Collisions at the Intersection of Gender, Race, and Class: Enforcing the Chinese Exclusion Laws

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This article explores the ramifications of the intersections of gender, race, and class ideologies for the enforcement of the Chinese Exclusion Laws in the years immediately following their passage. Drawing from government documents and archival data, I argue that the notions of gender, race, and class that permeated the legislative debate contained significant incoherences and self-contradictions, and that many of the dilemmas surrounding the enforcement of the exclusion laws against Chinese women resulted from these collisions. Faced with conflicting mandates derived from, for example, racism and patriarchy, enforcement officers had to choose between equally powerful discourses. Their ad hoc and often pragmatic approach to such dilemmas contrasted sharply with a policy process that otherwise appeared to be driven by unquestioned—and unquestionable—moral mandates. In concluding, I note the implications for our understanding of the contingencies and instabilities of ideology and the legal practices of which it is part.

> Does this term laborer apply to females, servants, or married women? (San Francisco Customs Collector requesting instructions for implementing the Chinese Exclusion Law, 1882; underlined in handwritten original)
>
> What certificate would the Chinese government issue to the wife? A certificate that she is a female? (attorneys for Chinese merchants and steamship companies appealing the requirement that wives of Chinese merchants carry their own certificates)

President Chester Arthur signed the Chinese Exclusion Act in 1882 (22 Stat. 58) suspending the entry of Chinese laborers into the United States, thereby barring immigrants on the basis of their nationality for the first time in American history. The effort to pass

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such a law had begun with a massive congressional investigation into the impact of Chinese immigration, had consumed months of congressional debate, and had survived a presidential veto. In the end, supporters of Chinese exclusion were satisfied that what they called the "yellow peril" had been stanched (*The New York Times,* 9 May 1882, p. 4).

Labor historians disagree about the primary reasons for the enactment of the Chinese exclusion, with some emphasizing the role of anti-Chinese racism in the labor movement at a time of economic upheaval and industrial strife (Sandmeyer 1939; Hill 1996; Saxton 1971; Mink 1986; Lyman 2000; Lee 2003), and others insisting that Congress itself had fueled the racism and then strategically come to American labor's "rescue" (Gyory 1998). Putting aside the question of ultimate causes or primary movers, there is no doubt that racism was a defining feature of the debate. Indeed, anti-Chinese racism was an important rhetorical tool that members of Congress returned to again and again in making the case for exclusion.

Less conspicuous in the congressional debates and less remarked upon in the scholarly literature, class ideologies permeated and spiked the racist rhetoric. For example, Chinese merchants and others "not in the laboring classes" were exempt from the exclusion. While the exemption for merchants was in part carved out so as not to interfere with the lucrative trade with China (Calavita 2001), it was justified on the grounds that "[t]he Chinese mercantile class is entirely different from the working class" (U.S. Congress 1891:282).

Still less visible in these debates were the gender ideologies that nonetheless shaped the legislation and that ultimately caused considerable confusion and turmoil among enforcement officials. This invisibility was related to gendered assumptions about Chinese women—that they were neither laborers nor merchants and thus irrelevant to the matter at hand. While it is true that far fewer Chinese women than men traveled to the United States in this period, those who did arrive came from a wide range of backgrounds and had myriad and diverse motives for their travel. As we will see, the legislative lacuna opened up by Congress's omission meant that enforcement officials had to determine for themselves, for example, whether a woman could ever be considered a "laborer."

Conceptualizations of gender, race, and class were so entangled during discussions of Chinese exclusion that they often stood in for each other, or bled into and defined each other. Thus, anti-Chinese racism was expressed in terms of repulsion for "the coolie class" (*Congressional Record* 1892: 52d Cong., 1st sess., Vol. 23, pt. 8, 3480), and merchants were extolled as a race apart. If race and

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class were conceptually intermingled in the figures of the "coolie"[1] and the "merchant," Chinese immigrant women—who were generally assumed to be prostitutes—bore the full brunt of the conceptual bleeding together of gender, race, and class. So encompassing was the stereotype of Chinese women as prostitutes that Congress presumed it had addressed their immigration with the Page Act of 1875 barring prostitutes (Peffer 1999). Capturing this confluence of gender, race, and class thinking, a San Francisco policeman testified during an investigation of Chinatown in the late 1870s, "I have never seen a decent respectable Chinese woman in my life" (George Deffield, quoted in Tang 1983:2).

This article explores the ramifications of these ideological intersections for the enforcement of the Chinese Exclusion Laws in the years immediately following their passage. Specifically, I argue that implicit notions of gender, race, and class contained significant incoherences and self-contradictions that their splicing and myriad conflations compounded, and that many of the dilemmas associated with implementing Chinese exclusion derived from these internal contradictions and slippages. What were enforcement officials to do, for example, when confronted with affluent Chinese merchants attempting to bring wives with them to the United States? Or the widows of merchants who had inherited their husbands' businesses? Or the wives of laborers returning from a visit to China? Congress —with its preconceptions of Chinese women as prostitutes, who had already been barred by the Page Act—had failed to envision any such possibilities. Worse yet, as enforcement personnel struggled to fill the gaps in the 1882 laws, they found themselves permanently lodged between a rock and a hard place, as conflicts among and between patriarchal assumptions about the sacred unity of husband and wife, racist principles of maximum exclusion, and classist notions of merchant superiority, rendered almost every decision a "vexatious" one (letter from San Francisco Customs Collector, August 13, 1883, Record Group 85, Entry 134, Box 2).[2] I focus here on the decades immediately following passage of the 1882 exclusion law in part for reasons of expediency, but also because it is during this period that we witness with most intensity, and from scratch as it were, the challenges confronting the enforcement bureaucracy as it juggled competing ideological imperatives.

[1] The term *coolie* was originally used to refer to the Chinese contract laborers who were part of the virtual slave trade to Cuba, South America, and British Guiana in the mid-nineteenth century (Coolidge 1909:41–54; Tsai 1986:2). It came to be used derogatorily for all Chinese manual laborers, thereby carrying the connotation that they were all essentially slaves.

[2] All subsequent citations to "entry" and "box" numbers refer to the Chinese files at the National Archives in Washington, D.C. These are all found in Record Group 85, and will hereafter only include entry and box designations.

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Crenshaw (1990) has written powerfully about the experiences of women of color who live on the wrong side of the intersection of race and gender. In tracing their legal disempowerment in a series of logically tenuous U.S. Supreme Court decisions and their identity dilemmas vis-à-vis both communities of color and the feminist movement, Crenshaw exposes the legal and social sources of the compound marginality of women of color. In this article, I explore "intersectionality" from the other end of the telescope. That is, rather than examining the experiences of women of color, the nonadditive nature of their compound statuses and identity dilemmas as Crenshaw has done so incisively, I explore the ramifications of the intersecting ideological constructions of gender, race, and class for law itself. Briefly, I show that the confluence of these ideologies underpinning the Chinese Exclusion Laws was not just nonadditive; it was fraught with contradictions and conceptual turmoil that considerably complicated the laws' implementation.

In part, then, this is a story about the unruly ideological content of these categories of gender, race, and class, and the enforcement dilemmas derived from their incoherences. Ultimately, however, these dilemmas had to be dealt with. Faced with conflicting mandates derived from, for example, racism and patriarchy, enforcement officers had to choose between equally powerful discourses. As we will see, their ad hoc and often pragmatic approach to such dilemmas contrasted markedly with a policy process that otherwise appeared to be driven by unquestioned—and indeed unquestionable—moral mandates and axiomatic truths.

Others (e.g., Stevens 2002; Salyer 1995; Chan 1991) have written extensively about the statutes and judicial decisions that applied to the entry of Chinese women in the early years of the exclusion laws. Stevens (2002), in particular, has examined the challenges these laws posed to patriarchal ideals of family unity. This article draws from some of the same historical records as these previous studies, but it differs in several respects. First, unlike these earlier studies that primarily trace judicial decisionmaking, I focus here more on the Chinese inspectors "on the ground" at ports of entry and their bureaucratic superiors in Washington, D.C, as they encountered one difficulty after another in the enforcement process. Second, I place these difficulties and the coping devices that evolved in the context of conflicting ideologies of gender, race, and class, as well as a variety of practical contingencies.

