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Authors

Ong, Paul Ong, Jonathan Pech, Chhandara

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Lessons from California's Historical Alien Land Law: Racial Xenophobia and Home Ownership

Paul Ong, Jonathan Ong and Chhandara Pech UCLA Center for Neighborhood Knowledge

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Abstract

In 2023, Florida enacted a controversial law prohibiting foreigners from purchasing real estate, ostensibly for national-security reasons. However, this legislation disproportionately targets individuals from Asian countries and risks creating a chilling effect on all Asians. Similar laws passed by other states echo this trend, unfortunately mirroring historical patterns of discrimination. The efforts, however, are not the first efforts targeting Asians.

California and other states enacted alien land laws during the first half of the twentieth century. Rooted in deep-seated anti-Asian sentiments and hostilities, particularly directed at Japanese Americans, these laws combined a toxic blend of racism and xenophobia, further marginalizing Asians socially, politically, and economically. While instigated by the anti-Japanese movement, California's law broadly applied to all aliens ineligible for citizenship -- a category exclusively encompassing Asians.

A direct consequence of California's law was an extremely low homeownership rate among Asians, far below that of other major racial and ethnic groups from 1910 to 1940. Ownership increased as some Asians found ways to circumvent the unfair law and as the number of U.S.-born Asians grew; nonetheless the rated remained significantly lower than that of non-Hispanic whites (NHW). Even after controlling for income, nativity and other factors, Asians were still several times less likely to own homes compared to NHW in 1940.

While overt anti-Asian sentiment may be less intense today, Asian Americans continue to face discriminatory treatment, as evidenced by the surge in anti-Asian hate crimes during and after the COVID-19 pandemic. This animus often stems from the perception of Asians as perpetual foreigners, exacerbated by rising global tensions with Asian nations. While the current wave of alien land laws may not explicitly target Asians, they have the potential to harm Asian Americans by restricting property ownership rights and fueling anti-Asian rhetoric.

About the UCLA Center for Neighborhood Knowledge

The UCLA Center for Neighborhood Knowledge conducts basic and applied research on the socioeconomic formation and internal dynamics of neighborhoods and how these collective spatial units are positioned and embedded within regions. The Center for Neighborhood Knowledge works with a broad set of data and employs a range of analytical skills to examine neighborhood phenomena across time and space.

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The UCLA Center for Neighborhood Knowledge acknowledges the Gabrielino/Tongva peoples as the traditional land caretakers of Tovaangar (the Los Angeles basin and Southern Channel Islands). As a land grant institution, we pay our respects to the Honuukvetam (Ancestors), 'Ahiihirom (Elders), and 'Eyoohiinkem (our relatives/relations) past, present, and emerging.

Part 1: Introduction

In 2023, Florida resurrected the controversial prohibition against foreigners purchasing real estate.¹ Proponents argue that these restrictions are necessary for national security, while critics label them as racist.² Opponents claim that this effort mirrors the racially motivated alien land laws enacted in the early part of the twentieth century, when fifteen states passed laws that prohibiting "aliens ineligible for citizenship" from buying real estate. California spearheaded this movement as part of a broader anti-Asian campaign. This study aims to provide qualitative and quantitative information on California's historical efforts, whose findings can help contextualize and interpret today's debate surrounding Florida's alien land law.

We utilize a specific paradigm, anti-Asian xenophobic racism (AAXR), to interpret the events in California. Racism refers to a set of individual, group and institutional prejudicial beliefs and discriminatory practices against members of another groups based on their ascriptive racial identity, often based on phenotype, particularly skin color.³ Xenophobia, on the other hand, comes from two ancient Greek terms, xenos for "strange, foreign, or alien", and phobos for "fear", and in the context of group relations, it refers to a dislike or hatred by natives of those

¹ Senate Bill 264, also known as the "Alien Land Law," was signed on May 8, 2023, by Florida's Governor Ron DeSantis, and restricts Chinese citizens and foreign nationals from Russia, Iran, North Korea, Cuba, Syria and Venezuela from purchasing agricultural land or real property located within a ten-mile radius of a military installation or critical infrastructure facility.

² Phan, Thông, "Modern-Day Alien Land Laws' Resurgence Throughout the South," Advancing Justice Atlanta (2023); ACLU. "Tell Congress: Say 'No' to Discriminatory Land Laws," https://action.aclu.org/send-message/say-no-to-land-laws. Accessed June 2, 2024.

³ For a basic discussion of racism, refer to Omi, Michael, and Howard Winant's book "Racial formation in the United States" (2014) published by Routledge, 2014.

perceived as foreigners. ⁴ Asian is a socially constructed racial group of people of Asian ancestry. Figure 1 illustrates the societal spaces created by these two relationships (two large ovals), their overlap (the intersection in the Venn diagram), and the intensity of the relationships (e.g., in terms of animus, oppression, and inequality.⁵ During the pre-World War II era, low-status immigrant non-Hispanic (NH) Whites occupied a position towards the lower left of the schematic, while Blacks occupied the upper right. Variations likely existed within these two groups, based on nativity, although the literature lacks specific details. Hispanics occupied an ambiguous position as illustrated by their classification as whites by the U.S. Census Bureau, with a higher proportion born in the United States than Asians.⁶

Figure 1:

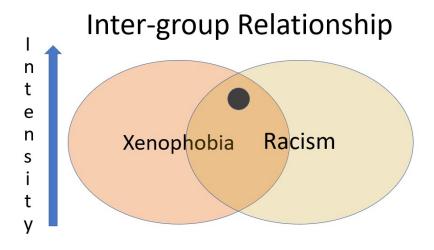
⁴

⁴ For a basic discussion of xenophobia, see Wimmer, Andreas. "Explaining xenophobia and racism: A critical review of current research approaches." *Ethnic and racial studies* 20, no. 1 (1997): 17-41.

⁵ This borrows from the concept laid out in Crenshaw, Kimberlé Williams. "Mapping the margins: Intersectionality, identity politics, and violence against women of color." In *The public nature of private violence*, pp. 93-118. Routledge, 2013.

