Compositions

State	Senate			House*		
	Democrat	**Republican**	**Other**	**Democrat**	**Republican**	**Other**
Alabama	7	25	3v	28	77	
Arizona	14	16		29	31	
Arkansas	6	29		18	82	
California	32	8		62	18	
Colorado	23	12		46	19	
Florida	12	28		35	84	1v
Georgia	23	33		79	100	1v
Hawai'i	23	2		45	6	
Idaho	7	28		11	59	
Illinois	40	19		78	40	
Indiana	10	40		30	70	
Iowa	16	34		36	64	
Kansas	11	28	1	40	85	
Louisiana	12	27		33	69	2, 1v
Maryland	33	13	1v	101	39	1v
Michigan	20	18		56	54	
Mississippi	16	36		42	76	3, 1v
Missouri	10	24		52	111	
Montana	16	34		32	68	
New Jersey	25	15		46	34	
North Carolina	20	30		49	71	
North Dakota	4	43		12	82	
Ohio	7	26		32	65	2v
Oklahoma	8	40		20	81	

Appendix E. (Continued)

State	Senate			House*		
	Democrat	**Republican**	**Other**	**Democrat**	**Republican**	**Other**
North Carolina	20	30		49	71	
North Dakota	4	43		12	82	
Ohio	7	26		32	65	2v
Oklahoma	8	40		20	81	
South Carolina	16	30		36	88	
South Dakota	4	31		7	63	
Tennessee	6	27		24	75	
Texas	12	19		64	86	
Utah	6	23		14	61	
Virginia	22	18		48	52	
Washington	29	20		58	40	
West Virginia	3	31		12	88	
Wyoming	2	29		5	57	

Source: NCSL. 2023. "2023 Partisan Composition." *National Conference of State Legislatures, https://www.ncsl.org/about-state-legislatures/state-partisan-composition*.

*Note: Vacancy abbreviated as "v"; * denotes House and Assemblies; data recorded as of Feb 28, 2023.*