A vast political science literature explores the judicial interpretation and implementation of federal and state law more broadly (Johnson 1979, 1987; Canon & Johnson 1999; Cavanagh & Sarat 1980; Songer et al. 1994; Segal & Spaeth 1993; Segal 1996; Gibson 1980; Pacelle & Baum 1992; Kilwain & Brisbin 1997; Spriggs 1996). While I touch on the issues elaborated in this literature—

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such as the myriad factors that affect judicial decisions and the complex relationships between the courts and "the implementing population" (Canon & Johnson 1999:62–89)— in this article, I refer to the courts here primarily as they echoed, underscored, and at times exacerbated the dilemmas of those on the ground.

This is fundamentally a study of what law-in-action—and the unexpected social realities it encountered and the unresolvable dilemmas it confronted—can tell us about the hidden assumptions of the lawmakers' hegemonic worldview and the tangled logics that permeated those assumptions. Ultimately, I hope to advance not just our understanding of the history of these policies, nor even more broadly the challenges they posed to patriarchal ideals of the feminine and the importance of family unity, as that has been done brilliantly before (Stevens 2002; Salyer 1995; Chan 1991; Lee 2003). Instead, I focus here on what these challenges and these collisions at the intersection of race(ism), class(ism), and gender(ism)—and at least as important, how they were dealt with on the ground—can tell us about the essential arbitrariness of those ideological constructions, their incoherence and their malleability. Much as Minow (1997:41–2) has shown that the difficulties law has in battening down the edges of racial *categories* exposes their fluidity and their arbitrary nature, I argue here that the self-contradictions into which immigration officials and jurists were forced when interpreting and applying the exclusion laws exposed the incoherences within and among the *ideologies* associated with such identity categories. Ultimately, as we witness policy makers strategically sacrifice various aspects of these ideologies as they struggle to accommodate mutually exclusive axioms, we see too the surprising instability of these apparently hegemonic discourses.

The data come primarily from the extensive records available at the National Archives in Washington, D.C., consisting of informal notes and letters to and from Chinese inspectors and their superiors in Washington, as well as the more formal circulars, memoranda, and instructions dispatched by the latter. I use other government sources as well, such as the *Congressional Record*, congressional hearings and reports, annual reports of the Treasury Department (and later the Immigration Bureau), the *Federal Reporter,* and published and unpublished decisions of the Secretaries of the Treasury and the Department of Commerce and Labor, available on Congressional Information Service microfiche.

The following section provides a brief overview of the Chinese Exclusion Laws. After that, I present illustrations of the racism that permeated the congressional debate, as well as the much more subtle influence of legislators' implicit assumptions about class and gender. The empirical and analytical heart of the article follows as I document the dilemmas posed for inspectors by two categories of

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entrants: wives of Chinese laborers and wives of Chinese merchants. In analyzing these dilemmas, I reveal the ways in which policy makers' racism, classism, and patriarchy are set on a collision course in such cases and trace the logic of their bureaucratic and judicial resolution. Finally, I draw out the implications of these strategic resolutions for our understanding of the fickle nature of these ideological constructions and the ad hoc quality of their deployments and transgressions.

The Chinese Exclusion Laws provide a particularly rich case through which to explore these issues. Gender, race, and class thinking not only came together in interesting ways here, but legislators and policy makers were unselfconsciously explicit in articulating that thinking. Finally, we are fortunate to have substantial records of congressional debates and reports as well as the more informal, unpublished administrative musings that comprised the administrative decisionmaking process.

Descriptive Background

Approximately 110,000 Chinese entered the United States between 1850 and 1882, most coming through the port of San Francisco. By 1882, one-third of the workforce in San Francisco comprised Chinese immigrants or their children (Chu 1963; Saxton 1971; Leung 1984; Tsai 1986; McClain 1994). The vast majority of these immigrants were men; according to the 1890 census, 102,620 men and just 3,868 women of Chinese origin lived in the United States. Most Chinese men worked in mining, railroad construction, and agriculture and were welcomed by employers as a plentiful source of cheap labor. By the time the Central Pacific Railroad was completed in the 1870s, however, the men who had been so central to its construction were increasingly being disdained as "coolie labor" (Lee 2003; Gyory 1998; McClain 1994). And Chinese women—many of whom worked as domestic servants, seamstresses, or gardeners, or in laundries—were almost universally associated with prostitution (Yung 1995; Peffer 1999).[3]

Responding to and fueling the anti-Chinese fervor in California, Congress passed the Page Act in 1875 (18 Stat. 477) barring

[3] A number of municipal and state laws in California were passed early in this period to address Chinese prostitution, including San Francisco Ordinance No. 546 in 1854, "To Suppress Houses of Ill-Fame within the City Limits," and the California law of 1866, "An Act for the Supression of Chinese Houses of Ill Fame" (Chan 1991:97). There is some disagreement about what proportion of Chinese women in the United States were actually prostitutes. Hirata (1979) estimates that approximately 71% of Chinese women in San Francisco in 1870 were prostitutes, declining to 21% by 1880. Others (e.g., Coolidge, cited in Ling 1998:193; Peffer 1999) argue that the actual percentages were far lower.

the entry of involuntary "Oriental" labor, prostitutes, and others coming for "lewd and immoral purposes." In 1876, the California Senate established a committee to research the impact of Chinese immigration and sent its report, "An Address to the People of the United States upon the Evils of Chinese Immigration," to Congress (California State Legislature 1878). That same year, Congress formed the Joint Special Committee to Investigate Chinese Immigration and launched a series of hearings. The committee began its final report by underscoring the alleged racial inferiority of the Chinese: "There is no Aryan or European race which is not far superior to the Chinese . . ." (U.S. Congress 1877:vi).

The Burlingame Treaty of 1868 between the United States and China (16 Stat. 639) had affirmed the "mutual advantage of free migration" and established an open-door immigration policy between the two countries. In the face of advancing anti-Chinese racism and the conclusions of numerous special reports, the Burlingame Treaty was replaced by the Angell Treaty in 1880 to permit the United States to "regulate, limit, or suspend" Chinese immigration (but not to "absolutely prohibit" it) (22 Stat. 826). Congress quickly passed an exclusion bill that would have barred the immigration of Chinese laborers for 20 years, but it was vetoed by President Arthur as a violation of the Treaty. A more limited bill excluding Chinese laborers for a period of 10 years was crafted by Congress, signed by the president, and became law on May 6, 1882 (Chinese Exclusion Act, 22 Stat. 58). In addition to barring the entry of Chinese laborers for 10 years, the law reiterated the ineligibility of Chinese to naturalization as "nonwhite" persons that had been affirmed in a San Francisco circuit court decision in 1878 (*In re Ah Yup,* C.C. Cal. 1878).

Chinese laborers already in the United States at the time of the exclusion law's enactment were initially allowed to reenter after temporary visits abroad. In response to allegations of fraudulent claims by returning Chinese laborers and by those who posed as members of the exempt classes, the Exclusion Law of 1884 (23 Stat. 115) required customs collectors to record identifying information on all Chinese leaving the United States and to give them reentry certificates, and required identity certificates ("Section 6 Certificates") issued by the Chinese government for the entry of exempt classes. In 1888, Congress rescinded the right of Chinese laborers to reenter the U.S. after temporary visits abroad (Scott Act, 25 Stat. 504), and the Geary Act of 1892 barred the immigration of Chinese laborers for another 10 years (27 Stat. 25). The exclusion was extended indefinitely in 1904 (Chinese Exclusion Extension Act, 33 Stat. 428) and was not repealed until 1943, when it proved to be a diplomatic embarrassment in the context of the U.S. alliance with China during World War II (Riggs 1950).

Administration of the laws was initially delegated to the Treasury Department, where it was enforced by customs collectors and their staffs of "Chinese inspectors" at every port of entry, with the vast majority of Chinese inspectors stationed at the busy port of San Francisco. When the Bureau of Immigration was established in the Treasury Department in 1891, the exclusion laws remained under the jurisdiction of customs officials, underscoring their distinction from other immigration laws. Administrative supervision of Chinese exclusion was moved to the Immigration Bureau in 1900, but even then customs collectors retained control of its actual enforcement at the ports. Not until 1903, when the Immigration Bureau was transferred to the newly created Department of Commerce and Labor, did the Chinese Exclusion Laws come under the full purview of the regular immigration bureaucracy.