⁶ U.S. Census Bureau, "Measuring Race and Ethnicity Across the Decades: 1790–2010 ," n.d., https://www.census.gov/data-tools/demo/race/MREAD_1790_2010.html, accessed June 3, 2024; Omi, Michael, and Howard Winant. "On the theoretical status of the concept of race." Race, identity and representation in education (1993): 3-10.; Snipp, C. Matthew. "Racial measurement in the American census: Past practices and implications for the future." Annual Review of Sociology 29, no. 1 (2003): 563-588; and Kim Parker, Juliana Menasce Horowitz, Rich Morin And Mark Hugo Lopez, "Chapter 1: Race and Multiracial Americans in the U.S. Census," Pew Research Center (2015),

https://www.pewresearch.org/social-trends/2015/06/11/chapter-1-race-and-multiracial-americans-in-the-u-s-census, accessed June 3, 2024.



Placing Asians within the schematic is critical to understanding the underlying causes of California's Alien Land Law. The small black circle indicates the position of Asians during the latter half of the nineteenth century and the first half of the twentieth century. They were a minority that the dominant non-Hispanic (NH) white group stereotyped as culturally unassimilable and despised as unwanted economic competitors. Hostilities against Asians occurred in three waves that coincided with immigration patterns. The first wave was directed at the Chinese, starting in the mid-nineteenth century and peaking in the 1880s when they became the first nationality to be denied the right to immigrate. Discrimination against the Chinese, however, continued into the twentieth century. The second wave targeted the Japanese, who began replacing Chinese labor in the latter part of the nineteenth century. This anti-Asian wave reached its peak in the 1940s when Japanese Americans were forcibly removed and placed in concentration camps. The increasing restrictions on Japanese immigration during the early twentieth century

⁷ There is an extensive literature documenting the anti-Asian movements, Daniels, Roger. "American historians and East Asian immigrants." *Pacific Historical Review* 43, no. 4 (1974): 449-472. Examples of ethnic specific targeting include Saxton, Alexander. *The indispensable enemy: Labor and the anti-Chinese movement in California*. Univ of California Press, 1995; Irons, Peter. *Justice at war: The story of the Japanese-American internment cases*. Univ of California Press, 1993; and Posadas, Barbara M. *The Filipino Americans*. Bloomsbury Publishing USA, 1999. Unless otherwise noted, the rest of this paragraph is a synthesis of these publications, and the other publications cited through the paper.

resulted in an increased flow of labor from the Philippines, which then faced the third wave of hostilities from NH Whites. Asians encountered much of the same prejudices, discrimination, and violence⁸ faced by other people of color, but they were also uniquely oppressed in other ways. For instance, they were the only racial group subjected to racially motivated formal and informal restrictions on immigration, citizenship, employment, taxation, and residential location. Prohibiting property ownership was another means of marginalizing this group. Although immigrant Asians were the most affected, subsequent generations were often painted with the same racialized brush. Given their unique history and the nature of NH White oppression of Asians, the Asian experience can be defined as anti-Asian xenophobic racism (AAXR), which refers to racist xenophobia specifically directed against Asians.

The rest of this report is organized into four parts. Part 2 synthesizes and interprets the existing literature to document the history of California's Alien Land Law, from its roots to its inception and finally to its end. It argues how the law was structured to target Asians without relying on explicit wording that might violate the constitution, specifically the equal protection clause of the Fourteenth Amendment. Part 3 analyzes the impact of the law on home ownership, utilizing census records to quantify the impacts on property ownership of Asians (compared to other racial groups) in the decades prior to World War II. This is the paper's unique contribution to the scholarly literature because few previous publications have estimated the material consequences, and none have examined home ownership, which has

⁸ See for example De Witt, Howard A. "The Watsonville anti-Filipino riot of 1930: A case study of the great depression and ethnic conflict in California." *Southern California Quarterly* 61, no. 3 (1979): 291-302; Jew, Victor. "The anti-Chinese massacre in Los Angeles as a reconstruction-era event." In *Oxford Research Encyclopedia of American History*. 2016; and Tafoya, Miranda. "A Shameful Legacy: Tracing the Japanese American Experience of Police Violence and Racism from the Late 19th Century through the Aftermath of World War II." *Cal. Legal Hist*. 18 (2023): 273.

always been the primary asset held by households. The paper concludes by revisiting the broader issue of anti-Asian xenophobic racism and discussing the lessons from the past.

Part 2: California's Alien Land Laws

Anti-Asian xenophobic racism served as the underlying systemic basis for California's efforts to prevent Asians from purchasing property. This was achieved through the use of "aliens ineligible for citizenship," a category that in practice applied only to Asian immigrants. The 1870 Naturalization Act granted the right to naturalization to "aliens being free white persons, and to aliens of African nativity and to persons of African descent," thereby excluding Asian immigrants by implication. However, the ban became overt, encompassing a growing list of Asian nationalities in subsequent years. The 1882 Chinese Exclusion Act explicitly stated that "hereafter no State court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed. In the 1922 case of Ozawa v. The United States (260 U.S. 178), the Supreme Court ruled that Japanese individuals were ineligible for naturalization.

⁹ Smith, Marian L. "Race, nationality, and reality-INS administration of racial provisions in US immigration and nationality law since 1898." Prologue-Quarterly of The National Archives 34, no. 2 (2002): 90-105.

¹⁰ The position of Latinos was more ambiguous, but were not subject to the alien land laws (Molina, Natalia. "In a Race All Their Own': The Quest to Make Mexicans Ineligible for US Citizenship." *Pacific Historical Review* 79, no. 2 (2010): 167-201.)

¹¹ Hirobe, Izumi. "Naturalization Cases of Asian Immigrants from In re Ah Yup to United States v. Ozawa and United States v. Thind." *Pacific and American studies* 6 (2006): 119-130.

¹² National Archives, "Chinese Exclusion Act (1882)," https://www.archives.gov/milestone-documents/chinese-exclusion-act, accessed June 2, 2024; and Lee, Erika. "The Chinese exclusion example: Race, immigration, and American gatekeeping, 1882-1924." *Journal of American Ethnic History* 21, no. 3 (2002): 36-62.)

¹³ Library of Congress, "U.S. Reports: Ozawa v. United States, 260 U.S. 178 (1922)," https://www.loc.gov/item/usrep260178/, accessed June 2, 2024. See also Finkelman, Paul. "Coping with a New Yellow Peril: Japanese Immigration, the Gentlemen's Agreement, and the Coming of World War II." W. Va. L. Rev. 117 (2014): 1409; Buell, Raymond Leslie. "Some Legal Aspects of the Japanese Question." American Journal of International Law 17, no. 1 (1923): 29-49.