Of Axioms and Axes: Congress Speaks of Gender, Race, and Class

While most historians argue that an economic downturn and organized labor's fears of competition with the Chinese set the stage for the 1882 exclusion law (Mink 1986; Hill 1996; Lyman 2000; Lee 2003), congressional proponents foregrounded the alleged racial inferiority of the Chinese as their justification. Proclaiming the Chinese a "terrible scourge" on California and "a great and growing evil" (U.S. Congress 1877:viii, v), they confidently pronounced the Chinese "an inferior race" and "a distinct race of people . . . wholly incapable of assimilation" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1637, 1584). And they were convinced of the biological basis of this inferiority even while deflecting challenges regarding the relatively light skin color of the Chinese: "[T]he scientist who determined who belonged to the Caucasian race and who did not, did not determine it by the color of their skin but by the shape of their head and by their cranial development" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1710).

Metaphors abounded, with Congress likening Chinese immigrants to an "indigestible mass," (U.S. Congress 1877:v), "herds," "leeches," "floods," "an exhaustless human hive," "hordes of . . . rats," "locusts," and "flies on a bee-gum on a summer's day" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1980, 1545, 1583, 1636, 1904, 1642). A few themes were repeated over and over in this race narrative. Among the most ironic, given the exploitation of Chinese workers by employers who paid them less than the prevailing wage, was the claim that Chinese workers had

the biological capacity to subsist on below-subsistence wages and were thus unfair competitors to American workingmen and workingwomen. Theories of natural selection were proposed to explain the Chinese advantage: "So numerous are they [the Chinese] at home in their own country that . . . through ceaseless struggle they have developed into a race of people of such character and physical qualities as to be able to exist and thrive where and under conditions the white man would perish and die out" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1636). Others chimed in with their own versions of survival of the least fit: "It may seem strange and improbable that the apparently insignificant, dwarfed, leathery little man of the Orient should, in the peaceful contest for survival, drive the Anglo-Saxon from the field" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1485). And, "His five thousand years' training to wretched frugality in competition with his five hundred million of fellow-Mongolians has taught him how to live upon the least possible amount of air and food" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1590).

Another recurring theme was the deceitful nature of the Chinese. Time and again it was contended that the Chinese were natural liars, with "little regard for the sanctity of an oath" (U.S. Congress 1877:vi), and that "the masses of the [Chinese] people do not regard truth" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1708). Their moral character was impugned more generally as well, with frequent references to "opium dens" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1584, 1670) and "vices [that] are corrupting to the morals of the city, especially of the young" (U.S. Congress 1877:iv). The Chinese were denounced as "pagan in religion, inferior in mental and moral qualities," and "cruel and indifferent to their sick" (U.S. Congress 1877:v, vii), and there was little doubt that "the[se] features of his character are ingrained in his being" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1545).

The hyperbole was laced with romanticized references to nature. One senator contrasted the "little brown men" of China (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1520) with the ideal, "flaxen-haired" Californian:

> The land which is being overrun by the oriental invader is the fairest portion of our heritage. It is the land of the vine and the fig tree; the home of the orange, the olive, and the pomegranate. Its winter is a perpetual spring, and its summer is a golden harvest . . . I would see its fertile plains, its sequestered vales, its vine-clad hills, its deep blue canyons, its furrowed mountain-sides dotted all over with American homes—the homes of a free, happy people, resonant with the sweet voices of flaxen-haired children, and

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> ringing with the joyous laughter of the maidens fair . . .'' (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1488).

Repeated references to African Americans, the experience of slavery, and lingering hostilities less than 30 years after the Civil War, confirmed that Chinese exclusion was being framed first and foremost as a race issue. With considerable historical revisionism and self-congratulation, senators warned each other not to tackle another ''race problem'':

> They [African Americans] were a part of the people here [*sic*]; we could not send them abroad; and because we treated them with humanity, with righteousness, and with justice, shall we say that we are bound to extend to all the nations of the earth the same rights that we extended to them?'' (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1713).

Many said simply, ''We have one race problem already unsettled in this country . . .'' (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1519), and ''Because we have one evil, shall we fly to another?'' (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1645).

In some cases, the ''race problem'' referred to was that of the American Indian. A lone advocate of dealing with the Chinese humanely and eschewing racism, Senator George Frisbie Hoar of Massachusetts nonetheless echoed much of the racist rhetoric of the day: ''The history of Indian wars, of broken treaties, of a thousand million dollars lavished in ninety years on a people of a fourth of a million in number illustrates the folly of dealing with savages by the methods of savages'' (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1519). The Senate warned President Arthur (who had vetoed the previous exclusion bill), ''In other words, Mr. President, we would not permit the purity and sweetness of our national waters to be contaminated or polluted by the mingling of its pure streams with the impure from any source whatever'' (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 3480).

At the same time that Congress depicted the Chinese as a distinct race with biologically ingrained character flaws, they lauded the superior nature of the ''merchant class,'' a discursive move no doubt predicated on the need to exempt merchants, with their lucrative trade potential, from the exclusion (see Calavita 2001). Seemingly oblivious to the awkward logic of an allegedly biological category being so definitively trumped by social class, senators and representatives praised Chinese merchants and drew a bright rhetorical line between them and ''the very dregs of that [Chinese] population that are spewed out upon the Pacific slope . . .'' (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1583). ''[Merchants] were educated men, they understood our language,

and they were respectable people. . . . but they were a very small portion of the Chinese population. The great mass of them [the Chinese] are in the very lowest depths of degradation" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1584). With the exception of a few who flailed against admitting those "clothed in 'purple and fine linen' " while barring productive laborers (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1670–1), members of Congress regarded Chinese merchants as "honorable" (U.S. Congress 1877:vi) and "respectable" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1584).

Most appeared not to notice this slippery juxtaposition of racism and classism in which merchants were simply plucked out of the "polluted" stream of the Chinese race. Indeed, while at one level race and class seemed to be conflated and to define each other in the congressional rhetoric, at another it was as if race and class existed on parallel and nonintersecting axes. In speaking of laborers, the race axis was foregrounded; for merchants, the class axis dominated. Members of Congress only rarely and obliquely commented on the conceptual awkwardness of a biological condition (relating to "cranial development," for example) being transformed by social class. In at least one instance, this logical difficulty was resolved by concluding that perhaps respectable members of the Chinese race were in fact part Caucasian. Speaking of a Yale graduate of Chinese origin who had successfully naturalized, a senator surmised, "[H]e was nearer white than black; he probably had some of the boasted Caucasian blood in his veins, as there are many people of Caucasian blood in China nearer white than black" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1748–9).

Women were rarely mentioned in the debates, and nothing in the 1882 law applied specifically to them. When the subject of women did come up, it was in the context of making the case for Chinese racial and moral inferiority. In the House of Representatives, it was proclaimed, "There are from 1,200 to 2,000 [Chinese women] in the city [of San Francisco], and they are all prostitutes or concubines, or second wives" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1903); "Out of the four or five thousand Chinese females in California there are not six who pretend to be good women" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1936);"Few [Chinese women] come here except from Chinese brothels, or raised for prostitution in China, which is a business there" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1903); and, "Their women are imported as slaves and are brought here and held here as slaves" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1903). Condemning Chinese men for not bringing their families with them as an

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indication of their moral depravity, one senator reported, "[H]is associations are with harlots of his own race" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1545). Even Chinese wives were implicitly demoted to prostitutes: "Who desires to see the American matron degraded to the position of the so-called Chinese wife?" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1589).

Gender, race, and class thinking intersected in at least two ways throughout the debates. First, they mutually defined each other. In the discussion of "coolies" and merchants, speakers conflated race and class such that the "class of Chinese known as coolies" constituted the "inferior race" against whom the exclusion was directed (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1902).[4] Race and class also defined what it meant to be a man or a woman, and it was this convergence of gender, race, and class thinking that confined the presence of Chinese women in the debate to the role of prostitutes.

But these ideologies ultimately intersected in another way as well, as the moral mandates implicit in them collided in the enforcement process. Congress may have had the luxury of overlooking its own lapses in logic and the overlapping, incoherent, and essentially arbitrary nature of the content of its conceptual categories, but enforcement officials were not so lucky. As we will see, the dilemmas that officials faced in dealing with the Chinese women who desired entry to the United States, and the practical solutions these officials devised, underscored not just the fragility and vulnerability of the operative conceptual categories but the instability of the ideological imperatives those categories implied.