United States v. Thind, the Supreme Court determined that the plaintiff, an Asian Indian immigrant, was also ineligible for naturalization.¹⁴ In 1924, the barrier was further expanded through the inclusion of individuals from the "Asiatic Barred Zone"¹⁵, who were identified as "ineligible for citizenship," and barred from immigrating.¹⁶ Initially, Filipinos occupied an ambiguous position due to their status as non-citizen nationals as a result of U.S. colonization of the Philippines. However, in 1934, the Tydings-McDuffie Act classified them as aliens ineligible for citizenship.¹⁷

California leveraged this exclusion to restrict the ability of Asians to own property. In 1879, the state revised its constitution to limit the land ownership to "Foreigners of white race or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this State, shall have the rights to respect to the acquisition, possession, enjoyment, transmission, and inheritance of property as native-born citizens." This implicitly meant that Asian immigrants were prohibited from owning real estate, although the underlying motivation was anti-Chinese sentiments.

Joshi, Khyati Y. "The racialization of Hinduism, Islam, and Sikhism in the United States." Equity & Excellence in Education 39, no. 3 (2006): 211-226.

¹⁵ This area covers most of Asia, except where other mechanisms already barred immigration. Sohi, Seema. "Barred Zones, Rising Tides, and Radical Struggles: The Antiradical and Anti-Asian Dimensions of the 1917 Immigration Act." *Journal of American History* 109, no. 2 (2022): 298-309.

Ngai, Mae M. "The architecture of race in American immigration law: A reexamination of the Immigration Act of 1924." In *Race, law and society*, pp. 351-376. Routledge, 2017.
 Pido, Eric J. "Property relations: alien land laws and the racial formation of Filipinos as aliens ineligible to citizenship." *Ethnic and Racial Studies* 39, no. 7 (2016): 1205-1222.
 State of California, "Statutes of California," 1880,

https://archives.cdn.sos.ca.gov/collections/1879/archive/1879-constitution.pdf ¹⁹ 1879 constitution had direct language on Chinese being ineligible for citizenship "The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the State, and the Legislature shall discourage their immigration by all the means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this State, and all contracts for coolie labor shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labor, shall be subject to such penalties as the Legislature may prescribe. The Legislature shall delegate all necessary power to the incorporated cities and towns of this State for the removal of Chinese without the limits of such cities and towns, or

A similar tactic was used in California's first alien land law, which was enacted in 1913,²⁰ with overwhelming support by elected officials.²¹ The law stated:

"All aliens eligible to citizenship under the laws of the United States may acquire, possess, enjoy, use, cultivate, occupy, transfer, transmit and inherit real property, or any interest therein, in this state, and have in whole or in part the beneficial use thereof, in the same manner and to the same extent as citizens of the United States, except as otherwise provided by the laws of this state."

The underlying racist motivation is evident in a speech by Mr. Webb, one of the bill co-authors:

"The fundamental basis of all legislation upon this subject, State and Federal, has been, and is, race undesirability It [the 1913 law] seeks to limit their presence by curtailing their privileges which they may enjoy here; for they will not come in large numbers and long abide with us if they may not acquire land."²²

There was one exclusion because the state did not have the power to circumvent national interests, specifically international treaties.²³

for their location within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this State of Chinese after the adoption of this Constitution. This section shall be enforced by appropriate legislation"

²⁰ Ferguson, Edwin E. "The California Alien Land Law and the Fourteenth Amendment." In Japanese Immigrants and American Law, pp. 177-206. Routledge, 2019; Bailey, Thomas A. "California, Japan, and the Alien Land Legislation of 1913." In *Japanese Immigrants and American Law*, pp. 104-127. Routledge, 2019; Ferguson, Edwin E. "The California Alien Land Law and the Fourteenth Amendment." In *Japanese Immigrants and American Law*, pp. 177-206. Routledge, 2019.

²¹ The Assembly voted 72-3, the Senate voted: 35-22, and was signed by Governor Hiram Johnson.

²² Justia, U.S. Supreme Court, Oyama v. California, 332 U.S. 633 (1948), https://supreme.justia.com/cases/federal/us/332/633/#F3/10,. Accessed July 22, 2024.

²³ For example, the 1911 US-Japan treaty entitled Japanese nationals with the right to lease or purchase land for residential or commercial use, but did not explicitly include property for agricultural use. (U.S.-Japan 1911 Treaty of Commerce and Navigation, https://www.govinfo.gov/link/statute/37/1504, accessed July 22, 2024) While there was an impact on Japanese ownership of agricultural land, they remained protected by the treaty when it came to residential and commercial property, even after the treated was abrogated in 1939 because the court ruled in 1946 that the law was based on treaties in effect at the time of the passage of the law (Bruce A. Castleman, "California's Alien Land Laws," Western Legal History: The Journal of the Ninth Judicial Circuit Historical Society 7, no. 1 (Winter/Spring 1994, p.55-56) This state-federal conflict was due to divergent agendas, where the federal government was seeking to avoid antagonizing Japan and risking war, while California politicians were trying to appease popular anti-Japanese-immigrant sentiment. There were no other treaties protecting other Asians.

How much protection provided is unknown, and did not cover many Asians.

The law was motivated by the anti-Japanese movement of the time, ²⁴ but it nonetheless affected all Asian immigrants because the wording essentially encompassed all aliens who were ineligible for citizenship. In fact, the first recorded case enforcing the law was against a Chinese immigrant. ²⁵ Although the laws used racially neutral terms, they disproportionately affected Asian immigrants because, as mentioned earlier, the only nationalities considered "ineligible for citizenship" were of Asian immigrants. While California was on the forefront of this effort, numerous other states also enacted similar laws (Arizona, Arkansas, Florida, Idaho, Louisiana, Minnesota, Montana, Nebraska, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming). ²⁶

The effectiveness of the 1913 law was limited due to poor enforcement and the ability of Asians, particularly Japanese individuals found ways to bypass the prohibition by placing property deeds under their U.S.-born children's names or by owning stock in holding companies and land ownership actually increased.²⁷ In order to address these loopholes, white groups placed Proposition 1 on the 1920 ballot.²⁸ This proposition stated:

"Permits acquisition and transfer of real property by aliens eligible to citizenship, to same extent as citizens except as otherwise provided by law; permits other aliens, and companies, associations and corporations in which they hold majority interest, to acquire and transfer real property only as prescribed by treaty, but prohibiting appointment thereof as guardians of estates of minors consisting wholly or partially of real property or shares in

²⁴ Bailey, Thomas A. "California, Japan, and the Alien Land Legislation of 1913." In *Japanese Immigrants and American Law*, pp. 104-127. Routledge, 2019.

²⁵ Castleman, Bruce A. "California's Alien Land Laws." W. Legal Hist. 7 (1994): 25.

²⁶ Densho Encyclopedia, Alien land laws," accessed August 2023, https://encyclopedia.densho.org/Alien land laws/

²⁷ Higgs, Robert. "Landless by law: Japanese immigrants in California agriculture to 1941." The Journal of Economic History 38, no. 1 (1978): 205-225.

²⁸ Ballotpedia, "California Proposition 1, Alien Property Initiative (1920), https://ballotpedia.org/California_Proposition_1,_Alien_Property_Initiative_(1920), accessed June 2, 2024.

such corporations; provides for escheats in certain cases; requires reports of property holdings to facilitate enforcement of act; prescribes penalties and repeals conflicting acts."

The voters passed the initiative by a nearly three-to-one margin (74% to 26%, with support mainly coming from the white working class. ²⁹ While Proposition 1 strengthened the prohibition against "aliens ineligible for citizenship", some Asian immigrants were still able find ways to own property, although not at a rate that would have been without the law. ³⁰ The Initiative also could not abridge rights guaranteed by 1911 US-Japan treaty which entitled Japanese nationals with the right to lease or purchase land for residential or commercial use, but not agricultural use. ³¹ Moreover, the increasing population of U.S. born Asian adults, who were not subject to the legal restrictions, provided another avenue to owning more property, although they were constrained by other types of housing discrimination, such as restrictive covenants, redlining, and segregation.

There were court cases involving the subjects of the restrictions. The earliest documented case, a 1915 escheat³² claim, was about Gin Fook Ben, a Chinese

²⁹ Kurashige, Lon. "Rethinking anti-immigrant racism: lessons from the Los Angeles vote on the 1920 Alien Land Law." Southern California Quarterly 95, no. 3 (2013): 265-283.

³⁰ Higgs, Robert. "Landless by law: Japanese immigrants in California agriculture to 1941." The Journal of Economic History 38, no. 1 (1978): 205-225; and Suzuki, Masao. "Important or impotent? Taking another look at the 1920 California Alien Land Law." The Journal of Economic History 64, no. 1 (2004): 125-143.

³¹ "All aliens other than those mentioned in section one of this act may acquire, possess, enjoy, use, cultivate, occupy and transfer real property, or any interest therein, in this state, and have in whole or in part the beneficial use thereof, in the manner and to the extent, and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise." While there was an impact on Japanese ownership of agricultural land, since the law effectively forbade it (Alien_Land_Law_Chinese_First_Application.pdf p.40), they remained protected by the treaty when it came to residential and commercial property, even after the treated was abrogated in 1939 because the court ruled in 1946 that the law was based on treaties in effect at the time of the passage of the law (Alien_Land_Law_Chinese_First_Application.pdf p.55-56) This state-federal conflict was due to divergent agendas, where the federal government was seeking to avoid antagonizing Japan and risking war, while California politicians were trying to appease popular anti-Japanese-immigrant sentiment. There were no other treaties protecting other Asians.

³² An escheat case involves the passing of property to the state.

immigrant who purchased a property in Santa Barbara.³³ The state intervened to enforce the law and claim the property, and in 1918, the judge ruled in favor of the state. In another case, Jukichi Harada and his children, who were Japanese Americans, won the right to hold property through their U.S. born (and therefore citizen) children in 1918. Popular objection to this property acquisition strategy among others, eventually led Proposition 1 in 1920. The two most well-known cases, Ozawa v. The United States and United States v. Thind, which were discussed earlier, determined that Japanese and Asian Indian immigrants were ineligible for naturalization, thereby upholding the Alien Land Law. In other words, the law not only targeted Asians but also, through the courts, officially defined their racial classification.

The Alien Land Law remained in effect for nearly four decades, but was eroded through the 1940s and 1950s. Three key changes contributed to its demise. The first change involved the gradual elimination of the "ineligible for naturalization" category, which allowed Asian immigrants to become citizens. ³⁴ The Chinese Exclusion Repeal Act of 1943, also known as the Magnuson Act, granted Chinese immigrants the right to naturalize, ³⁵ while the 1952 Walter–McCarran Act nullified all federal anti-Asian exclusion laws and granted Asians the right to naturalize. ³⁶ Additionally, there was a shift in racial attitudes, which made Asians

³³ Castleman, Bruce A. "California's Alien Land Laws." *W. Legal Hist.* 7 (1994): 25. For discussion of other cases, see Powell, Thomas Reed. "Alien Land Cases in United States Supreme Court." *Calif. L. Rev.* 12 (1923): 259.

³⁴ Barkan, Elliott R. "Whom Shall We Integrate?: A Comparative Analysis of the Immigration and Naturalization Trends of Asians Before and After the 1965 Immigration Act (1951-1978)." *Journal of American Ethnic History* 3, no. 1 (1983): 29-57.

³⁵ U.S. Citizenship and Immigration Services, "Edward Bing Kan: The First Chinese-American Naturalized after Repeal of Chinese Exclusion,"

https://www.uscis.gov/about-us/our-history/stories-from-the-archives/edward-bing-kan-the-first-chinese-american-naturalized-after-repeal-of-chinese-exclusion

³⁶ U.S. Department of State, Office of the Historian, "The Immigration and Nationality Act of 1952 (The McCarran-Walter Act),"

https://history.state.gov/milestones/1945-1952/immigration-act

slightly more acceptable, although full acceptance was still lacking.³⁷ This change in public opinion is evident in the vote on the 1946 California Proposition 15, which aimed to incorporate the state's Alien Land Law into the state constitution.³⁸ Unlike Proposition 1 in 1920, Proposition 15 failed to pass, with a vote of 41% to 58%. Finally, in 1952, the California Supreme Court overturned California's Alien Land Act in the case Fujii v. California (38 Cal 2nd 718), ruling that the discrimination against Japanese violated the equal protection clause of the Fourteenth Amendment.³⁹ Four years later, California voted for Proposition 13, which repealed the state's alien land law, with a two-to-one majority.⁴⁰

Part 3: Quantifying the Impacts

While a few existing studies have examined the material impacts of California's Alien Land Laws, they have primarily focused on the effects on Japanese farmers. ⁴¹ In order to gain a greater empirical understanding of the economic effects on the "ineligible for citizenship" population, we analyze the impact on all Asians by studying home ownership among for three Asian groups, relative to other

³⁷ Meenes, Max. "A comparison of racial stereotypes of 1935 and 1942." *The Journal of Social Psychology* 17, no. 2 (1943): 327-336; Bogardus, Emory S. "Trends in social distance in American Life." *Social Science* 35, no. 1 (1960): 10-16; and Fagan, Joen, and Marion O'neill. "A comparison of social-distance scores among college-student samples." *The Journal of Social Psychology* 66, no. 2 (1965): 281-290.