Law-in-Action: Administrative Struggles, Judicial Juggling, and Ideological Triage

The Chinese Exclusion Act was signed on May 6, 1882 (22 Stat. 58). It did not take long before letters and memos began arriving at the Office of the Treasury in Washington, D.C., from San Francisco and other ports requesting information on how to enforce this law that was so far-reaching yet left so much unsaid. Among the most immediate questions posed by customs officials who had overnight become "Chinese Inspectors" was how the 1882 exclusion law was

[4] In a rare departure from this contorted logic, one dissenting senator addressed the president: "Is the Chinese trader assimilative and the Chinese weaver not? . . . Oh no, Mr. President, this argument is too inconsistent" (*Congressional Record* 1882: 47th Cong., 1st sess., Vol. 13, pt. 4, 1706).

to be applied to women.[5] A long, handwritten letter from San Francisco Customs Collector E. W. Sullivan to his superiors in Washington soon after the law passed listed seven questions, one of which was "Does this term laborer apply to females, servants, or married women?" (June 28, 1882, Entry 134, Box 2; emphasis in original). Treasury Secretary Charles Folger replied succinctly to his query the following month: "A woman may be a laborer. A wife takes the condition of her husband" (July 20, 1882, Entry 134, Box 4).[6] The secretary's decision set the stage for much that was to follow and was misleading in its apparent simplicity. In fact, there are really two decisions expressed here, and they are of interest for two reasons.

First, the question of whether a woman could be a laborer forced Secretary Folger to make a decision that coincided with the reality that some arriving Chinese women were in fact "laborers" according to most straightforward definitions of that term. But the decision contradicted patriarchal ideals of dependent womanhood —ideals echoed in the secretary's second statement that "a wife takes the condition of her husband." Thus, the decision that a woman was an independent being (who could be excluded as a laborer) was uneasily coupled with the notion of women's derivative status.[7] For now the secretary was satisfied that they were both self-evidently true, but as we see later, tensions brewed as enforcement officials struggled to accommodate these two competing notions of womanhood.

Second, while the Treasury Secretary temporarily resolved the questions of whether Chinese women could be laborers and how to consider Chinese wives, the practical question of what documents to require of these women was left unanswered. The issue became particularly troublesome in the case of wives of Chinese laborers who were returning from a visit abroad. Until 1888, Chinese laborers already in the United States at the time of the signing of the

[5] A hand-scrawled "List of Customs Case Files (Chinese)" from the San Francisco port in the early 1890s reveals the real-life diversity with which inspectors had to deal, as well as the non-routinized quality of the categorization process. After such commodities as "Cauliflowers in Salt," "Cod Liver Oil," and "Chalk," the list included, "Chinese Waiters on a U.S. War Vessel," "Chinese Dwarfs, Acrobats," "Chinese Steward," "Chinese Sailor," "Ship's Cook," "Students," "Merchants," "Wife of a Chinaman," "Servant of an Officer of the Japanese Government," "Women for Immoral Purposes," "Preacher," "Nurses and Body Servants," "Wife and Daughter of Chinese Actor," "Lady of High Rank Passing Through," "Bookkeeper," and "Wife of a Chinese Dentist" (1891, Entry 134, Box 6).

[6] Inserted above this on the handwritten reply, as if an afterthought, was the notation "A servant is a laborer."

[7] The concept of women's derivative status when it came to questions of citizenship had been established in the Naturalization Act of 1855, which conferred U.S. citizenship on foreign women who married U.S. citizens. Consistent with this dependent-status concept, the Expatriation Act of 1907 expatriated American women who married foreigners. It was not until 1934 that women achieved independent citizenship (Bredbenner 1998).

exclusion law were allowed to make visits to China (and elsewhere) and reenter upon presentation of a certificate given them at their port of departure from the United States. Many Chinese men in the United States returned to China specifically to marry, and the question of whether and how their wives might be admitted was a pressing one. The Treasury Secretary's decision that a wife took on the status of her husband meant that wives of returning laborers were themselves defined as laborers who, if they had not been in the United States at the time of the exclusion law's passage and thus had no "return certificate," were to be excluded. Wives of returning Chinese laborers thus experienced the worst of both worlds—their derivative status was dependent on that of their laborer husbands, yet they were treated as legally separate persons when it came to the issue of certificates.

This policy of requiring wives of returning Chinese laborers to have their own certificates was upheld in the courts in 1884, in a widely cited decision (*In re Ah Moy*) that highlights the awkward logic into which such questions forced practitioners and the relative ease with which inconvenient aspects of patriarchal ideals were selectively jettisoned. The case involved a Chinese laborer, Too Cheong, who had lived in the United States since 1880, had secured a reentry certificate before leaving San Francisco for a visit to China in 1883, and had returned with his new bride, Ah Moy. As was their policy, customs officials in San Francisco gave Ah Moy the status of her laborer husband and barred her from landing on the grounds that she did not have a return certificate (nor could she have, since she had never been to the United States).

The circuit court judges in the case agreed that the San Francisco Customs Collector was correct in barring Ah Moy from landing, but they disagreed as to why. Specifically, they differed on the central question of whether wives shared the status of their husbands. Thus, while solving the immediate practical question of whether to exclude such women, the case highlighted the more fundamental ideological dilemma. Justice Stephen Field acknowledged that Ah Moy was "a distinct person" and that "[t]he fiction of the law as to the unity of the two spouses does not apply under the restriction act," and he struggled with the idea of a wife taking on her husband's occupational status. While he argued, "This position [derivative status] might, in some instances, be tenable," he resisted the notion that a wife was actually a laborer. Admitting that the statute "is somewhat contradictory" and engaged "confused language," he concluded that the only way "consistency can be given" to the flawed legislation was to require Chinese wives of laborers to present "Section 6 certificates," declaring that they were "other than laborers." Section 6 certificates—provided by the Chinese government primarily to merchants to show they were exempt

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from the law—were not available to wives of laborers, a fact that appears not to have concerned the justice. He did dwell briefly on the "hardship of separating man and wife" and "our notions of the sacredness of that relation," but the bottom line for Justice Field was that the "construction" he had given the statute "disposes of the application of the petitioner" (*In re Ah Moy* 1884, 21 *Federal Reporter* 785).

Justice Lorenzo Sawyer took the more traditional view that "the wife must be regarded as taking the status of the husband," and thus "the wife of any Chinese laborer, without regard to her status, or actual occupation before marriage," was a laborer. At the same time, she had to establish "an independent individual personal right of her own" to enter by securing her own return certificate. Justice Sawyer's opinion arguably strained logic by classifying women as appendages of their husbands in one instance but requiring them to establish their own right to enter in the other. As in Justice Field's opinion, however, the critical virtue of this strained logic appears to be that it preempted larger numbers of Chinese from landing. Thus, Justice Sawyer began his opinion,

> If such Chinese laborer has a right to bring into the country with him, a wife, who has never been here before, he must, upon similar grounds, be entitled to bring with him all his minor children; and under this right the number of Chinese laborers, who are entitled to come to the United States, will be greatly extended beyond the number who can enter by virtue of their own individual rights (*In re Ah Moy* 1884, 21 *Federal Reporter* 785).

Together these opinions highlighted the strategic incompatibility between and among various patriarchal ideals of womanhood—the assumption of wives' derivative status; the view of wives as companions, not laborers; and the sanctity of the unity of man and wife. While the justices disagreed on which of the first two precepts to triage, they were both willing to sacrifice the "sacred" principle of family unity. Their written opinions leave little doubt but that the sacrifice was a pragmatic one, made in the interest of maximizing exclusions of this population that was widely understood to be racially inferior. Justice Field's last words of consolation to Too Cheong hint also at his racist trivialization of Chinese marital relations. Cheong, Justice Field said dismissively, need not be separated from his wife, but could "return with, and protect his child wife in the Celestial Empire."

It is often pointed out that the courts were more generous toward the Chinese than was the enforcement bureaucracy in this early period, frequently reversing exclusions on appeal (Salyer 1995; Chan 1991; McClain 1994; McClain & McClain 1991; Lee

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2003). In *Ah Moy,* however, the circuit court decision replicated and reinforced the pattern that customs officials followed for more than a decade. This is not to say that the strained logic did not continue to plague officials responsible for its daily application. As San Francisco Customs Collector Sullivan had written in 1883, despite "various decisions of the department [the Treasury] and rulings of the court," "the whole business [of enforcement] is full of vexatious and perplexing questions, and new ones are continually arising . . . " (August 13, 1883, Entry 134, Box 2).