³⁸ Ballotpedia.

https://ballotpedia.org/California_Proposition_15,_Amendments_to_the_Alien_Land_Law_Amendment (1946), accessed June 2, 2024.

³⁹ Sei Fujii v. State of California. *The American Journal of International Law*, Vol. 46, No. 3 (Jul., 1952), pp. 559-573, accessed August 30, 2023, https://doi.org/10.2307/2194519, https://www.jstor.org/stable/2194519

⁴⁰ "California Proposition 13, Repeal of Law Prohibiting Immigrants From Owning Real Estate Measure (1956)," accessed August 30, 2023,

 $https://ballotpedia.org/California_Proposition_13,_Repeal_of_Law_Prohibiting_Immigrants_From_Owning_Real_Estate_Measure_(1956)$

⁴¹ See for example the following: Higgs, Robert. "Landless by law: Japanese immigrants in California agriculture to 1941." *The Journal of Economic History 38*, no. 1 (1978): 205-225.; Suzuki, Masao. "Success story? Japanese immigrant economic achievement and return migration, 1920–1930." *The Journal of Economic History* 55, no. 4 (1995): 889-901.; Suzuki, Masao. "Important or impotent? Taking another look at the 1920 California Alien Land Law." *The Journal of Economic History* 64, no. 1 (2004): 125-143.

racial groups. The analysis focuses on the influence of nativity (immigrants versus U.S. born), with and without controlling for confounding factors. While the impact on the Asian immigrant generation can be seen as a direct effect, there may have also been an indirect effect on the U.S. born generation.

Our quantitative analysis examines the impact of the Alien Land Law on homeownership rates during the pre-World War II era. The earlier discussion indicates a hierarchy based on the type and number of barriers faced by different populations. We have formulated the following hypotheses:

- Primary hypothesis: Asian immigrants had the lowest ownership rates due to xenophobia and racism. Unlike other minorities and nativity groups, they were the exclusive target of the Alien Land Law.
- Secondary hypothesis: Even U.S. born Asians had lower rates than other minorities because they were subject to California's distinct anti-Asian racism, and often lumped with immigrant Asians.
- Tertiary hypothesis: Other people of color had lower rates than NH Whites due to other forms of housing discrimination (such as restrictive covenants, ⁴² redlining, ⁴³ and spatial segregation ⁴⁴). These same restrictions also applied to Asians. ⁴⁵

These rankings remain consistent even after adjusting for other contributing factors.

This study utilizes decennial census records to examine home ownership rates and patterns in 1910, 1920, 1930, and 1940, using individual records.⁴⁶ We specifically use the household reference persons (also known as heads of

⁴² Jones-Correa, Michael. "The origins and diffusion of racial restrictive covenants." *Political Science Quarterly* 115, no. 4 (2000): 541-568.

⁴³ Solórzano, Daniel G., and Verónica N. Vélez. "Using critical race spatial analysis to examine redlining in Southern California communities of color, circa 1939." In *Critical Race Spatial Analysis*, pp. 91-108. Routledge, 2017.

⁴⁴ Camarillo, Albert M. "Navigating Segregated Life in America's Racial Borderhoods, 1910s–1950s." *The Journal of American History* 100, no. 3 (2013): 645-662.

⁴⁵ Brooks, Charlotte. *Alien neighbors, foreign friends: Asian Americans, housing, and the transformation of urban California*. University of Chicago Press, 2009.

⁴⁶ Census records are made available after 72 years, which is the approximate life span when the 72-year rule was adopted

⁽https://www.census.gov/history/www/genealogy/decennial_census_records/ the_72_year_rule_1.html). Although the 1950 records are now available, they have only been partially digitized and subject to considerable errors. The 1930 and 1940 records are available through the National Archives and Ancestry.com.

household) from the full count data obtained from IPUMS USA.⁴⁷ The analysis begins by disaggregating major racial categories (NH Whites, Blacks, Hispanics, and Asians) to generate ownership rates for all four decades. We also conduct additional analysis by nativity, particularly for the decades immediately before and after the 1913 law. Finally, we use multivariate logistic regressions to account for other factors in 1940, which captures the cumulative effects prior to World War II. The model incorporates earnings, age, sex, and a series of race and nativity interaction terms (such as being Asian and an immigrant). We included both linear and squared terms for earnings and age to account for non-linear effects.

Figure 2 plots the temporal pattern of home ownership by race. It is empirical evident of systematic racial disparity in home ownership rates throughout the four decades. ANH Whites consistently maintained the highest rate, ranging from 51% to 46%, with the lowest point occurring during the Great Depression. The rate for Blacks was approximately 12 percentage points lower than NH Whites, followed by Hispanics who were 18 percentage points lower. These gaps in ownership rates are not surprising given the pervasive discrimination in the housing market. On the other hand, Asians faced a significantly greater disparity, with ownership rates. The gap for Asians was two to three times greater than for the other minority groups, 37 percentage points lower than NH Whites. This substantial difference is consistent with the hypothesis that the Alien Land Law, which explicitly and implicitly targeted Asians, created additional obstacles in purchasing and owning property. However,

⁴⁷ Steven Ruggles, Matt A. Nelson, Matthew Sobek, Catherine A. Fitch, Ronald Goeken, J. David Hacker, Evan Roberts, and J. Robert Warren. IPUMS Ancestry Full Count Data: Version 4.0 [dataset]. Minneapolis, MN: IPUMS, 2024. https://doi.org/10.18128/D014.V4.0

⁴⁸ Our results are consistent with published statistics for California overall home ownership rates: 49.5% in 1910, 43.7% in 1920, 46.1% in 1930 and 43.4% in 1940. The national pattern is similar, but exhibits less dramatic swings. US Census Bureau, "Historical Census of Housing Tables: Homeownership,"

https://www2.census.gov/programs-surveys/decennial/tables/time-series/coh-ownSer/owner-tab.txt, accessed June 2, 2024.

the increase in ownership rates during the last two decades indicates that Asians were still able to find ways to purchase homes.



Figure 2: Home Ownership Rates by Race, 1910-1940

We gain further insights into the initial impact of the 1913 Alien Land Law by examining the changes between 1910 and 1920 for Asians. Although the other racial groups also experienced a decline during this period, the pattern for Asians, based on their nativity, reveals different changes. The ownership rate for Asian immigrants declined, but increased for those born in the United States. (See Figure 3.) The homeownership rate for Asian immigrants is also higher than U.S.-born in 1910, (similar to patterns seen for other ethnic categories?) but higher for U.S.-born Asians in 1920. This is consistent with the earlier discussion that Asians had the ability to partially bypass the restrictions. The nativity pattern suggests that Asians used a multi-generational approach to invest in real estate by shifting resources to the second generation. However, due to the relatively small number of U.S.-born Asian heads of households, the overall rate for Asians declined. This intergenerational difference implies that the Alien Land Law created new barriers for the foreign-born, but did not have the same effect on those who were citizens by birth.

In comparison, the data does not indicate this inter-generational pattern for NH Whites; both immigrants and natives experienced a decline in the home ownership rate.

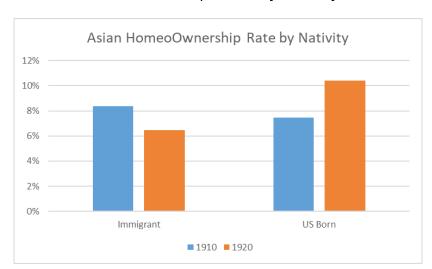


Figure 3: Asian Homeownership Rates by Nativity, 1910 and 1920

While the Alien Land Law was a contributing factor to the continuing disparities, there are other factors that influenced the ability to own a home. Table 1 lists four potential factors that can affect the probability of home ownership, comparing Asians and NH Whites. Due to economic discrimination, the average annual earnings of the Asian head of the household were only about half that of NH Whites. In fact, Asians experienced a larger earnings gap than the other two minority groups, although both Blacks and Hispanics also earned only a fraction of what NH Whites earned. There was also a two-year difference in the average age between NH Whites and Asians, indicating that NH Whites were more advanced in life cycle. NH Whites were also more likely to be headed by a female, which could hinder their odds of homeownership. Finally, there is an enormous difference in nativity, with Asians being over four times more likely to be immigrants.

Table 1: Demographic and Socioeconomic Characteristics by Race

	NHWhite	Black	Hispanic	Asian
Owners	45%	32%	31%	15%
Earnings	\$974	\$554	\$636	\$501
Age	47	45	43	45
Female	18%	29%	15%	6%
Foreign Born	18%	2%	66%	79%

We use the multivariate logistic regression described previously to estimate the independent influence of being an Asian immigrant U.S. born Asian on the probability of home ownership, relative to NH White natives. The regression results, which are reported in the Appendix, show that the variables for earnings, age, and sex are highly statistically significant factors. Female-headed households were about 12 percentage points lower than male headed households. Additionally, each additional year around the age of 45 increased the probability by about 3 percentage points. The income differences between Asians and NH Whites only result in a 1 percentage point lower rate for Asians, which can be attributed to the nonlinear effect. It is important to highlight that while this non-racial factor contributed to the racial disparity because the income differences themselves were the outcome of systemic and pervasive economic discrimination, which limited employment and business opportunities for Asians.

Figure 4 summarizes the key findings regarding the relative odds ratio with NH White immigrants as the reference group, after considering other factors. A value less than 1 indicates that a group is less likely to be a homeowner (e.g., a value of 0.5 means that the group's rate is half that of the reference group). After accounting for other factors, there is still a racial hierarchy when it comes to homeownership. Disparities faced by Blacks and Hispanics depended on their

⁴⁹ This nonlinearity is evident in the unadjusted differences in home ownership rates. The difference in rates between those earning around \$500 and those earning around \$1,000 was approximately 3 percentage points, whereas the difference between those earning around \$1,500 and those earning around \$2,000 was over 8 percentage points.

nativity. The results find that Asians were at the bottom of the ranking, *ceteris paribus*, with Asian immigrants being the least likely. We also conducted separate logistic models for both immigrants and U.S. born individuals, which revealed similar racial differences.

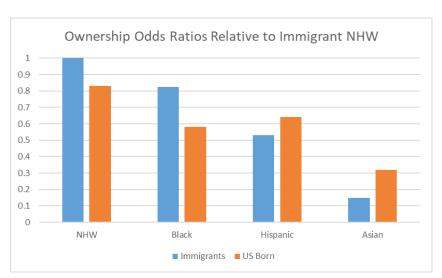


Figure 4: Homeownership Odds Ratio by Race and Nativity

Part 4: Conclusion and Contemporary Implications

The findings demonstrate how discrimination against Asians operated in California during the first half of the last century. It was the combination of xenophobia, racism, and state-sponsored discrimination that placed Asians at the bottom of the ladder. The use of race-neutral language to withstand legal challenges, but nevertheless played a significant role in targeting Asians immigrants, as a larger legal system had already made them *de facto* vulnerable. Even U.S.-born Asians were not exempt from discrimination. Despite being citizens by birth, they experienced racial discrimination like other people of color, but also suffered collateral damage from the anti-immigrant prejudices. U.S. born Asians were depicted as unassimilable and undesirable foreigners as much as Asian immigrants. The most tragic example of this conflating race, foreignness and

nativity was the unconstitutional mass internment of nearly 120,000 Japanese

Americans, two-thirds of whom were U.S.-born. This guilt by association, regardless
of ethnicity or nativity, contributed to the lower ownership rates for Asians.