Memos circulated among enforcement officials reminding each other "that a female may be a laborer, that the wife of a laborer takes the condition of her husband" (undated memo, Entry 134, Box 1). A letter from Treasury Secretary Daniel Manning to a New Haven, Connecticut, resident who had requested through his congressional representative that the wife and small son of a Chinese laborer be permitted to land, denied the request. The letter explained, "The wife of a Chinese laborer is a person" (In a draft of this letter, the word *laborer* had been scribbled over and substituted with the arguably less disputable term *person*) (March 1887, Entry 134, Box 1). A year later, the Scott Act (25 Stat. 504) denied returning laborers the right of reentry into the United States and thus brought an end to this particular set of "vexatious questions."[8]

Policy decisions relating to the wives of merchants were even more tortured than those applying to the wives of returning laborers, and they continued to confound the enforcement bureaucracy for decades. In part, the issues were complicated by the fact that racially motivated restrictionism was shot through in these cases with assumptions about the superiority of the merchant class. Indicative of the intellectual and ideological turmoil these cases presented, formal and informal policies relating to the admission of merchants' wives were modified almost annually in the early years, with each change pivoting on the crucial questions of whether wives of merchants were distinct persons or appendages of their husbands, and what intrinsic rights the husbands had to their company.

In the first years after the 1882 exclusion law was passed, customs collectors appeared to use their discretion in admitting wives of Chinese merchants. While they were usually required to have their own Section 6 certificates attesting to their honorary "mer-

[8] Approximately 20,000 resident Chinese laborers were out of the country when the Scott Act was passed, 600 of whom were already in transit back to the United States (Coolidge 1909:280; Ling 1998:2). Customs collectors barred these returning laborers from landing, and the Treasury Secretary declared all reentry certificates null and void, decisions that were upheld by the courts (*In re Chae Chan Ping* 1888, 36 *Federal Reporter* 431; *Chae Chan Ping v. United States* 1889, 130 U.S. 581).

chant'' status, the requirement was not always strictly enforced. A note dispatched from Treasury Secretary Folger in response to a query in 1883 thus referred to a broad policy of requiring ''Section 6's'' but concluded with an unceremonious (and unelaborated) nod to administrative discretion; in some cases, the secretary wrote, the wives and minor children of merchants ''may land in the U.S. without the statutory certificates, *if it should be impracticable to obtain them*'' (December 15, 1883, Entry 134, Box 3; emphasis added).

A California circuit court decision in 1884 (*In re Ah Quan*) began to routinize the process, but if it temporarily resolved issues of policy it also underscored the logical and ideological dilemmas inherent in them. The opinion written by Justice Sawyer sounded much like his decision in the *Ah Moy* laborer case discussed above. Arguing that ''the wife and minor children . . . of a Chinese man, should be deemed to belong to the class to which the husband, or father belongs,'' he explained that they therefore must have their own certificates. Quoting from the 1884 amendments to the exclusion law that specified that ''every Chinese person other than a laborer'' must have a Section 6 certificate, Justice Sawyer cited the dictionary to clinch his argument: ''Webster defines a 'person' to be an individual of the human race . . .'' Wives and children of merchants, as ''persons,'' were ipso facto required to have their own documentation. Consistent with his priorities in *Ah Moy,* Justice Sawyer was satisfied that his opinion had the desired practical effect: ''Any other construction,'' he said, ''would open the door to frauds and difficulties'' (*In re Ah Quan* 1884, 21 *Federal Reporter* 182).

Almost immediately, attorneys representing Chinese merchants and steamship companies contested the policy, ridiculing the logic of requiring wives whose status derived from their merchant husbands to obtain their own ''merchant'' identification. The attorneys asked the president sarcastically, ''What certificate could the Chinese government issue to the wife? A certificate that she is a woman?'' (October 27, 1884, Entry 134, Box 1).

Treasury Department documents suggest that customs officials continued for a time to exercise substantial discretion despite the judicial intervention. For example, a letter from Secretary Manning informed representatives of a Chinese merchant that the merchant and his wife were theoretically admissible, but ''[T]he Department cannot undertake to decide what evidence of the right of a Chinese person other than a laborer to [enter] the United States, will be satisfactory to the Collector of Customs, in any case'' (March 16, 1886, Entry 134, Box 1). In at least one case, a note to the customs collector from the Chinese consul General Liang Ting Tsau stating that landing women were ''respectable Chinese women being lawful wives of [the landing merchants],'' was sufficient (June 12, 1888, Entry 134, Box 1).

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By late 1888, the Treasury policy of tolerating wide discretion by individual customs officials appears to have been informally reversed. In a series of letters and memoranda, Special Agent for the Treasury Herbert Beecher in Port Townsend, Washington, chastised local Customs Collector John Hobson for having allowed the wife of merchant Chu Gow to land without a Section 6 certificate. The Customs Collector had written Special Agent Beecher, "Insofar as the landing of Chu Gow and wife are concerned, I do not believe the interest of the law has been violated, as he is undoubtedly a merchant and appears to have taken this woman for his lawful wife" (July 11, 1888, Entry 134, Box 1). Beecher blasted back, "[Y]our duty was to ascertain if they had proper certificates. . . . Please inform me upon what grounds you thus admitted them" (July 18, 1888, Entry 134, Box 1). The chastened collector responded, "I informed the said Chinese merchant he could land his wife upon the production of a lawful marriage certificate, certified to by the American Consul, accompanied by the paper certificate of the American Consul, that such Chinese woman was a person other than a laborer" (July 21, 1888, Entry 134, Box 1). In any event, he had said, "Since receiving your letter, I am of the opinion that the wife of Chu Gow should have had a [Section 6 certificate], and in future cases I will require the production of such certificate before permitting such Chinese persons to land" (July 11, 1888, Entry 134, Box 1).

The Special Agent dispatched a 10-page letter, including 14 enclosures, to Treasury Secretary Charles Fairchild on this case, stressing the need "to prevent promiscuous landing of the Chinese" lest there be "a repetition of the [anti-Chinese] riots of Tacoma, Seattle, and Rock Creek."[9] He concluded with the warning, "The Department no doubt is fully aware of the laxity of morals of Chinese concerning their women. The [Chinese] wife bears none of the ties that our race have of it. . . . Chinese women are bought and sold into prostitution, in China and Victoria B.C. as well as in the United States they buy and sell their women. Prices range from $300 to $2,000 each" (July 9, 1888, Entry 134, Box 1).

This more strict enforcement policy was reiterated in instructions and letters and was formalized in a Treasury Department decision of August 18, 1889 (U.S. Department of the Treasury 1889: Decision 409, T104–16.409). But the following year, the cir-

[9] Pogroms had been launched against the Chinese in these cities in 1885 and 1886, leaving several Chinese dead and many more homeless, prompting federal troops to be sent in. Chang writes that "it is difficult to assess which posed the greater threat to the Chinese, the mob or the troops. Some soldiers decided to collect a 'special tax' from the residents of Chinatown, seizing cash from the people they were sent to protect. Others joined in mob activities, beating up several Chinese, cutting off one man's queue, pushing another down a flight of stairs, throwing still another into a bay" (2004:133).

cuit court in Oregon ruled against the Treasury's policy of requiring Section 6's, claiming that it violated the Angell Treaty with China, was inconsistent with statutory intent, and contradicted the "natural right" of a man to the company of his wife. In the case in question, a well-known Chinese merchant (Wong Ham) resident of Portland, Oregon, had gone to China and returned with his wife and small daughter. Wong Ham carried the required Section 6 certificate and was allowed to reenter the United States, but his wife and daughter had no certificates and were barred from landing. Subsequently, a writ of habeas corpus was filed on their behalf.

Declaring that "the manifest purpose of this legislation is to exclude Chinese laborers," Justice Matthew Deady reasoned that requiring certificates of merchants and their wives was not intended to limit their entry, but simply to guard against laborers gaining admission disguised as merchants. Thus, all that should be required was any good evidence that they were actually members of "these favored classes." Citing the statute and the Angell Treaty, Justice Deady declared, "The admission of the petitioners is not within the mischief that the exclusion act was intended to remedy" (*In re Chung Toy Ho* 1890, 42 *Federal Reporter* 398, 399).

Equally important, since only laborers were meant to be excluded, it made no sense to bar *wives,* and much less so the *wives of merchants*. Justice Deady declared incredulously, "It is common knowledge that Chinese women are not laborers. The station in life of the petitioners, being the wife and child of a merchant, also shows that they do not belong to the laboring class" (*In re Chung Toy Ho* 1890, 42 *Federal Reporter* 398, 399). Justice Deady admitted that technically the law said that all Chinese persons had to carry Section 6 certificates demonstrating they were "other than laborers," but it was beyond comprehension that this might apply to the wives and children of merchants: "Confessedly the petitioners are 'Chinese persons', and are therefore within the letter of the statute. But. . . . [i]t is impossible to believe that parties to this treaty, which permits the servants of a merchant to enter the country with him, ever contemplated the exclusion of his wife and children" (*In re Chung Toy Ho* 1890, 42 *Federal Reporter* 398, 399).

If it was "common knowledge" that Chinese wives were not laborers (knowledge that undoubtedly would have been surprising to the many Chinese women working long hours in laundries and sweatshops), it also appeared ludicrous to Justice Deady that they might be considered merchants, declaring unilaterally: "Chinese women are not teachers, students, or merchants; and therefore they cannot, as such, obtain the certificate necessary to show they belong to the favored class" (*In re Chung Toy Ho* 1890, 42 *Federal Reporter* 398, 399). Instead, he argued, they should only have to

provide documentation of their legal relationship to an exempt husband or father.

Justice Deady deftly drew from assumptions about congressional intent and "common knowledge" about the status of women in constructing his decision. Spliced through it and arguably buttressing its credibility in the face of a hostile, restrictionist political climate were references to the proper role of wives vis-à-vis their husbands. According to Justice Deady, the reason Congress never mentioned merchants' wives as admissible under the exclusion law was because it was so taken for granted that "the domicile of the wife and children is that of the husband and father" (*In re Chung Toy Ho* 1890, 42 *Federal Reporter* 398, 399). Suggesting the priority he ascribed to the patriarchal ideal of unity between man and wife, the justice concluded his opinion:

> My conclusion is that under the treaty and statute, taken together, a Chinese merchant who is entitled to come into and dwell in the United States is thereby entitled to bring with him, and have with him, his wife and children. The company of the one, and the care and custody of the other, are his by natural right. (*In re Chung Toy Ho* 1890, 42 *Federal Reporter* 398, 399).

Justice Deady was unable to fathom merchants being deprived of their natural right to the company of their wives, a right that Justice Sawyer had self-consciously sacrificed at the altar of exclusionism in *Ah Quan,* and that Justices Field and Sawyer had unceremoniously refused laborers in *Ah Moy.*[10] His reasoning was validated 10 years later in the Supreme Court decision *Mrs. Gue Lim v. United States* (1900, 176 U.S. 459). A few years after that, the Supreme Court in 1905 (*U.S. v. Ju Toy,* 198 U.S. 253) declared that decisions of the Secretary of Commerce and Labor (by then in charge of all immigration) regarding Chinese admissions were final and beyond appeal even in the case of those claiming U.S. citizenship, thereby putting an end to judicial input on these questions.[11]

After *Chung Toy Ho,* Chinese immigration inspectors technically required only documentation of lawful marriage for merchants' wives to gain admission. However, concerns about fraud persisted, joined as they were with perceptions of the "Mormonistic

[10] Justice Deady appears to have disapproved of the exclusion laws, a disapproval that arguably influenced his decision in this important case. In an earlier decision, he had revealed his contempt for the 1888 Scott Act barring returning laborers, which he called a "harsh and unjust measure" (*In re Yung Sing Hee* 1888, 36 *Federal Reporter* 437, at 439).

[11] Congress had passed a law in 1891 (Immigration Act of 1891, 26 Stat. 1084) giving the Superintendent of Immigration full jurisdiction over immigration admissions, subject only to review by the Secretary of the Treasury. However, the law reiterated the separation of Chinese immigration from "regular" immigration, and excluded it from this provision barring judicial review. It was not until the *Ju Toy* Supreme Court decision that judicial review of Chinese admissions cases was terminated for good.

[polygamous] proclivities of the Chinese race" (November 12, 1887, Entry 134, Box 1). As a result, the practice of requiring two white witnesses—already used to confirm mercantile status—was extended to the issue of marital status (U.S. Department of Commerce and Labor 1904:C106–11). One observer noted that such requirements "proved a difficult task, since Chinese women seldom had contacts with white men and those men who testified for them were usually only business acquaintances of their husbands" (Tang 1983:5).

What to do with wives of returning laborers had triggered some administrative confusion and required dexterous judicial juggling, but this question of how to treat merchants' wives was even more complex, woven through as it was with issues of class. Inspectors and immigration officials sometimes remarked on the "superior" physical appearance of merchants' wives. For example, a merchant's wife who had entered in 1885 was described in a letter to Treasury Secretary Manning: "The wife [was] a rather superior looking woman, tall, self-possessed, and finely dressed . . ." (November 12, 1885, Entry 134, Box 1).

At least as important, class bias was expressed in judicial and administrative decisions that prioritized the patriarchal privileges of merchants. As Justice Deady had put it, it was inconceivable that this class should be denied their natural right to the company of their wives. Citing the U.S. Supreme Court in *Mrs. Gue Lim v. United States* (1900), Secretary of Commerce and Labor George Cortelyou somewhat reluctantly agreed that Congress could not have intended "to prevent husbands . . . who are lawfully resident in the United States, *and not laborers,* from enjoying the companionship of their wives . . ." (U.S. Department of Commerce and Labor 1904:C106–11; emphasis added).

Despite such class biases and the judicial decisions at least in part shaped by them, many merchants' wives continued to be barred. Out of 46 Chinese women attempting to enter as merchants' wives in 1904, 10 were rejected (U.S. Commissioner-General of Immigration 1904:159). One of these was the widow of a merchant who had inherited the family business and who was thus arguably herself a "merchant." Contending that "it is not shown . . . that the widow takes any part in the conduct of the business" and was thus not a *real* merchant, and ignoring the fact that the widow was indeed in some sense the *wife* of a merchant (and certainly a "person other than a laborer"), the recently installed Secretary of Commerce and Labor, Victor Metcalf, barred her from landing (U.S. Department of Commerce and Labor 1904:C106–35).

While it is beyond the scope of this article to explore in detail the experiences of Chinese women claiming U.S. citizenship or Chinese wives of men claiming citizenship, it is worth noting that

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the difficulties they encountered followed the same pattern. While the Chinese were precluded from naturalizing, those born in the United States were U.S. citizens. The *Gue Lim* decision relating to merchants' wives also required immigration officials to respect the right of a male citizen of Chinese ancestry to the company of his wife, but that right was often abrogated in practice. Not only were Chinese inspectors empowered to make determinations of citizenship and the marital relationship, but the threat of deportation on grounds of suspicion of immoral sexual conduct was omnipresent (Park 2004; Stevens 2002; Lee 2003; Salyer 1995).

This general administrative wariness was in part due to suspicions of widespread fraud, exacerbated by racist stereotyping. The Chinese inspector for the southern district in San Diego, F. B. Goodrich, told a congressional committee in 1891, "They [the Chinese] are the biggest liars on earth" (U.S. House of Representatives 1891:511). Special Agent Herbert Beecher concluded a letter to the Treasury Secretary, ridiculing a judge who had "congratulated" a Chinese witness on his honesty: "Surely the Hon. Judge must be facetious, or entirely ignorant of Chinese nature" (July 12, 1888, Entry 134, Box 1). Department of Treasury investigators John Linck and C. J. Smith reported to the secretary on a customs collector they thought was too lenient:

> The Collector should be guided by the policy of our law . . . that Chinese are an undesirable addition to our society—that their presence is a disturbing element that tends only to evil and corruption, and that every presumption, every technicality, and every intendment should be held against their admission and their testimony should have little or no weight when standing alone (quoted in Salyer 1991:74).

The U.S. Commissioner-General of Immigration, Frank P. Sargent (a former labor leader and close friend of Samuel Gompers), often referred to "the *alleged* wives and *alleged* minor children of merchants" (January 2, 1904, Entry 9, Box 181; emphasis added). He warned, "This is a class the admission of which has to be carefully guarded, because the guise of wife or minor daughter is so easily availed of when some one of the numerous secret societies desires to import a prostitute or slave girl" (U.S. Commissioner-General of Immigration 1906:86). Commissioner Sargent reported to Congress, "In many instances the 'wives' of these domiciled merchants are either concubines or prostitutes, and after being brought to this country are sold into the most abject and abhorrent kind of slavery" (quoted in U.S. House of Representatives 1906:67). San Francisco inspector S. J. Ruddell told Congress with complete confidence in 1891, "Most of the women that have been brought in here in the past who have been landed on writs of habeas corpus

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have been imported for immoral purposes" (U.S. House of Representatives 1891:282).