In more recent decades, anti-Asian xenophobic racism has become less virulent, explicit, and pervasive due, in part, to various material and subjective changes. Asians have ascended the socioeconomic ladder, ⁵⁰ and are often viewed as a high-achieving minority overcoming racism. ⁵¹ Their economic success ⁵² is not simply attributed to pulling themselves up by their bootstraps; rather, they have benefited from the progress and opportunities created by the civil rights movement ⁵³ and from selective migration that has favored the highly educated. ⁵⁴ Consequently, race relations for Asian Americans today are very different from that in the first half of the Twentieth Century. They have been elevated to the status of "model minority." ⁵⁵ However, Asian Americans are still far from being fully assimilated and accepted. ⁵⁶ Nor are they treated fairly and equitably. Asian

⁵⁰ Nee, Victor, and Jimy Sanders. "The road to parity: Determinants of the socioeconomic achievements of Asian Americans." In *Asian American Issues Relating to Labor, Economics, and Socioeconomic Status*, pp. 157-175. Routledge, 2014.

⁵¹ Chou, Rosalind S., and Joe R. Feagin. *Myth of the model minority: Asian Americans facing racism*. Routledge, 2015.

⁵² According to the 2022 American Community Survey, median household income for Asians was one-third higher than for NH Whites. Moreover, Asians had higher average wealth (Rakesh Kochhar and Mohamad Moslimani, "Wealth gaps across racial and ethnic groups." Pew Research Center, 2023, https://www.pewresearch.org/short-reads/2024/03/27/key-facts-about-asian-americans-living-in-poverty/, accessed June 4, 2024; and Aditya Aladangady, Andrew C. Chang, and Jacob Krimmel. "Greater Wealth, Greater Uncertainty: Changes in Racial Inequality in the Survey of Consumer Finances." Board of Governors of the Federal Reserve System, October 18, 2023; https://www.federalreserve.gov/econres/notes/feds-notes/greater-wealth-greater-uncertainty-changes-in-racial-inequality-in-the-survey-of-consumer-finances-20231018.html, accessed June 4, 2024).

⁵³ Ancheta, Angelo N. Race, rights, and the Asian American experience. Rutgers University Press, 2006.

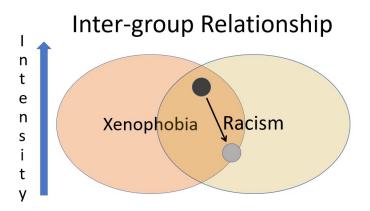
⁵⁴ Ong, Paul M., Edna Bonacich, and Lucie Cheng. *The new Asian immigration in Los Angeles and global restructuring*. Temple University Press, 1994.

⁵⁵ Walton, Jessica, and Mandy Truong. "A review of the model minority myth: understanding the social, educational and health impacts." *Ethnic and Racial Studies* 46, no. 3 (2023): 391-419.

 $^{^{56}}$ Lee, Jennifer, and Min Zhou. The Asian American achievement paradox. Russell Sage Foundation, 2015.; and

American are persistently seen as perpetual foreigners,⁵⁷ regardless of their nativity, and are blamed and scapegoated for perceived unfair competition with Asian economies,⁵⁸ as well as and resented for their purported overachievement.⁵⁹ Figure 5 summarizes the long-term repositioning of Asian Americans. In comparison to the pre-World War II era, there has been a repositioning of Asian Americans within society, as depicted in Figure 5. Anti-Asian xenophobic racism may be less extreme now, but it has not disappeared and may potentially be on the rise.

Figure 5:



There seems to be a resurgence of anti-Asian xenophobic racism, as evidenced by the in anti-Asian hate during the COVID-19 pandemic, ⁶⁰ largely driven by racist remarks from politicians such as former President Trump. ⁶¹ Another

⁵⁷ Kim, Claire Jean. "The racial triangulation of Asian Americans." *Politics & society* 27, no. 1 (1999): 105-138;

⁵⁸ Kurashige, Scott. "Detroit and the legacy of Vincent Chin." *Amerasia journal* 28, no. 3 (2002): 51-55.

⁵⁹ Ho, Colin, and Jay W. Jackson. "Attitude toward Asian Americans: Theory and measurement." *Journal of Applied Social Psychology* 31, no. 8 (2001): 1553-1581. ⁶⁰ Gover, Angela R., Shannon B. Harper, and Lynn Langton. "Anti-Asian hate crime during the COVID-19 pandemic: Exploring the reproduction of inequality." *American journal of criminal justice* 45, no. 4 (2020): 647-667.

⁶¹ Hswen, Yulin, Xiang Xu, Anna Hing, Jared B. Hawkins, John S. Brownstein, and Gilbert C. Gee. "Association of "# covid19" versus "# chinesevirus" with anti-Asian sentiments on Twitter: March 9–23, 2020." *American Journal of Public Health* 111, no. 5 (2021): 956-964; Rubin, Daniel Ian, and Faith Agostinone WIlson. "Blame China: Trump and anti-Asian sentiment during COVID-19." In *A time of covidiocy: Media, politics, and social upheaval*, pp. 10-31. Brill, 2021; and Reny, Tyler T., and Matt A. Barreto. "Xenophobia in the time of pandemic: Othering, anti-Asian attitudes, and COVID-19." *Politics, Groups, and Identities* 10, no. 2 (2022): 209-232.

example of AAXR politics is the FBI's initiative against China spying, which has wrongfully targeted innocent people of Chinese ancestry. ⁶² This instilled widespread fear not only among visiting Chinese scientists and engineers but also among Asian American scholars and researchers. ⁶³ Although some proponents of this contemporary rhetoric claim they are referring to those outside of the United States, Asian Americans are frequently victimized due to being perceived as an extension of foreign forces. This prejudice has real-world consequences, such as its impact on Asian American workers and businesses during the pandemic. ⁶⁴

What can history and current events teach us about the recent surge in alien land laws? Do these current laws exemplify the intricacies of a modern form of anti-Asian xenophobic racism? To answer this question, let us closely examine the state of Florida, which has been the most prominent case in point. Florida had a historical alien land law, and it was the last state to repeal this type of restriction, which finally happened in 2018. However, in 2023, Florida took a U-turn when Governor Ron DeSantis signed a new law (SB 264⁶⁵), prohibiting property ownership, including private homes, by foreigners from seven "countries of concern" (China, Russia, Iran, North Korea, Syria, Venezuela, and Cuba). Similar legislation has also been introduced or passed in several other states. The proponents of this new law argue that it is necessary for national security reasons, specifically targeting those who are not eligible for citizenship or are not permanent residents. SB 264 adopts a racially neutral stance by specifying that affected persons are each an individual

⁶² Matt Schiavenza, "How the China Initiative Went Wrong." *Foreign Policy*, February 13, 2022, https://foreignpolicy.com/2022/02/13/china-fbi-initiative-spying-racism/, accessed June 5, 2024.