As significant as these suspicions and the racism that magnified them were, there is evidence that the immigration bureaucracy was also responding to more practical, political considerations in their severe application of the law. For one thing, as Salyer points out, unlike the courts the immigration bureaucracy was located within the "patronage politics" of the period and was thus the target of powerful "public and party pressure" (1995:38–9). In this era of anti-Chinese fervor, "[t]he watchfulness of the public encouraged the collector and his staff to take a restrictive, enforcement-minded approach to their work" (Salyer 1995:39).[12] As early as 1882, San Francisco Customs Collector Sullivan thus made the decision to decline admission whenever there were "technical points" to consider and "to leave doubtful questions to the Courts to construe" (Letters to Treasury Secretary Charles Folger, August 28, 1882, and November 23, 1882, Entry 134, Box 3). Sullivan explained in a letter to Secretary Folger, "I have no desire in executing the law, to render it obnoxious to anyone, but . . . *I do not desire that a political question should arise* therefrom, and therefore I shall leave all doubtful points for the Courts to decide" (August 28, 1882, Entry 134, Box 3; emphasis added). The following year he wrote, "I determined to refuse landing in each case when there was a doubt raised . . ." (December 3, 1883, Entry 134, Box 3). In 1893, San Francisco Customs Collector John H. Wise responded to an attorney's inquiry that he excluded as many Chinese as he possibly could, and "if proof [was] not of the most convincing kind, landing [would] be refused" (Wise, quoted in Lee 2003:54).

Inspectors and their superiors were also motivated by the fear of provoking anti-Chinese violence. Enactment of the exclusion laws had not diminished anti-Chinese sentiment nor the willingness to act on it. As Chang describes the climate in the immediate aftermath of the law's passage:

> Far from appeasing the fanatics, the new restrictions inflamed them. Having succeeded in barring the majority of new Chinese immigrants from American shores, the anti-Chinese bloc began a campaign to expel the remaining Chinese from the United States. During the period of terror now known as "the Driving Out," several Chinese communities in the West were subjected to a level of violence that approached genocide (2003:132).

It was to this violence that Special Agent Herbert Beecher referred when he warned that enforcement must be strict in order to avoid

[12] Salyer compares this tough approach to that of federal judges: "Federal judges, sitting on the bench with life tenure, could more easily afford to allow Chinese traditional legal protections" (1995:85).

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"a repetition of the riots of Tacoma, Seattle, and Rock Creek." Just as the courts had sometimes been willing to jettison the "sacred" unity of husband and wife in the practical interest of preventing fraud and minimizing landings, so pragmatic considerations such as patronage politics and riot control played an important role in administrative decisionmaking, even on occasion trumping such powerful narratives as class and gender. The evidence presented earlier suggests that classist and patriarchal thinking complicated and sometimes tempered the strict enforcement of exclusion laws in the case of merchants' wives, just as these ideologies were woven through congressional rhetoric and required courts to engage in some fancy judicial footwork. But in the context of ever more fervent anti-Chinese racism, patronage politics, and fear of riots, practical considerations eroded the power of these class and gender narratives and encouraged inspectors to err on the side of exclusion.

The most dramatic evidence that pragmatic concerns played a leading role and could upstage even the most entrenched ideological imperatives occurred during the St. Louis Exposition in 1904 and following the boycott of American goods in China in 1905. In 1902, the White House and Congress were besieged with letters and petitions from the Chambers of Commerce in Portland (Oregon), San Francisco, and New York; the Merchants' Exchange in San Francisco; and the Philadelphia Board of Trade, urging them to allow Chinese merchants attending the St. Louis Exposition to enter without harassment (McKee 1977:50). In this context, President Teddy Roosevelt publicly denounced harsh enforcement against Chinese merchants and their families in the interest of "enlarg[ing] our trade with China" (quoted in Coolidge 1909:164). The president instructed the Secretary of Commerce and Labor that the "utmost liberality be shown" in enforcing the exclusion law against Chinese merchants (quoted in McKee 1977:72), prompting the Department to amend its regulations for those attending the St. Louis Exposition (U.S. Commissioner-General of Immigration 1904:154).

While the new policies relaxed enforcement somewhat, the humiliation to which the Chinese had been subjected for years continued to rankle, and when exclusion was made permanent in 1904 Chinese merchants began to organize a protest.[13] In May

[13] The first signs of mass resistance to exclusion policies had come in 1892, when Congress passed the Geary Act, requiring all Chinese laborers in the United States to register and to carry identity cards at all times (27 Stat. 25). A campaign of noncompliance was launched, and the Treasury Department was eventually forced to issue orders "to refrain from making arrests" under the law, effectively rescinding it by administrative fiat (Letter from Secretary of the Treasury to customs officials, May 24, 1892, reprinted in *Congressional Record* 1893: 53d Cong., 1st sess., Vol. 25, pt. 2, 2444).

1905, the leading merchant associations in Shanghai passed a resolution to boycott American goods, and other cities joined in, pledging to rid their shelves of American imports by August. U.S. exports to China were reduced by more than half within the year, and the boycott galvanized criticism of the immigration bureaucracy within the American business community. The *New York Times* called the exclusion law "a barbarous measure, brutally enforced" (*The New York Times,* "The Chinese Boycott," 16 May 1905, p. 8). According to an internal memo at the Department of Commerce and Labor, the boycott "led to considerable correspondence between the White House and the Department regarding particular complaints and the difficulties encountered by the Department in enforcing the law" (1909, Entry 9, Box 121). U.S. Commissioner-General Sargent subsequently sent a letter to all Chinese inspectors labeled "IMPORTANT" that issued:

> imperative instructions that . . . every possible endeavor shall be exercised to prevent the incurrence of any just cause for complaint . . . "The administration of the law shall . . . be stripped of all harshness of word or action" (quoted in U.S. Congress 1906:149).

Secretary of Commerce and Labor Victor Metcalf sent out a circular reiterating the right of the exempt classes "to come and go of their own free will." It concluded by warning that "any harshness in the administration of the Chinese exclusion laws will not for one moment be tolerated" (June 24, 1905, Entry 9, Box 106). In his *Annual Report,* U.S. Commissioner-General Sargent made it clear that the policy changes were a response to "the present agitation against the enforcement of the exclusion laws" (1905:81).

The new enforcement approach had an immediate effect. While in 1905, 29% of those attempting to enter as members of the exempt classes were rejected, the following year fewer than 6% were turned away (U.S. Commissioner-General of Immigration 1906:84). The boycott was over by winter 1906, but it continued for some years to influence policy. Citing the abrupt reduction of exports during the boycott, Secretary of Commerce and Labor Oscar Straus in 1908 advocated "making admission the rule, and exclusion the exception" (Straus 1908:485). In 1911, the next Secretary of Commerce and Labor, Charles Nagel, sent out a circular ordering that whenever a merchant was accompanied by his wife, the wife should be permitted to enter if later "the relationship of husband and wife . . . will *probably* be established upon further investigation" (January 14, 1911, Entry 9, Box 166; emphasis added).

Indicative of the more lenient approach and in stark contrast to the merchant/widow who had been denied entry six years earlier, in 1910 Gee Quock Shee was the first Chinese woman to gain entry

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as a merchant. As Ling (1998:39) tells the story, Gee Quock Shee had gone to China with her merchant husband in 1907, but when she returned to the United States in 1910 while he stayed in China on business, she was initially denied entry as a merchant's wife because he was not with her. She filed a complaint with the inspector at Angel Island (the detention center for Asian immigrants at the San Francisco port): "'I . . . request that my application [as a merchant's wife] be withdrawn and renew it, having a status of a merchant myself'" (quoted in Ling 1998:39). A brief investigation confirmed that Gee Quock Shee owned half the family business, and San Francisco immigration officials allowed her to enter without further delay. Gee Quock Shee's admission as a merchant—and on her own, without a husband to require her companionship—reveals the contingency of even the most robust patriarchal assumptions. Decades before, officials had struggled with the then counterintuitive notion that "a female may be a laborer," yet they had settled on it as a way to prohibit the landing of returning laborers' wives. That a Chinese woman could be a merchant in her own right might seem even more inconsistent with prevailing gender ideology, but such revolutionary thinking had pragmatic advantages, in this case tamping down any "just cause for complaint" among the Chinese.