⁶³ Lee, Jenny J., and Xiaojie Li. "Neo-racism, neo-nationalism, and the costs for scientific competitiveness: The China Initiative in the United States." *The Review of Higher Education* (2023).

⁶⁴ Mar, Don, and Paul Ong. "Covid-19's employment disruptions to Asian Americans." *AAPI Nexus: Policy, Practice and Community* 17, no. 1-2 (2020).

⁶⁵ Florida Senate, "CS/CS/SB 264 – Interests of Foreign Countries," https://flsenate.gov/Committees/BillSummaries/2023/html/3145, accessed June 3, 2024.

"domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States."

Many critics argue that underlying motivation of implicit racism and xenophobia are targeting individuals based on their national origins and ancestry. 66 While the law does not specifically target all Asian Americans, it does have an impact on those who are here as exchange students, scholars, temporary workers, and their families. It is worth noting that historically, a significant percentage of these individuals eventually become permanent immigrants.⁶⁷ Although Florida has been sued for violating anti-discrimination protections, the cases have not been successful so far. One of the failings in a lawsuit against the law was "They [lawyers for the plaintiff] have shown no evidence of disparate impact, asking the court instead to assume one."68 While this evidence alone would not have been sufficient to overturn the law, it would have been an important element in revealing de facto discriminatory impact protected by housing laws. The empirical challenge lies in translating the more neutral categories used in SB 264 into legally protected categories. According to a disparity analysis, non-permanent resident Chinese individuals, both by race and ancestry, are significantly more likely to be affected by Florida's law compared to their share of the total population. ⁶⁹ Another concern is the potential "chilling effect" of the law, which may discourage even permanent

⁶⁶ See for example, ACLU, "Federal District Court Refuses to Halt Florida's Discriminatory Housing Law," 2023,

⁶⁷ Ong, Paul M., Edna Bonacich, and Lucie Cheng. *The new Asian immigration in Los Angeles and global restructuring*. Temple University Press, 1994.

⁶⁸ United States District Court for the Northern District of Florida, Tallahassee Division, Yifan Shen, Zhiming Xu, et al., Plaintiffs, v. Wilton Simpson, Case No. 4:23-cv-208-AW-MAF, Page 37,

⁶⁹ Ong, Jonathan and Paul Ong, "Findings from Disparity Analysis for Florida Law Project," unpublished report for Beacon Economics, 2023.

immigrants from purchasing homes, and make realtors suspicious of individuals who appear to be of Chinese descent.⁷⁰

We conclude with three observations about the similarities between historical and contemporary alien land laws. First, the legislation is intertwined with global dynamics, driven by a fear of economic threats associated with Asian countries and their people. However, there is a clear difference: historical laws focused on unwanted immigrant labor, while today's concern is competition with China. Second, rhetorical language is used to mask otherwise questionable constitutional actions, particularly to evade the equal protection clause. It is important to acknowledge that there are other legitimate concerns, such as historical laborsubstitution as a divide-and-conquer strategy by capitalists and contemporary national security. However, it is troubling that these concerns disproportionately target Asians. Third, the laws seem to achieve their intended and implicit AAXR objective and appease a constituency pushing for AAXR political action, much like the alien Land Laws. Historical evidence clearly shows a systematic disparity in home ownership rates. While it is too early to determine the discriminatory impacts of today's laws, lawsuits and news stories have identified individuals who have been directly and indirectly affected. It is important to be cautious about overemphasizing the parallels, as contemporary AAXR is less extreme. However, this should not excuse flawed and unjust laws. Laws and policies should be constructed in a way that addresses legitimate concerns without violating the rights

⁷⁰ Stop AAPI Hate, "Asian American community and allies rally against Florida's anti-Chinese land law after court hearings," April 19, 2024, https://stopaapihate.org/2024/04/19/asian-american-community-and-allies-rally-against-floridas-anti-chinese-land-law-after-court-hearings/, accessed June 3, 2024; and Cheryl Reid-Simons, "Florida law puts agents at risk, housing groups say," *Real Estate News*, https://www.realestatenews.com/2024/05/06/florida-law-puts-agents-at-risk-housing-groups-say, accessed June 3, 2024.

of Asian Americans, even if the impact is *de facto* rather than *de jure*. There are enough similarities with history to warrant real concerns.

Appendix: Logistic Regression Results

Dependent variable: Home Owner (=1) Model Fit Statistics

	Interce	Intercep
Criterion	pt Only	t and
		Covariat
		es
	27834	258158
AIC	55	3
	27834	258177
SC	68	1
	27834	258155
-2 Log L	53	3

Testing Global Null Hypothesis: BETA=0

	Chi-		Pr > Ch
Test	Square	DF	iSq
Likelihood	20189		
Ratio	9.8	14	<.0001
	19011		
Score	2.5	14	<.0001
	17353		
Wald	7.2	14	<.0001

Analysis of Maximum Likelihood Estimates

Latimates	Estima	Standar		Pr > Ch
Parameter	te	d	Wald	iSq
		Error	Chi-Square	
	_		35566.	
Intercept	3.2474	0.0172	32	<.0001
			290.21	
Earnings	-0.062	0.00364	36	<.0001
Earnings		0.00096	3537.4	
Squared	0.0573	3	83	<.0001
		0.00064	35357.	
Age	0.1218	8	71	<.0001
	_	0.00063	17378.	
Age Squared	0.0839	6	77	<.0001
	_		14525.	
Female	0.5009	0.00416	35	<.0001
	-			
FB Black	0.1945	0.0762	6.5115	0.0107
	-		4593.3	
FB Hispanic	0.6337	0.00935	88	<.0001

	_		10269.	
FB Asian	1.9199	0.0189	05	<.0001
	_		19.989	
FB Other	1.2099	0.2706	2	<.0001
	-		2084.5	
US NH White	0.1848	0.00405	23	<.0001
	-		1751.5	
US Black	0.5409	0.0129	71	<.0001
	-		1213.7	
US Hispanic	0.4461	0.0128	85	<.0001
			1236.7	
US Asian	-1.14	0.0324	31	<.0001
			132.74	
US Other	0.51	0.0443	63	<.0001