The ratio of rejections and deportations to admissions among the exempt classes had increased every year from 1898 through 1904 (U.S. Commissioner-General of Immigration 1904), but in the aftermath of the 1905 boycott the number of Chinese barred from landing plummeted, and the ratio stayed relatively low for the rest of the decade (U.S. Commissioner-General of Immigration 1906, 1910). In 1907, 51 merchants' wives sought admission and *none* were denied entry; even more surprising, all but one gained admission as the result of inspectors' decisions, with only one having to appeal to the Secretary of Commerce and Labor (U.S. Commissioner-General of Immigration 1907:96).

Field inspectors complained bitterly about the liberalization and the "damaging effects" it had on enforcement (1906, Entry 9, Box 121), and immigration officials in Washington continued to report their suspicions of fraud (U.S. Congress 1906; U.S. Commissioner-General of Immigration 1909, 1910). Just as this race thinking remained intact, the patriarchal notions that underlay earlier presumptions that Chinese women could not themselves be merchants, and that justified administrative and judicial decisions about women's derivative status, were of course not altogether abandoned. The point instead is that the ideological imperatives of one moment, often rhetorically marshaled in defense of some practical or political advantage, may be summarily stripped of their moral force in another.

Conclusion

Five years after the Chinese Exclusion Act was passed, Special Agent Beecher in Port Townsend, Washington, beseeched Treasury Secretary Fairchild to instruct him on its enforcement. In scrawling handwriting, he concluded his 10-page letter, "Will the Department aid me in coming to some satisfactory understanding of this already unsatisfactory law, a law created without practical knowledge of what was required of it?" (November 12, 1887, Entry 134, Box 1). Thirteen years later, U.S. Commissioner-General of Immigration Sargent expressed his frustration at the difficulties of enforcing the law: "Probably no system of legislation enacted thus far by Congress has more numerous or serious obstacles to surmount" (quoted in U.S. Congress 1906:7).

While Congress could deploy its ticklish logic in the service of important interests—such as the political advantage secured by restricting Chinese immigration and the economic benefits of exempting merchants with their lucrative trade potential—and dodge any fallout from that logic, those on the frontlines of enforcement had no such luxury. For it fell to the Chinese inspectors to sort a diverse humanity into the "coolie"/merchant binary presumed by Congress, and to do so in a way that satisfied restrictionists yet minimized the humiliation to merchants. And the omission of any mention of women in the statute meant that enforcement officials had to wrestle with such counterintuitive notions as "a female may be a laborer" and "the wife of a Chinese laborer is a person."

Some of the most enduring dilemmas pitted the contradictory moral imperatives of patriarchy, racism, and classism against each other in an intricate pas de trois that played out daily at major ports of entry, in the courts, and in administrative appeals. In the process, enforcement officials were repeatedly put in the unenviable position of having to sacrifice one or more ideological principles for the sake of another. Confronted with returning laborers' wives, inspectors invoked the patriarchal principle of wives' derivative status—thereby conferring on them the status of laborers and barring them—but in doing so violated a man's right to his wife's company. The wives of merchants fared somewhat better, benefiting as they did from their husbands' superior social class. Nonetheless, the fickle way that the single-identity theory of marriage was applied in the early years—i.e., wives were given derivative status yet required to have their own documentation—meant that even the wives of merchants were regularly denied admission. And when they were, the class- and gender-infused notion that men "other than laborers" certainly had a right to the company of their

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wives was suppressed in practice. Indeed, over the course of the three decades focused on here, virtually all the central axioms of patriarchy were violated at some point, including—in the surprising case of Gee Quock Shee, who gained admission in 1910 as a merchant herself—the presumption that women were appendages of their husbands and therefore by definition *not* professionals in their own right.

Critical legal studies long ago exposed the ways that abstract democratic principles such as the right to free speech (Kairys 1982) or workers' right to collective bargaining (Klare 1982) are routinely suppressed in practice. In their paradigm, such suppression is the inevitable result of contradictions rooted in the political economy of capitalist democracies. Without overstating the parallels, what we have seen here is that there is little more ideological consistency or coherence when the principle in question is, for example, a man's "natural right" to the company of his wife. In both cases, entrenched principles are violated with seeming aplomb, demonstrating once again the contingency of ideological imperatives.

At one level, then, the argument I make here is about the contradictory moral imperatives resulting from this congressional lawmaking and the ideological triage it demanded of enforcement officials. At another level, however, this article is about how that triage was executed. At first glance, the on-again, off-again power of particular patriarchal principles relative to each other or to racist restrictionism and class bias may appear whimsical, or perhaps dependent on the individual preferences of a particular judge or customs collector. Clearly, some circuit court judges *were* more favorable to Chinese immigration than others, and the varying styles and prejudices of San Francisco customs collectors are well-documented (Salyer 1995; Lee 2003). But we have seen here that pragmatic considerations were often decisive. Just as the racism and classism of Congress had served political and economic ends, so practical matters patterned enforcement as well, alternately privileging and then undermining even the most established axiomatic truths as enforcement officials succumbed to strategic contingencies both large and small.

This case study suggests a number of more general points pertinent to issues in the law and society literature. It is well-established that identity categories are overlapping, incoherent, and susceptible to sociolegal manipulation (Glick Schiller & Fouron 2001; Jones-Correa 1998; Matsuda 1989; Minow 1990, 1997). So too, it appears, are the ideological contents of and normative imperatives associated with those categories. In other words, the moral mandates of patriarchy, racism, and classism are as socially constructed and contingent as the underlying identity categories themselves. And just as the intersectionality of these categories

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produces a compound marginality for women of color (Crenshaw 1990), the intersectionality of patriarchy, racism, and classism is not only nonadditive but is fraught with contradictions and conceptual turmoil.

A second point relates to the pragmatic deployment and suppression of ideology. As many others have noted, ideology is not a fixed thing but a fluid process. Hunt, in his elegant essay "The Ideology of Law," says simply, "[A]n ideology is not a unitary entity" (1985:16). He explains, quoting Therborn, "Ideologies actually operate in a state of disorder. . . . competing, clashing, affecting, drowning, silencing one another" (1980:77, 103). Hunt goes on: "This view of ideology is particularly salutary in the field of legal analysis since it counsels us not to assume the coherence and consistency of legal discourse" (1985:16). Much as Ewick and Silbey reveal the ways "people express different understandings, values, and expectations, depending on the situation in which they are speaking and what they imagine accomplishing through their talk" and in so doing "invok[e] alternative interpretations from among the culturally available repertoires or ideologies," (1998:51), so these enforcement officials exercised considerable ideological versatility in the face of shifting circumstances.

If ideology is not a fixed thing, neither is it composed only of beliefs; rather, it entails the activation of those beliefs in practice. As Hunt has put it, the concept of ideology allows us "to explore the connection between ideas, attitudes, and beliefs, on one hand, and economic and political interests, on the other" (1985:13). In his view, "we can thus ignore ideology as 'Ideology,' which refers only to a systematic and totalized world view (*Weltanschauung*)" (1985:13; emphasis in original), since ideology is neither systematic and coherent nor just a worldview. Much as racism is clearly both an attitude and a subordinating practice, all such ideologies are simultaneously thought and action.

If ideology truly comprises both thought and action, belief and practice, then demise of the practice by definition implies ideological erosion. But we can take this one step further, because ideological beliefs must be acted on to be sustained over time. Arguing that "ideology . . . represent[s] an intersection between structure and consciousness," Ewick and Silbey explain that it therefore "has to be lived, worked out, and worked on" (1998:225–6). If a practice associated with a particular ideological belief is repressed or suspended—and thus is not "worked on"—over time the belief itself may be eroded. Of course, the subjective infrastructure underlying an ideological practice may endure for a time despite its suspension. Many Chinese inspectors, for example, chafed at the leniency imposed after the boycott of American goods in 1905 and continued at every opportunity to express their suspicions of fraud and

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their disdain for the Chinese. But to the extent that ideological beliefs must be practiced to be sustained in the long run, they are inherently unstable and at risk, buffeted as they are by internal contradictions and by the real-life contingencies that expose their fault lines and routinely extract concessions.

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